

# Publications

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## Calling All SNFs... and All of Your Operational Associates – Get Ready Now: Sweeping New Disclosure Requirements Under The Updated 855A

Skilled Nursing Facilities and their operational associates need to prepare themselves now for new disclosure requirements that require much greater disclosure of ownership as well as disclosure from a much broader class of entities, including landlords, consultants, and managers.

On October 1, 2024, the Centers for Medicare and Medicaid Services (“CMS”) published a new Skilled Nursing Facility (“SNF”) Attachment on the Form CMS-855A seeking an expanded array of ownership and control interests as part of their enrollment records. This new form is meant to operationalize CMS’s final rule requiring updated disclosures, which went into effect earlier this year. As we previously noted when CMS finalized its rule, SNFs are now required to disclose virtually all ownership interests except in limited circumstances and this disclosure requirement extends well beyond the operator/license holding entity and applies to “additional disclosable parties” (“ADPs”). An ADP is defined as a person or entity who:

- Exercises operational, financial, or managerial control over the SNF or a part thereof, or provides policies or procedures for any of the SNF’s operations, or provides financial or cash management services to the SNF;
- Leases or subleases real property to the SNF, or owns a whole or part interest equal to or exceeding 5 percent of the total value of such real property; or
- Provides management or administrative services, management or clinical consulting services, or accounting or financial services to the facility.

In the past month, CMS has issued and then revised detailed guidance explaining how providers should interpret the Form CMS-855A SNF Attachment. CMS defines various ADP categories like those providing accounting, administrative, cash management, clinical consulting, financial, and management services. There are also separate definitions of what constitutes financial, managerial, and operational control. Any entity triggering these definitions should be considered an ADP.

For each ADP to be disclosed, a SNF must report all persons and entities within the

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organizational structure. CMS offers the following example: “An ADP is a financial company (and an LLC) with many levels and layers of organizational ownership. All such entities must be disclosed if they qualify as a direct or indirect owner (regardless of the percentage) of the ADP.” (Guidance for SNF Attachment on Form CMS-855A, last revised Oct. 24, 2024).

CMS stated, “We take very seriously the provider’s obligation to furnish full and accurate data, will do so with respect to the section 1124(c) information, and will stand ready to take the applicable administrative measures we have just outlined, including, as needed, referrals to law enforcement.” (88 Fed. Reg. 80152). **CMS has the authority to impose various sanctions for incomplete, false or misleading information, including to deny, revoke, deactivate enrollment, or reject an enrollment application as well as subject the provider to fines or imprisonment. (§§ 424.530(a)(4) and 424.535(a)(4)).**

The expanded disclosures apply to all pending change of ownership (“CHOW”) applications as of October 1, and the information will be requested for providers moving forward for new Medicare enrollments, at revalidation, and upon any change of the data reported. As it forewarned, **CMS has already begun initiating off-cycle revalidations this month for this purpose.**

CMS emphasizes that this new disclosure form requires data from all SNFs that go “above and beyond what is currently required” and advises SNFs to seek legal counsel with questions as to how its rules and guidance should be interpreted. Given the unprecedented scope of information now being required and the relatively short timeframes for which SNFs will have to comply upon CHOWs or revalidation requests, SNF should begin preparing now.

For more information about the required disclosures or other questions related to the impact of this rule, please contact a member of the Polsinelli Senior Housing and Long-Term Care group or a member of the Polsinelli Licensing and Enrollment group.

\*SNFs may also be required to report under the Corporate Transparency Act (“CTA”). For assistance with disclosures under the CTA, please contact a member of the Polsinelli’s Corporate Department.