

PUBLICATION

Updates to SNF Off-Cycle Revalidation Guidance Continue

Authors: Kathleen Rose Salsbury, Stefanie J. Doyle
November 21, 2024

As skilled nursing facilities (SNFs) seek to understand and meet the new expansive Medicare enrollment reporting obligations, the Centers for Medicare and Medicaid Services (CMS) issued several updates to its *Guidance for SNF Attachment on Form CMS-855A* (Guidance Document), the primary resource available to assist SNFs with determining who and what must be reported. Updates to the Guidance Document have been issued at least weekly since early October, with the most recent issued on November 12 and November 15.

In September, CMS announced it was moving forward with the implementation of the SNF disclosure requirements in Section 1124(c) of the Affordable Care Act which significantly expanded the information about an SNF's ownership, management, and related parties that must be reported. CMS previously issued a [November 2023 Final Rule](#) addressing the Agency's interpretation of these requirements but delayed requiring facilities to report additional data on their Medicare enrollment records until the [CMS Form 855A](#) (CMS-855A) could be revised.

The new requirements are intended to provide CMS more visibility into SNFs' ownership structures, which the agency believes will improve resident quality of care, provide more transparency regarding facilities' ownership and owners with the goal of increasing accountability among owners, and provide residents and families the information they may need to make better-informed decisions regarding where they seek care. As part of this effort, much of the newly collected information will be made public similar to what is already publicly reported about SNF owners.

CMS released the new CMS-855A at the end of September with an effective date of October 1, 2024. The new form now includes an attachment that is specifically and only for SNFs. The attachment is to be completed as part of a nationwide off-cycle revalidation of all Medicare-enrolled SNFs that was announced concurrently with the issuance of the new form. SNFs were also informed that any application pending before a Medicare Administrative Contractor (MAC) on October 1, 2024, would require submission of the new attachment. While SNFs were initially only provided 90 days from the date of a revalidation request to submit the new attachment, CMS subsequently delayed the due date for all SNFs until May 1, 2025.

For SNFs, the attachment replaces Sections 5 and 6 of the CMS-855A. The attachment collects extensive information about the ownership, management, control, and relationships of each facility. Among other information, the attachment now requires SNFs to report:

- Each member of the facility's governing body, including the name, title, and period of service of each such member (regardless of the SNF's corporate structure or what the governing body is called);
- Each person or entity who is an officer, director, member, partner, trustee, or managing employee of the facility, including the name, title, and period of services of each such person or entity;
- Each person or entity who is an additional disclosable party (ADP) of the facility; and
- The organizational structure of each ADP of the facility and a description of the relationship of each such additional disclosable party to the facility and to one another.

The new requirements to report on so-called ADPs are perhaps the most significant and confusing of the new obligations. Section 1124(c) uses a broad and somewhat vague definition of ADP, which CMS carried forward into its Final Rule. For purposes of reporting, an ADP is defined as a person or entity that:

- Exercises operational, financial, or managerial control over the facility or a part thereof, or provides policies or procedures for any of the facility's operations, or provides financial or cash management services to the facility;
- Leases or subleases real property to the facility, or owns a whole or part interest equal to or exceeding five 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.

See 42 CFR § 424.502.

These definitions now require reporting of landlords and property holding companies even if they do not have any ownership in the operations of the SNF. A wide range of administrative, financial, and consulting services that would not previously have been reportable are also incorporated. The Guidance Document from CMS provides examples of ADPs by category but does little to limit the breadth of the definitions. Importantly, the Guidance Document makes clear that these definitions are not limited to third-party consultants and that ADPs may include employees with supervisory authority, depending on their role. CMS has stated that it intends to validate the data provided and expects SNFs to err on the side of reporting information if there is any question regarding whether doing so is required.

Since the initial version of the Guidance Document was issued, CMS has made multiple additions including FAQs, a contact email address for stakeholder questions (SNFDisclosures@cms.hhs.gov), and addressed concerns that SNFs may not be able to obtain complete organizational structure information from all ADPs. The most recent updates to the Guidance Document clarify how the deadline extension impacts pending applications, discuss revalidation in hospital change of ownership (CHOW) situations, and add additional FAQ guidance. The updates also push back the date CMS intends to begin making information publicly available to "later in November."

Regular updates to the Guidance Document are expected to continue as CMS receives additional stakeholder questions and feedback.

Key Takeaways

The extension of the deadline until May 1, 2025, gives SNFs some breathing room, and it is not yet clear whether the change in administration will have an impact on how the reporting requirements are interpreted by CMS. However, as currently designed, the new reporting requirements are substantial and detailed. Compliance will require significant efforts on the part of SNFs to assess their organizations for ADP relationships, identify reportable parties, and collect the information needed to submit the attachment. We recommend that facilities start collecting the information required to meet the new reporting requirements as soon as possible, even before receiving a revalidation request, to ensure they are ready to meet the May 1, 2025, deadline. The consequences of a failure to report enrollment information fully and accurately include denial or revocation of Medicare enrollment, so the stakes are high for Medicare-certified facilities.

If you have any questions about this topic or need assistance identifying reportable parties, please reach out to [Kathleen R. Salsbury](#), [Stefanie Doyle](#), or any member of Baker Donelson's [Long Term Care](#) Team.