

GUIDANCE FOR SNF ATTACHMENT ON FORM CMS-855A

December 20, 2024

(Please note the following important changes/updates in underlined italics:

- **Section (VI)(G) concerning pharmacist consultants**
- **New FAQ #15 regarding Medicaid**
- **New FAQ #16 regarding the application fee**
- **New FAQ #17 regarding ADP effective dates)**

I. BACKGROUND

A. Introduction

Like other providers and suppliers, SNFs have long been required under section 1124(a) of the Social Security Act (the Act) to disclose various ownership and managerial information. This data has been reported in Sections 5 and 6 of the Form CMS-855A and is outlined in sections 10.6.7.1 and 10.6.7.2 of chapter 10 of Pub. 100-08.

On November 17, 2023, CMS published in the Federal Register a final rule titled, “Medicare and Medicaid Programs; Disclosures of Ownership and Additional Disclosable Parties Information for Skilled Nursing Facilities and Nursing Facilities; Medicare Providers’ and Suppliers’ Disclosure of Private Equity Companies and Real Estate Investment Trusts” (88 FR 80141). This final rule implements parts of section 1124(c) of the Act. Section 1124(c) requires SNFs to disclose detailed information about their ownership and management as well as additional data regarding: (1) other parties with which the SNF is associated; and (2) the ownership structures of these other parties. Although some of the data required under section 1124(c) is already disclosed per section 1124(a), some of it is not and will therefore be newly reported. The new SNF Attachment of the Form CMS-855A therefore collects: (1) all SNF data previously disclosed in Sections 5 and 6 of the Form CMS-855A; **and** (2) additional information that section 1124(c) requires. SNFs will no longer complete Sections 5 and 6 of the Form CMS-855A.

The revised Form CMS-855A with the SNF Attachment can be found at <https://www.cms.gov/medicare/enrollment-renewal/providers-suppliers/chain-ownership-system-pecos/enrollment-applications>. (Please scroll down the page to CMS-855A link.)

The guidance in this document (including the interpretation of certain definitions and concepts) applies **only** to SNFs. It is inapplicable to all other provider and supplier types that complete the Form CMS-855A.

B. Form CMS-855A

The Form CMS-855A has been revised to collect the SNF data addressed in this guidance. It will become effective on October 1, 2024. Beginning on that date, all SNFs that are initially enrolling, revalidating, reactivating, or undergoing a change of ownership (CHOW) under § 489.18 must submit this version of the Form CMS-855A (i.e., the 09/24 version) with the SNF attachment completed. SNFs submitting a change of information (COI) must also use this version, though the SNF Attachment will not have to be completed in full at that time. (For example, if the SNF on October 5 is reporting a new managing employee, he/she will be disclosed on the Attachment (rather than in Section 6). However, the SNF need not report all its current owners, managers, related parties, etc. on the Attachment in its COI submission.)

Use of the 09/24 version will also be required for initial, revalidation, reactivation, and CHOW applications that: (1) were submitted using the 09/23 prior version of the Form CMS-855A; and (2) are pending with the Medicare Administrative Contractor (MAC) or the state agency as of October 1. (“Pending” in this context means the MAC has received the application but has not yet finalized it.) For these applications --- and depending on the stage of processing the application is in --- the MAC will notify the SNF to complete and submit the SNF Attachment. CMS will ensure that SNFs that are required to submit the Attachment for such pending applications are exempt from the off-cycle SNF revalidation process (commencing in October 2024) so they do not have to submit the Attachment twice within a short period. To reiterate, such SNFs will not be subject to this off-cycle revalidation and should not expect to receive a revalidation request letter.

C. Due Dates for All SNFs

Regardless of when the SNF received its notice of revalidation letter from its MAC (i.e., October, November, or December), the revalidation application due date for ALL SNFs – irrespective of the state in which they are located -- is May 1, 2025. This May 1, 2025, due date also applies to ALL SNFs that – as explained in Section (I)(B) above – had a pending initial, revalidation, reactivation, or CHOW application as of October 1, 2024, and were requested to submit the SNF Attachment. The Attachment will not be due until May 1, 2025.

(The previous restriction of the May 1, 2025, date to SNFs in Florida, Georgia, South Carolina, North Carolina, and Tennessee no longer applies.)

Also:

- CMS emphasizes that the SNF is NOT required to wait until May 1, 2025, to submit its revalidation application or the SNF Attachment. After receiving the application submission request from the MAC, the SNF may submit said application any time before May 1, 2025.
- The May 1, 2025, due date applies notwithstanding any alternative due date listed in the original application submission request letter from the MAC. To illustrate, suppose a SNF received a revalidation request from the MAC on October 10 with a listed due date of January 5, 2025. The SNF may disregard the January 5 due date because the May 1, 2025, date applies. Note that the MACs will NOT be reissuing application request letters with the new May 1, 2025, due date listed.

- Please see Section (VI)(D)(2) below for information about the interaction between revalidation and CHOW applications.

D. Additional Information Regarding Applications “Pending as of October 1”

As already noted, SNFs that had pending initial, reactivation, revalidation, or CHOW applications as of October 1, 2024, have been requested to complete the SNF Attachment by May 1, 2025. Any of these applications that are pending with the MAC for initial review or have been referred to the State Agency will not be held up pending submission of the SNF Attachment. For instance, suppose SNF X submitted a CHOW application on September 15. In early October, the MAC requested that the SNF submit the SNF Attachment. The MAC will continue processing the application and, if applicable, forward to the State Agency while awaiting the Attachment’s submission. However, the application will not receive final CMS approval until the SNF Attachment is submitted and processed. It is therefore important that the Attachment be submitted as soon as possible so as not to delay final approval.

II. STATUTORILY REQUIRED DATA

A. Section 1124(a)/Currently Required Data

Sections 10.6.7.1 and 10.6.7.2 outline the ownership/managerial information that must currently be reported per section 1124(a) of the Act. This data is still required (though now via the SNF Attachment).

B. Section 1124(c) Data

1. Data Required Per Section 1124(c)

Section 1124(c) (which was implemented via 42 CFR § 424.516(g)) requires SNFs to disclose the following information. (Note, again, that some of this data duplicates data that was already required under section 1124(a)):

- Each member of the SNF’s governing body.
- Each person or entity who is an officer, director, member, partner, trustee, or managing employee (as defined in § 424.502) of the SNF.
- Each person or entity who is an additional disclosable party (ADP) of the SNF.
- The organizational structure of each ADP of the SNF and a description of the relationship of each ADP to the facility and to one another.

