



DEPARTMENT OF HEALTH & HUMAN SERVICES

Centers for Medicare & Medicaid Services

7500 Security Boulevard  
Baltimore, MD 21244-1850

**Ref: S&C-02-21**

**DATE:** March 25, 2002

**FROM:** Director  
Survey and Certification Group  
Center for Medicaid and State Operations

**SUBJECT:** Resolving Disagreements Resulting from Federal Oversight and Support Surveys

**TO:** Regional Administrators  
Associate Regional Administrators, DMSO  
State Survey Agency Directors

On October 1, 2001, the revised procedure for conducting Federal Oversight Support Surveys (FOSS) became effective. In support of the relationship between states and regions, we are standardizing the response format that state agencies may utilize should an expression of clarification or disagreement arise. Attached to this memorandum is the procedure for resolving disagreements resulting from a FOSS survey.

We hope to continue to enhance the relationship between the Centers for Medicare & Medicaid Services and the state agencies to ensure that the best quality of care and life is provided to our nursing home beneficiaries.

**Effective Date:** This policy clarification is effective immediately.

**Training:** This policy should be shared with all survey and certification staff, their managers, and the state/regional office training coordinator.

If you have further questions regarding this matter please contact Dawn Hawkins-Johnson of my staff at (410) 786-1117 or e-mail [DHawkinsjohnson@cms.hhs.gov](mailto:DHawkinsjohnson@cms.hhs.gov).

Steven A. Pelovitz

Attachment

## **Procedure for Resolving Disagreements Resulting from a FOSS Survey**

### **Purpose:**

To provide the State Agency (SA), with guidance for use in challenging FOSS outcome ratings/deficiencies.

### **Mandatory Elements of FOSS Response:**

The following elements must be included in each disagreement resolution meeting:

1. The SA will have one opportunity, upon their request, to challenge the ratings/findings resulting from a FOSS with the Regional Office (RO) responsible for conducting the survey. Outcome ratings and CMS-2567 findings are the only aspects of the FOSS survey process subject to challenge.
2. The scoring of performance standards will not be delayed by SA challenges to FOSS ratings or findings. The resolution of challenges favorable to the SA may, however, alter the scoring of performance standards and any resulting remedies or sanctions.
3. The SA must notify the RO representative responsible for resolving FOSS disagreements of their request for a resolution meeting in writing with an explanation of the specific ratings/deficiencies that are being challenged, and include all information supporting the disagreement. The request must be made within 15 working days after the SA receives the CMS-2567 report from the RO.
4. The meeting may occur either via telephone or face to face.
5. The RO representative must schedule the resolution meeting no later than 15 working days after receipt of the SA's written request and explanation of the ratings/deficiencies being challenged.
6. Participants in the disagreement resolution meeting should include at least one fully participating member of each survey team, the RO representative responsible for resolving disagreements and any member of either team directly involved in the rating/deficiencies being challenged. The RO representative is responsible for coordinating and participating in the meeting. If the schedule of the parties involved in this meeting conflict with the aforementioned timeframes, then the meeting must be rescheduled to a time mutually agreeable to both parties (RO and SA).
7. The RO must determine the outcome of the meeting and provide the SA written definitive results within 15 working days after the meeting.
8. Resolution or changes to FOSS surveys are at the discretion of the CMS RO representative and will be included in the FOSS survey report file maintained by the RO.

REGIONAL OFFICE REPRESENTATIVES CONTACT LIST  
FOR RESOLVING DISAGREEMENTS:

Region I      Margaret Leoni  
JFK Federal Building, Room 2325  
Boston, Massachusetts 02203-0003

Region II      Kathleen Gormaley or Louis Schiro  
26 Federal Plaza, Room 3811  
New York, New York 10278-0063

Region III     Timothy Hock  
Suite 216, The Public Ledger Building  
150 S. Independence Mall West  
Philadelphia, Pennsylvania 19106

Region IV      Sandra Pace  
Atlanta Federal Center, 4<sup>th</sup> Floor  
61 Forsyth Street, SW Suite 4T20  
Atlanta, Georgia 30303-8909

Region V      Jerry Sandlin  
233 N. Michigan Avenue, Suite 600  
Chicago, Illinois 60601

Region VI      Diane Wade  
1301 Young Street, Room 714  
Dallas, Texas 75202

Region VII     Paul Shumate or Dee Wills  
Richard Bolling Federal Building  
601 East 12<sup>th</sup> Street, Room 235  
Kansas City, Missouri 64106-2808

Region VIII    Paul Long  
Colorado State Bank Building  
1600 Broadway, Suite 700  
Denver, Colorado 80202-4367

Region IX      Stanley Marcisz  
75 Hawthorne Street, 4<sup>th</sup> & 5<sup>th</sup> Floors  
San Francisco, California 94105-3901

Region X      Dan Dolan  
2201 Sixth Avenue, MS/RX-40  
Seattle, Washington 98121

# STATE AGENCY FOSS DISAGREEMENT FORM

1. DATE: \_\_\_\_\_

2. DATE FOSS SURVEY REPORT RECEIVED BY SA: \_\_\_\_\_

3. DATE CMS-2567 REPORT RECEIVED BY SA: \_\_\_\_\_

4. SURVEY DATE: \_\_\_\_\_

5. FACILITY NAME AND PROVIDER NUMBER:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

6. NAME, TELEPHONE NUMBER AND ADDRESS OF PERSON REQUESTING MEETING:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

7. NAME, TELEPHONE NUMBER AND ADDRESS OF PERSON CONDUCTING MEETING:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

8. STATE AGENCY TEAM MEMBERS (Please indicate who will attend the meeting):

Name: \_\_\_\_\_ Discipline: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

9. REGIONAL OFFICE TEAM MEMBERS:

Name: \_\_\_\_\_ Discipline: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**10. RATINGS BEING CHALLENGED:**

**Outcome #:** \_\_\_\_\_ **Score:** \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_

**REASON FOR DISAGREEMENT:** \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_

**Outcome #:** \_\_\_\_\_ **Score:** \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_

**REASON FOR DISAGREEMENT:** \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_

**Outcome #:** \_\_\_\_\_ **Score:** \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_

**REASON FOR DISAGREEMENT:** \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_

**Outcome #:** \_\_\_\_\_ **Score:** \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_

**REASON FOR DISAGREEMENT:** \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_

**Outcome #:** \_\_\_\_\_ **Score:** \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_

**REASON FOR DISAGREEMENT:** \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_

**Outcome #:** \_\_\_\_\_ **Score:** \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_

**REASON FOR DISAGREEMENT:** \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_

**11. DEFICIENCIES BEING CHALLENGED:**

**TAG:**

**REASON FOR DISAGREEMENT:**

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**\*PLEASE ATTACH ANY SUPPORTING DOCUMENTATION TO THIS FORM AND FORWARD TO THE APPROPRIATE REGIONAL OFFICE REPRESENTATIVE.**