2. Definitions

Section 1124(c) contains the following definitions (which have been incorporated into § 424.502) of some of the above terminology:

(i) Additional Disclosable Party: Any 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.

(ii) Managing Employee - An individual (including a general manager, business manager, administrator, director, or consultant) who directly or indirectly manages, advises, or supervises any element of the practices, finances, or operations of the SNF. (Note that "indirect" situations typically involve a person or entity managing, advising, or supervising the SNF through another party (e.g., a president who has little day-to-day involvement with the SNF but manages the facility via her employees).

(iii) Organizational Structure – Organizational structure means:

- For corporations - The corporation's officers, directors, and 5 percent or greater shareholders
- For limited liability companies (LLCs) – The LLC's members and managers (including, as applicable, the percentage of ownership each member and manager has in the LLC)
- For general partnerships - The partners in the general partnership
- For limited partnerships – The general partners as well as any limited partners who own at least 10 percent of the limited partnership.
- For trusts - The trustees of the trust

III. EXPLANATION OF NEW DATA TO BE FURNISHED

Given the foregoing, the new or additional categories of data that SNFs will have to report --- **above and beyond what is currently required** --- are generally as follows:

A. All Governing Body Members – SNFs that are **corporations** must currently disclose all members of their board of directors. **SNFs must now report all members of their governing body irrespective of their business type** (e.g., LLC, corporation, etc.). For example, a SNF that is a partnership or LLC must report all their governing body's members. This applies: (1) to for-profit and non-profit entities; and (2) regardless of the body's specific title (e.g., "governing board," "leadership council"). (See § 424.516(g)(1)(i).)

B. All Owners of an LLC – If the SNF is an LLC, all individual and organizational owners of the LLC must be reported **regardless of their percentage of ownership**. (Previously, when only section 1124(a) applied, there was a 5 percent threshold for LLCs. Now, with the addition of

1124(c), all LLC owners must be reported.) (See § 424.516(g)(1)(ii).)

C. All Trustees of the SNF if the SNF is Established as a Trust – The trustee can be a person or entity. Note that the trustee’s beneficiaries need not be reported unless they qualify for disclosure under another category (e.g., managing employee). (See § 424.516(g)(1)(ii).)

D. All ADPs – This includes all parties described in the ADP definition above, such as persons and entities that:

(i) Provide policies or procedures for any of the SNF’s operations

(ii) Exercise financial control over the SNF or any part thereof

(iii) Provide financial or cash management services to the SNF

(iv) Lease or sublease real property to the SNF

(v) Own a 5 percent or greater interest in the total value of the SNF’s real property

(NOTE: Items (iv) and (v) differ from the current requirement in section 1124(a)(3)(A)(ii) to report a 5 percent or greater ownership interest in any mortgage, deed of trust, note, or other obligation wholly or partly secured by the provider or any property or assets thereof. Section 1124(a)(3)(A)(ii) deals with mortgages and securities; Items (iv) and (v) focus on the leasing and actual ownership of real property).

(vi) Provide management or administrative services, management or clinical consulting services, or accounting or financial services to the SNF

E. Persons/Entities Within the ADP

For each ADP, the SNF must also report the following persons/entities:

(i) If the ADP is a corporation:

- The officers and directors of the ADP; *and*
- Any person or entity with a 5 percent or greater direct or indirect ownership interest in the ADP

(The terms “officer” and “director” have the same meaning as that in § 424.502.)

(ii) If the ADP is an LLC:

- Any person or entity that manages the LLC; *and*
- Any person or entity that has a direct or indirect ownership interest in the LLC, regardless of the percentage.

(For purposes of this requirement, the term “manages” has the same general meaning as “managing employee” and “managing organization” in § 424.502.)

(iii) If the ADP is a general partnership, all persons and entities with a partnership/ownership interest in the ADP, regardless of the percentage.

(iv) If the ADP is a limited partnership:

- All persons and entities with a general partnership/ownership interest in the ADP, regardless of the percentage.
- All persons and entities with a limited partnership interest in the ADP of at least 10 percent.

(v) If the ADP is a trust, the trustees of the trust.

NOTE THAT ALL ENTITIES AND PERSONS THAT FALL WITHIN ANY CATEGORY IN (III)(E)(i) THROUGH (v) MUST BE REPORTED. SUPPOSE 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.

IV. EXAMPLES

A. Introduction

Sections (II) and (III) above identified the parties that must be reported pursuant to section 1124(c). This subsection (IV) lists several examples of these parties; they are grouped by the specific section 1124(c) disclosure category/term (e.g., cash management services).

Note that:

- The parties listed within each example do not represent a minimum threshold of influence for required disclosure. That is, if a chief executive officer (CEO) is cited as an example of a reportable party, this does not mean that a person with less influence within an organization than a CEO need not be reported. The CEO is merely cited as an illustration.
- Certain persons and entities may fall within multiple required categories of disclosure. For instance, a company the SNF hires to run its operations could involve managing control, management services, operational control, accounting services, etc.
- It is unnecessary for a party to have an ownership interest in the SNF to qualify for disclosure. A person/entity can have, for example, operational control without being an owner of the SNF.
- It does not matter whether the disclosable party is an employee, an independent contractor, or even a volunteer. Moreover, an individual's specific occupational title is not solely determinative as to whether he/she must be reported. It is the nature of the service, function, ownership, oversight, etc., that is pertinent, not the party's employment/contractual status.
- There is no minimum threshold for disclosure in terms of: (1) the length of time the party must have furnished the services, served on an ADP's governing board, etc.; (2) the degree and extent of involvement with the SNF's day-to-day operations; and (3) the

volume of the furnished services, functions, etc. As an illustration, it is unnecessary for a person's dealings with the SNF to be equivalent to at least 0.33 full-time employees (FTEs) to qualify for disclosure. Even if certain services were furnished for only a very brief period, by a temporary employee, and only one time (rather than, for example, for three-month periods every 18 months), disclosure is required. Likewise, suppose the party helped establish clinical policies. The assistance need not have involved all the SNF's clinical policies for all aspects of its operations. If it only pertained to a portion (even a small one) of the facility's entire clinical policies, this is sufficient to require disclosure.

- *We respectfully note that CMS in its various guidance will be unable to address all conceivable factual scenarios within and among organizations or to individually identify every potential disclosable party and associated occupational title (e.g., whether individuals X and Y – who perform Functions A and B for the SNF, furnish Services C and D to the SNF, or have Relationships E and F -- must be reported). This is because there could be hundreds of such scenarios given the vast variety of organizational structures, relationships, personnel functions, services, occupations, etc. If the SNF is uncertain as to whether a certain party must be reported, it should disclose said party. As we stated in the November 17, 2023, final rule: “In general, this rule should be construed towards disclosure and, if in doubt about whether additional information should be released, SNFs should disclose it.” (88 FR 80142).*

We recommend that SNFs contact their legal counsel or other professional advisor (e.g., provider enrollment business advisor) with questions regarding whether specific persons or entities within their organization should be disclosed. Parties that have policy questions beyond the guidance in this document may e-mail SNFDisclosures@cms.hhs.gov. Questions regarding the SNF's enrollment application should be directed to the SNF's applicable MAC.

B. Categories of Potentially Disclosable Parties

1. Examples of Each ADP Category

- (i) Accounting Services – Can include an accountant or accounting company the SNF hires/contracts with to perform any accounting activity (e.g., preparation of cost reports, tax preparation) for the SNF. (This can include in-house and outside auditors the SNF hires). The person need not be a Certified Public Accountant to qualify for disclosure. It is the provision of the accounting service itself, rather than the professional status or title of the party furnishing it, that is determinative.
- (ii) Administrative Services – Can involve services such as, but not limited to, compliance/oversight, human resources, public relations/outreach/advertising, technical assistance to the SNF's main information system, etc. (This category does not include custodial, building security, and similar services. It also does not include EHR vendors or payroll vendors. Neither EHR vendors nor payroll vendors need be reported as ADPs in any of the ADP categories in this Section (IV)(B)(1).)

- (iii) Cash Management Services – Can include parties that give guidance/advice on cash flow and other financial matters; handling the SNF’s financial transactions, such as ACH payments and mobile banking; etc. (To reiterate, this short list is not exhaustive. There are many types of services that could fall within the category of cash management.)
- (iv) Clinical Consulting Services – Can involve assessing or advising how to improve or modify any aspect of the SNF’s provision of health care. (Note that the person/entity need not have a medical license or have the formal title of “clinical consultant” or “clinical consulting” firm to qualify for disclosure. It is the type of service involved (not the person’s title or medical certification) that is critical.) (Please see Section (VI)(G) below for more information on clinical consulting services.)
- (v) Financial Control – Can include monitoring or managing the SNF’s finances; authority to approve the expenditure of SNF funds; an owning organization of the SNF that funds part of the SNF’s operations; banks that have given the SNF a line of credit; etc.
- (vi) Financial Services – Can include investment banking, investment management, asset management, financial advice, accounting, financial audits, etc.
- (vii) Managerial Control – Includes parties falling within the definition of “managing employee” or “managing organization” in § 424.502, such as: (1) supervisors; or (2) non-supervisors who nonetheless oversee and are responsible for any aspect of the SNF’s operations, including management/oversight of matters such as maintenance. (Number (2), however, does not mean every SNF employee who is responsible for any action in the SNF’s organization (e.g., nurse, administrative assistant) need be reported. There must be some degree of broader oversight and decision-making authority involved.)
- (viii) Management Services – Includes parties that furnish to the SNF the services described in (vii) above under contract or other arrangement with the SNF (e.g., management company).
- (ix) Operational Control – Includes persons/entities that oversee and have responsibility for any aspect of the SNF’s daily activities or transactions (e.g., person in charge of the SNF’s (1) medical records, (2) patient activities, (3) dietary/food operations, (4) maintenance (but not housekeeping), (5) marketing, (6) social services, (7) therapy, etc. The person need not serve in a supervisory role to have operational control, though this in no way means every employee involved in any operational activity must be reported. Only persons in a position of oversight and responsibility need be disclosed.
- (x) “Part” of the Facility – Includes any physical or operational portion of the facility (e.g., a separate wing of the facility; social worker unit; nursing unit).
- (xi) Policies or Procedures – Includes persons/entities responsible for developing or furnishing guidelines regarding the execution of any aspect of the SNF’s operations (e.g., consultant hired to prepare emergency/evacuation plans, patient treatment procedures, patient transfer procedures, etc.) (Please see Section (VI)(G) below for more information on clinical consulting services.)

Note that legal services furnished by attorneys do not typically fall within any of the above categories. However, if an attorney provides services or exercises control that are/is not legal in nature but otherwise come(s) within one of the categories above, the SNF must disclose him/her

in that role(s) (e.g., an attorney furnishes administrative services that are outside of his/her legal practice and unrelated to any attorney-client relationship).

2. Additional Information on ADP Disclosures

SNFs occasionally contract with pharmacies, labs, x-ray suppliers, and nursing staffing companies to help serve the SNF's residents (e.g., the pharmacy provides drugs for the facility's patients). Please note that for purposes of disclosure:

- Pharmacies, labs, and x-ray suppliers are not considered ADPs.
- Nursing staffing companies are considered ADPs under the "administrative services" category. However, these companies need only be reported if the SNF has not yet submitted its revalidation application or SNF Attachment. If the SNF has submitted said revalidation/attachment, it need not revise its application to furnish this data.

V. SNF ATTACHMENT DATA ELEMENTS & SNF REPORTING RESPONSIBILITIES

The SNF must complete the applicable sections of the Attachment – which is divided into two parts: Organizations and Individuals -- for all parties that must be reported. For instance, suppose the SNF must disclose 10 individuals and 7 organizations on the Attachment. The Organizations section of the Attachment must be completed 7 times, once for each organization; the Individuals section must be completed 10 times, once for each person.

Sections (V)(A) and (B) outline the data elements in the Organizations and Individuals sections of the Attachment.

A. Organizations

1. Section A – Identifying Data

The Section A data duplicates that in Section 5 of the Form CMS-855A. CMS reiterates that the entity reported in Section A could be one that has long been required to be reported under section 1124(a) (e.g., 5 percent owner, managing organization) or an entity that section 1124(c) now mandates be reported (e.g., an ADP, a lessor).

2. Section B – Type of Organization

The Section B data, too, mirrors that in Section 5 of the Form CMS-855A. Note that SNFs, like Section 5 entities, will now need to answer the following question: "Is this organization the ultimate parent company in a multi-organizational group of entities?" The SNF must check "Yes" or "No" for each entity listed in Section A.

3. Section C – Chain Home Offices Only

Section C only applies if the SNF itself is part of a chain. It does not apply to entities listed in Section A of the Attachment. To illustrate, assume a SNF is a chain member and reports 8 entities in Section A of the Organizations section. The SNF need only furnish Section C data once (that is, for its own status as a chain provider) and can leave Section C blank for 7 of the 8 organizations reported in Section A.

4. Section D – Questions 1-5 (Direct Ownership of SNF)

These questions ask the SNF whether the entity listed in Section A (hereafter occasionally referenced as Section A Entity (SAE)) has a direct ownership interest in the SNF. The SNF need only respond to the question that pertains to the SNF's business type (rather than the SAE's business type). As an example, if the SNF is a corporation and the SAE is a limited partnership, it need only answer Question 1 and can disregard Questions 2 – 5 (i.e., it need not check “No” to Questions 2 – 5). If the SNF is a limited partnership, it must answer Question 4 but not Questions 1, 2, 3, and 5.

Question 5 would include, for example, SNFs that are government agencies and sole proprietorships.

For SAEs for which the SNF checks “Yes,” the SNF must report the effective date and exact percentage of ownership.

The total reported combined direct ownership for all reported SAEs cannot be more than 100 percent.

5. Section D – Questions 6 and 7 (Indirect Ownership of SNF)

The SNF need only respond to the question that pertains to the SNF's business type. It need not indicate “No” for the other question.

For SAEs for which the SNF checks “Yes,” the SNF must report the effective date and exact percentage of ownership.

6. Section D – Question 8 (Mortgage and Security Interest)

This is not a new Form CMS-855A data element for SNFs. SNFs have long been required to provide this information on the Form CMS-855A. (Note that mortgage/security interests can include those stemming from an HUD or other government loan.)

If the SNF checks “Yes,” it must furnish the effective date and percentage of the interest. It must also disclose whether it is a mortgage or a security interest.

7. Section D – Question 9 (Trustees)

If the SNF checks “Yes,” it must furnish the effective date of the trusteeship.

8. Section D – Question 10 (Control and Parts of SNF)

Question 10 applies regardless of the SNF's business type. If the SNF checks “Yes,” it must address the “Operational,” “Managerial,” and “Financial” data elements. If it answers “Yes” to any of these three, it must:

- (i) List the effective date of the SAE's control (i.e., when it began)
- (ii) List the type(s) of control, such as the type(s) of managing control.

- (iii) List the parts of the SNF over which the SAE exercises control (e.g., billing department). If the SAE exercises control over the SNF's entire organization, the SNF can state "All parts" (or something similar) in the applicable box.

If an SAE exercises multiple types of control and/or different parts of the SNF are involved, the SNF must differentiate between them when responding to (i), (ii), and (iii). For instance, if operational and financial control are involved, the SNF must identify and clearly distinguish the types and parts in the same box (i.e., describe the forms of financial control, which parts they pertain to, the types of managerial control, etc.)

Note that the SNF need not furnish a lengthy, minutely detailed outline of every sub-category of control the SAE exercises or of every individual sector/part of the organization. The SNF need only provide sufficient data such that CMS can ascertain the SAE's forms of control and the SNF parts involved.

9. Section D – Question 11 (Services Furnished)

Question 11 applies regardless of the SNF's business type. If the SNF checks "Yes", it must address the seven the succeeding types of services. If it answers "Yes" to any of them, it must identify the effective date (i.e., the date on which these services began) and explain the type of service the SAE furnishes. If an SAE provides multiple types of services, the SNF must differentiate between them when furnishing the required description in Question 11.

10. Section D – Question 12 (Lease/Sublease) – If the SNF indicates that the SAE leases or subleases property to the SNF, the latter must describe the lease arrangement (e.g., whether it is a lease or a sublease; what real property is being leased to the SNF and how much; how much control the SNF has over the property; etc.) and the lease's length (e.g., when it began).

11. Section D – Question 13 (Real Property Ownership)

(A) Parameters of Question

- Indirect Ownership – Question 13 includes 5 percent or greater indirect ownership of the property in question. For instance, suppose Company W owns 80 percent of the total value of the SNF's real property. Company X owns 50 percent of Company W. This means that Company X indirectly owns 40 percent (80×0.5) of the SNF's real property and must be reported. If Company Y owns 40 percent of Company X, it indirectly owns 16 percent (40×0.4) of the SNF's real property and must be disclosed. If, however, Company Z owns 20 percent of Company Y, it would not have to be reported as a real property owner because its indirect ownership is only 3.2 percent (16×0.2).
- Total Value – This means the total value of all real property the SNF owns or leases. Said property can include satellite locations (e.g., sites other than the main locations), offices, office buildings, other non-medical sites, etc. It is the owned/leased property itself, rather than the activities conducted thereon (e.g., medical, administrative), that is determinative. If the SNF owns and leases property, the 5 percent threshold applies to the combined total value of both. That is, there is not a separate 5 percent floor for owned property and another one for leased property. However, if the SNF owns or leases space within a larger building or complex, only the owned or leased space – not the entire building or complex --applies when

calculating the total property value.

(B) Requirements of Completion – The SNF must address Question 13 regardless of the SNF’s business type. If the SNF checks “Yes”, it must provide the effective date and exact percentage of ownership as well as state whether it is of real property the SNF owns or of real property the SNF leases or subleases. (Only a brief response is required for the latter question. A detailed explanation is unnecessary.)

12. Section D - Questions 14-18 (Ownership/Management of ADP)

The SNF must disclose whether the reported SAE has any of the Question 14-18 ownership/trustee interests in any ADP of the SNF. As explained previously, all organizations that meet the definition of an ADP must be reported as an SAE. An ADP will effectively be identified as such if the SNF answered “Yes” to Question 9, 10, 11, 12, and/or 13 when completing the Organizations section of the Attachment for that SAE. Consider the following:

EXAMPLE: Companies A, B, C, D, E, F, and G are reported as SAEs in the SNF Attachment. When completing the Attachment for each of these seven SAEs, the SNF checked “Yes” to Question 10 for Companies A and B and “Yes” to Question 11 for Company C. The SNF did not check “Yes” for Questions 9, 10, 11, 12, and 13 for Companies D, E, F, and G. Strictly for purposes of completing the Attachment, this means that Companies A, B, and C are considered ADPs. In completing the Attachment for each SAE, therefore, the SNF must identify whether the SAE has one of the Question 14-18 interests in Company/ADP A, B, or C. So, for example, the SNF would have to report whether:

- Company B has one of the Question 14-18 interests in Company A or C.
- Company E has one of the Question 14-18 interests in Company A, B, or C.

Questions 14-18 would not apply to whether any of the 7 SAEs has a Question 14-18 interest in Company D, E, F, or G, for the latter four were not reported as ADPs.

To reiterate, Questions 14-18: (a) only apply to interests in an ADP, not in the SNF itself; but (b) nonetheless must be completed for all SAEs irrespective of whether they themselves are ADPs.

Note that Questions 14-18 reflect the above-cited definition of “organizational structure” in section 1124(c)(5)(D) of the Act and underscore that the SNF must disclose the ADP’s organizational structure within these questions. As an illustration, section 1124(c)(5)(D)(i) of the organizational structure definition requires, in part, that an ADP’s 5 percent or greater owners be reported if the ADP is a corporation. Question 14 accordingly asks whether, if the ADP is a corporation, the SAE is a 5 percent or greater owner thereof.

If the SNF lists multiple ADPs that are of different business types, the SNF may need to answer multiple questions in 14-18 – one for each business type. For example, assume the SNF reports the following SAEs:

- Company W, which is not an ADP.
- Company X, which is a corporation and qualifies as an ADP.
- Company Y, which is an LLC and qualifies as an ADP.
- Company Z, which is a general partnership and qualifies as an ADP.

X, Y, and Z are the only ADPs listed.

In this scenario:

- Company W – The SNF must complete Questions 14, 15, and 16 for Company W. This is because the SNF reported at least one ADP that is a corporation (Question 14), an LLC (Question 15), and general partnership (Question 16). Questions 17 and 18 need not be completed because no ADP was listed that is a limited partnership or trustee, respectively.
- Company X – The SNF must complete Questions 15 (because it listed an ADP that is an LLC) and 16 (because it listed an ADP that is a general partnership) for Company X. (Note that an ADP can have a reportable ownership/trustee interest in another listed ADP.)

Companies Y and Z would be similarly addressed.

In addition:

- As applicable, the SNF must also report all required information within the question for any “Yes” answer (e.g., percentage of ownership). This includes identifying the ADP of which the SAE is an owner/trustee. The name of the ADP listed within the question here must match the name of said ADP as the SNF reported it in Section A.
- As noted, Questions 14-18 only reference ADPs that are corporations, LLCs, general partnerships, limited partnerships, and trustees. If the SNF does not report any ADPs in Section A that fall within one of these five categories, Questions 14-18 do not apply. For instance, if the SNF lists only two ADPs in Section A and both are government agencies, Questions 14-18 need not be completed. It must be emphasized, however, that any entity that qualifies as an ADP must be reported in Section A regardless of its business type. SNFs should not assume that because Questions 14-18 are limited to the above-referenced five business types that only those five ADP types must be reported in Section A.

13. Section D – Question 19

If the SNF answered “Yes” to Question 14, 15, 16, 17, or 18, it must complete Question 19. For purposes of Question 19 **ONLY**, the term “interest” means any of the interests (ownership, trustee, LLC managerial) listed in the “organizational structure” definition in section 1124(c)(5)(D) of the Social Security Act. (See section II(B)(2)(iii) above for this definition.)

Question 19 asks whether the ADP owner/trustee/LLC manager (as indicated in Question 14, 15, 16, 17, or 18) has any interest in the SNF itself OR in another ADP of the SNF. If the SNF

answers “Yes,” it must list the legal business name (LBN) of the entity (i.e., the SNF itself or another ADP of the SNF) in which the ADP owner/trustee/LLC manager has an interest.

14. Section E - Adverse Legal Actions – The SNF must complete Section E for each SAE.

B. Individuals

The SNF must complete the Individuals section for each person who must be reported.

1. Section A – Individual Identifying Information - The Section A data duplicates that in Section 6 of the Form CMS-855A. The individual reported in Section A (hereafter occasionally a Section A Individual (SAI)) could be one that has long been required to be reported under section 1124(a) (e.g., 5 percent owner, managing employee) or an individual that section 1124(c) now mandates be reported.

2. Section B – Questions 1-7 (Ownership of SNF)

See sections (V)(A)(4) and (5) above for information. The guidance in those two sections generally applies to Questions 1-7 of the Individuals section of the Attachment.

3. Section B – Question 8 (Corporate Officer or Director)

Consistent with longstanding requirements under section 1124(a), SNFs that are corporations must disclose their officers and directors (as those terms are defined in § 424.502). Each officer and director must be separately reported in Section A of the Individuals section of the Attachment and all applicable data furnished for that person.

As explained in the § 424.502 “director” definition, the term includes any member of the corporation's governing body irrespective of the precise title of either the board or the member (e.g., members of the board of trustees of a non-profit organization).

4. Section B – Question 9 (Governing Body Member for Non-Corporations)

If the SNF is not a corporation, it must: (1) disclose all the members of its governing body as SAIs and complete the Individuals section of the Attachment for each; and (2) answer “Yes” to Question 9 for each member and furnish the required Question 9 data. Such persons may include, but are not limited to: (1) LLC members; (2) partners in a general partnership; and (3) general partners in a limited partnership, etc. The only exception to this requirement is if a governmental or tribal organization will be legally and financially responsible for Medicare payments the SNF receives (as explained in Section 6 of the Form CMS-855A). In this case, the governing body members of the governing/tribal organization (e.g., members of state health commission, city council members) need not be reported as governing body members in Section A or in Question 9. **However, they may need to be disclosed as SAIs in Section A in another capacity, such as a person who exercises operational control over or who is a managing employee of the SNF.**

5. Section B – Questions 10 through 15 (Mortgage/Security, Trustees, Control, Services, Leases, Property)

See sections (V)(A)(6) through (11) above for information. The guidance in those sections generally applies to Questions 10-15 of the Individuals section of the Attachment.

If an SAE listed in the Organizations section of the Attachment exercises control over or furnishes services to the SNF, persons within that organization who exercise/furnish said control or services must also be disclosed as SAIs in the Individuals section. This is akin to current policy regarding managing organizations that must be disclosed consistent with section 1124(a) of the Act; persons within an organization who meet the managing employee definition in § 424.502 must be reported even if the entity is already being disclosed as a managing organization.

(QUESTION 16 – THE APPLICABLE CHECKBOX IN QUESTION 16 SHOULD BE CHECKED IF THE LISTED SAI IS THE SNF’S MEDICAL DIRECTOR OR ADMINISTRATOR. NOTE THAT THE SNF’S MEDICAL DIRECTOR AND ADMINISTRATOR FALL WITHIN THE DEFINITION OF “MANAGING EMPLOYEE” IN § 424.502 AND MUST BE REPORTED IN SECTION A OF THE SNF ATTACHMENT.)

6. Section B – Questions 17 through 21 (Ownership/Management of ADP)

See section (V)(A)(12) above for information. The guidance in that section generally applies to Questions 17-21 of the Individuals section of the Attachment.

7. Section B – Question 22 (ADP Officer/Director/Member)

The SNF must indicate if the SAI in question is a corporate officer, corporate director, or LLC manager of any ADP of the SNF. If the person is, the SNF must report the effective date, the person’s title, type of position (e.g., corporate officer), and the ADP of which the SAI is an officer, director, or LLC manager.

8. Section D – Question 23 (ADP Interest in Another Entity)

If the SNF answered “Yes” to Question 17, 18, 19, 20, 21, or 22, it must complete Question 23. For purposes of Question 23 **ONLY**, the term “interest” means any of the interests (ownership, trustee, LLC managerial, officer, director) listed in the “organizational structure” definition in section 1124(c)(5)(D) of the Social Security Act. (See section II(B)(2)(iii) above for this definition.)

Question 23 asks whether the ADP owner/trustee/LLC manager/officer/director (as indicated in Question 17, 18, 19, 20, 21, or 22) has any interest in the SNF itself OR in another ADP of the SNF. If the SNF answers “Yes,” it must list the LBN of the entity (i.e., the SNF itself or another ADP of the SNF) in which the ADP owner/trustee/LLC manager/officer/director has an interest.

9. Section C - Adverse Legal Actions – The SNF must complete Section C for each SAI.

VI. ADDITIONAL CLARIFICATION ON DATA TO BE REPORTED

A. Identifiers

The SNF is required to report the social security numbers (SSNs), dates of birth (DOB), and tax identification numbers (TINs) of only the following parties on the Attachment:

- 5 percent or greater direct or indirect owners of the SNF
- General or limited partners of the SNF (regardless of the percentage)
- Managing employees of the SNF (as the term “managing employee” is defined in 42 CFR § 424.502)
- Corporate officers
- Corporate directors
- Persons with a 5 percent or greater mortgage or security interest in the SNF

Note also that with respect to direct and indirect owners, the above 5 percent threshold applies even if all the SNF’s owners – regardless of the percentage of ownership -- must now be reported under Section 1124(c). This is most applicable to SNFs owners that are LLCs. Although these owners must be disclosed per Section 1124(c) irrespective of their ownership percentage, the owner’s SSN, TIN, and/or DOB need only be disclosed if the ownership percentage is at least 5 percent.

B. Supporting Documentation

At this time, SNFs need only submit the applicable supporting documentation otherwise required under Section 17 of the Form CMS-855A.

Section 17 of the Form CMS-855A requires copies of all bills of sale or sales agreements for all reportable ownership changes. Yet this pertains only to SNF ownership changes, not to ADP ownership changes. The latter must still be disclosed pursuant to 42 CFR § 424.516(g), but the associated documentation is unnecessary.

C. Organizational Charts

Consistent with longstanding policy and in light of section 1124(c), SNFs are required to submit the following charts with their initial, revalidation, reactivation, and 42 CFR § 489.18 CHOW applications:

- (1) A chart identifying all the entities listed in Section A of the Organizations section of the Attachment that shows their relationships with the SNF and each other. (This chart will thus include the SNF’s organizational ADPs.)
- (2) A chart identifying the organizational structures of all its owners, including owners not listed in the SNF Attachment (e.g., less than 5% direct or indirect owners of corporations). This includes entities AND individuals that are owners.
- (3) A chart outlining the organizational structures of each ADP of the facility. This must include a written description of the relationship of each ADP to the facility and to all the SNF’s other ADPs. However, only organizational and individual owners that fall within the “organizational structure” definition need be reported on this chart. For instance, suppose a SNF has an ADP named Corporation X. Corporation X has two owners --

Company Y and Person Z – and five board members – A, B, C, D, and E. The SNF must include Y and Z on this chart but not A, B, C, D, and E.

At least one of these three charts must also identify the SNF’s ultimate parent company and the entities situated between the SNF and the parent in the organizational arrangement. Also, although Charts (1) and (2) may be combined into one, Chart (3) must remain separate and distinct.

D. Changes of Information

The SNF must report the following changes described in the SNF Attachment within 30 days of the change:

- 5 percent or greater direct or indirect owners of the SNF
- General or limited partners of the SNF (regardless of the percentage)
- Managing organizations or employees of the SNF (as the term “managing employee” is defined in 42 CFR § 424.502). This includes Question 16 of the Individuals section regarding medical directors and administrators.
- Corporate officers of the SNF
- Corporate directors of the SNF
- Persons with a 5 percent or greater mortgage or security interest in the SNF

All other changes to data on the SNF Attachment must be reported within 90 days of the change.

If the SNF needs to report a change to any of the above-bulleted information before it submits its revalidation application, it should submit a Form CMS-855A change of information application.

E. Government and Tribal Entities (GTEs)

If a SNF is (or is owned by) a GTE, it must report not only its managing employees (as is currently required) but also all ADPs and the organizational structures thereof.

F. Revalidations and CHOWs

Situations may arise where the SNF: (1) is or will very soon be undergoing a CHOW; and (2) has been requested to revalidate its enrollment or, for pending CHOWs, to submit the SNF Attachment. The following discuss the question of which party – the buyer or seller – should submit the requested information.

1. CHOW CMS-855A Application Is Pending as of October 1 and SNF Is Requested to Submit Attachment – The buyer should submit the Attachment. (See last paragraph in Section (I)(B) above for more information on “pending” applications.)

2. Revalidations

(This assumes no CMS-855A CHOW application is pending.)

CHOW expected to occur (and CHOW application will be – *but has not yet been* - submitted) before expiration of deadline to submit revalidation application – Except as stated below, the seller should submit the revalidation application as requested with information about the SNF’s current owners/managers/ADPs, etc., since it is possible the sale will not happen.

If the sale later does occur, the buyer must complete the full CMS-855A CHOW enrollment application, including the SNF Attachment.

Note that in all cases in this subsection (F)(2), if the buyer submits a CHOW application (including the SNF Attachment) before it submits its revalidation application, it need not complete the revalidation application. The SNF will be removed from the revalidation queue/cycle, and the MAC will notify the SNF thereof.

G. Clinical Consulting Services (CCS) and Policies/Procedures (P/P)

- For purposes of disclosure on the SNF Attachment, CCS do not include those furnished: (i) by or on behalf of a government entity (such as a state survey agency); or (ii) by a QIO or accrediting organization.
- CCS and P/P do not include the mere use of templates. CCS, for instance, must be actual advice or recommendations to qualify as such.
- The SNF need not accept or utilize the advice or recommendations for the latter to qualify as CCS. It is the provision of the advice/recommendations – rather than their acceptance – that meets the threshold for disclosure. For P/P, however, the SNF must use the furnished P/P for the latter to mandate reporting.
- CCS and P/P do not in and of themselves include auditing or other reviews for compliance.
- Suppose the SNF contracts with a firm that provides CCS. The SNF must disclose the firm and any persons therein who furnish the CCS services to the SNF. However, not every consultant in the firm must be reported regardless of whether they are the persons providing the CCS to the SNF. Only those that are furnishing them to the SNF need be disclosed. Thus, if a firm has 50 clinical consultants and only two of them – X and Y – are providing the CCS, only X and Y must be reported.
- CCS includes pharmacist consultants.

VII. EFFORTS TO OBTAIN THE DATA

SNFs are expected to use the maximum feasible efforts to secure the required data. This is no different from today, where providers and suppliers sometimes have difficulty obtaining certain information for their Form CMS-855 submissions. It is critical that all attempts – even multiple ones if necessary – to acquire the data be made. Note that there is no formal definition of the term “maximum feasible efforts” beyond its plain meaning because every factual situation will

be different. For this same reason, there is no official minimum threshold of attempts that must be made in all situations.

All this said, SNFs are not required to make multiple attempts to obtain information regarding an ADP or its ownership structure if: (1) the ADP refuses to provide the data; and (2) the information is not available and accessible elsewhere (e.g., within the SNF's existing records, searchable on the Internet). For instance, suppose ADP Y, LLC furnishes cash management services to SNF X. When completing the Attachment, SNF X asks ADP Y for a list of its owners. ADP Y declines to give it. SNF X need not make another attempt to secure this information if it is otherwise unavailable and inaccessible per the above. If, on the other hand, ADP Y stated that it will *consider* providing the data, the SNF should follow up with ADP Y if the information has not been furnished after a reasonable period.

CMS recommends (though does not require) that the SNF thoroughly document all efforts it made to secure any data it was ultimately unable to obtain. This could include:

- Identifying the unattainable data in question
- Outlining the means the SNF used (e.g., contacting the ADP via phone, email, or other means)
- If applicable, identifying the ADP(s) that declined to provide the information and the reason given for said refusal
- The number of attempts made to obtain the data
- Whether (and to what extent) the SNF attempted to secure the data via other means if the SNF could not obtain it from the ADP
- Why all efforts to secure the data have been exhausted -- including, but not limited to, why the SNF does not plan to make any additional efforts)

If the SNF – once it is ready to submit the Attachment to the MAC – was unable to secure certain required data, it should notify the MAC of this with an accompanying brief, informal e-mail or letter that lists the unattainable data. (Except for the first bullet, the above bulleted documentation need not be submitted at the time the application and accompanying notification are sent.)

CMS stresses that the above recommendation does not mean or imply that the SNF will automatically be exempt from disclosing this data. Accordingly, it is extremely important that the SNF exhaust all feasible means of securing the information before concluding that it is unattainable.

FREQUENTLY ASKED QUESTIONS

This section contains responses to the most common questions CMS has received regarding the SNF ownership disclosure initiative. The information herein is consistent with that in the above sub-regulatory guidance, though the latter remains CMS' principal source of information and education concerning this initiative. We urge stakeholders to review said guidance document, as the FAQs below only address certain selected topics.

Q1: I'm having technical difficulty completing the Form CMS-855A and the SNF Attachment via the Provider Enrollment, Chain and Ownership System (PECOS). Who can I contact for assistance?

A: Please see the PECOS PDF instructional material at <https://www.cms.gov/medicare/enrollment-renewal/providers-suppliers/chain-ownership-system-pecos>. The link to it is near that for this sub-regulatory guidance document.

If you need to speak with someone, please see <https://pecos.cms.hhs.gov/pecos/login.do#headingLv1>. Scroll down to the "Who Should I Call" PDF document to see who the SNF may call for assistance (e.g., EUA Help Desk).

Q2: When completing the revalidation application and/or the SNF Attachment, do I need to edit or delete existing ownership/managerial data listed in Sections 5 and 6?

A: The SNF's existing Section 5 and 6 data has been maintained in PECOS. SNFs will need to edit their existing information in the Organization and Individual Control sections to access the additional data fields. Accordingly:

- Paper Applications
 - In Sections 5 and 6, the SNF need not add, change, or delete any information therein. Sections 5 and 6 no longer apply to SNFs in any way.
 - The SNF must complete the SNF Attachment in full with its current ownership, managerial, additional disclosable party, etc., information.
- PECOS – The SNF must complete the Organization and Individual Control sections in full. In doing so, it should add, edit, or delete any data that: (i) currently exists; **and** (ii) is no longer accurate. For instance, suppose the SNF previously listed Entity X as an indirect owner in Section 5. Entity X appears in the Organization and Individual Control sections as an indirect owner. However, Entity X is no longer an indirect owner. The SNF should remove Entity X as an indirect owner.

Q3: We are a general partnership that is an additional disclosable party (ADP) for a SNF. We have 150 partners within our partnership. Must they all be reported?

A: Yes. Consistent with section 1124(c) of the Social Security Act (the Act), if an ADP is a general partnership all partners must be disclosed (regardless of the percentage of ownership). Moreover, separate Attachment 1s must be completed for each partner. We recognize that this is a lot of data, but we note that this situation is not altogether different from that which currently exists under section 1124(a) of the Act when an enrolling corporate provider must report all the members of its board of directors. For larger providers, this could number (and at times has numbered) in the hundreds.

Q4: To what address will the MAC send my revalidation notice? May we submit our revalidation application before we receive a notification letter from the MAC to do so?

A: The letter will be mailed to the SNF's correspondence address and special payments address on file in PECOS. If these addresses are the same, the letter is also mailed to the primary practice location address.

SNFs should not submit their revalidation applications until after they receive a revalidation letter from the MAC. The application will be returned if it is submitted prematurely. As stated in the previous paragraph, we reiterate that the letter will be sent to multiple addresses, not merely to one.

Q5: Will the public revalidation look-up tool and the revalidation list in PECOS be updated to include the SNF off-cycle revalidations?

A: Neither list will be updated because these revalidations are off-cycle.

Q6: Who completes the revalidation application – the buyer or the seller – if a change of ownership is involved?

A: Please see Section (VI)(F) of the above-referenced guidance document for information on this topic.

Q7: Question 19 of the Organizations section of the SNF Attachment states: "Does this ADP owner/trustee/LLC manager.....have any interest in the SNF itself OR in another ADP of the SNF?" Suppose a SNF has two ADPs: Company A and Company B. One of Company A's owners is Corporation C. The SNF completes Attachment 1 with information about Corporation C. Does Question 19 apply to Company A (the ADP) or to Corporation C (the owner of Company A)?

A: It applies to Corporation C. It asks whether Corporation C has any interest in the SNF or in another ADP of the SNF – that is, in an ADP other than Company A.

Q8: Our firm provides accounting services to the SNF. However, we do not have any ownership of or control over the SNF. Must we still be reported as an ADP?

A: Yes. So long as the party falls within one of the categories of ADPs, they must be reported. The firm need not have --- and section 1124(c) does not require ---an ownership or control interest in the SNF to qualify for disclosure under the accounting services category.

Q9: When and where will the public SNF data be published? Will it contain personally identifiable information (PII)?

A: It has been posted on data.gov as part of the SNF dataset we currently publish at <https://data.cms.gov/provider-characteristics/hospitals-and-other-facilities/skilled-nursing-facility-all-owners>. As with previously posted SNF ownership data at the above link: (1) PII will not be disclosed; and (2) all Privacy Act protections will be maintained.

Q10: Is there any lookback period for the seven final adverse actions listed in (B) of Section 3 of the Form CMS-855A?

A: No. Consistent with current policy, these actions must be reported regardless of when they occurred.

Q11: We are a revalidating SNF that is part of a chain. Our chain home office (CHO) contracts with a third-party accounting firm to perform accounting services on our behalf. Must we report the firm as an ADP?

A: Yes. The third-party must be disclosed because it is the entity performing the actual accounting service for the SNF, even though it was hired by the CHO and not the SNF. This also applies, for instance, to a SNF's billing company that subcontracts the claim submission function to a third-party. Since the third-party is submitting claims on the SNF's behalf – even though the billing company, rather than the SNF, hired the third-party – the latter qualifies as an ADP and must be disclosed. In other words, it is immaterial whether a party is providing services to the SNF through a third-party. It is the provision of the services to the SNF, not the third-party's organizational relationship to the SNF, that is key in the examples furnished in this FAQ.

Q12: Our SNF is reporting, among others, the following parties: (1) Corporation X, which is one of our indirect owners but is not an ADP; and (2) Corporation Y, which is one of our ADPs. We know that because Corporation Y is an ADP, we must disclose its officers and directors. Must we do the same for Corporation X, an indirect owner but not an ADP?

A: No. The only officers and directors that must be listed are those for:

- (a) The SNF itself (if the SNF is a corporation)
- (b) The SNF's ADPs that are corporations
- (c) Officers and directors that qualify for disclosure in another capacity (e.g., an officer of Corporation X provides financial services to the SNF, or is one of the SNF's managing employees)

Merely because an indirect owner of the SNF is a corporation does not automatically mean its officers and directors must be reported. One of (a), (b), and (c) above must apply to mandate disclosure. Put otherwise, while corporate ADPs must disclose their officers and directors, the same is not necessarily true for the SNF's indirect corporate owners. Please see the public sub-regulatory guidance above for more information.

Q13: There are several areas of the application where there is not enough room in the furnished box to list all the types of services the ADP furnishes (Section 11 of the Organizations section), all the corporation ADPs that the person owns (Section 17 of the Individual section), and other data. What do we do if there is insufficient space?

A: The SNF should list as many services in the box as possible -- if necessary, via abbreviated words (e.g., "mngl ctl" or "mgmt," for "managerial control"). The most frequent and greatest degree of furnished services should be listed first. If the SNF runs out of space, it need not list the remainder of the services via a separate document or SNF Attachment page.

Q14: It is late December 2024, and we still have not received a revalidation request letter. What should we do?

A: CMS recommends that the SNF contact its MAC for information (e.g., whether the letter was sent, etc.).

Q15: Is the current off-cycle revalidation effort limited to Medicare or does it apply to Medicaid, too?

A: The current effort is restricted to Medicare. We will furnish information about the Medicaid aspects of our SNF ownership disclosure initiative in the future.

Q16: If we have a change of information (COI) to report, do we have to pay the application fee required under 42 CFR § 424.514?

A: The only instance when a COI requires an application fee is if it involves the addition of a practice location.

Q17: What do we list as an ADP's effective date?

A: The ADP effective date is the date on which the relationship between the SNF and the ADP commenced.