



New Provider Enrollment Administrative Action Authorities

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PROVIDER TYPES AFFECTED

This MLN Matters Special Edition (SE) Article is for all physicians, providers, and suppliers in the Medicare program.

PROVIDER ACTION NEEDED

This article gives you important information about recently issued regulatory authorities. These authorities affect currently enrolled Medicare providers and suppliers, or prospective providers and suppliers. You and your staff should be aware of these new authorities.

BACKGROUND

CMS issued a Final Rule on September 10, 2019, to stop fraud before it happens by keeping problematic providers and suppliers out of our Federal health insurance programs. The Final Rule, “Program Integrity Enhancements to the Provider Enrollment Process,” ([CMS-6058-FC](#)) created several new revocation and denial authorities, as well as other supporting authorities, to strengthen CMS’ efforts to stop fraud, waste, and abuse. This article summarizes several key provisions in [CMS-6058-FC](#).

Affiliation Disclosures

Overview

We believe these affiliation disclosure provisions will allow us to better track current and past relationships between and among different providers and suppliers. In addition, they will help us find and take action on affiliations among providers and suppliers posing an undue risk to Medicare, Medicaid, and the Children’s Health Insurance Program (CHIP).

Based on authority in [Section 1866\(j\)\(5\)](#) of the Social Security Act (the Act), we initially proposed requiring affiliation disclosures from all providers and suppliers on all initial and revalidation Medicare enrollment applications. However, in light of commenter feedback, we decided to adopt a “phased-in” approach to the affiliation disclosure provisions.

We will issue affiliation disclosure requests on a discretionary basis. We have the authority to request that a provider or supplier disclose all applicable affiliations if we become aware that the provider or supplier likely has at least one potentially problematic affiliation. Further, we may become aware of an affiliation through internal data or other means. In practice, we will not request affiliation disclosures until we revise the Form CMS-855 applications with affiliation disclosure sections. This includes online enrolment applications in the Provider Enrollment Chain and Ownership System (PECOS).

Note: In light of the pandemic and various other factors, we will not begin updating the Form CMS-855 applications with affiliation disclosure sections for at least another 12 months.

Reporting Requirement

Upon a CMS request, providers or suppliers initially enrolling or revalidating must disclose any and all affiliations that it or any of its owning or managing employees or organizations has had within the previous 5 years with a currently or formerly enrolled Medicare, Medicaid, or CHIP provider or supplier that has a disclosable event.

Types of Affiliations

The following roles create affiliations that may lead to a determination of undue risk of fraud, waste, or abuse when coupled with a disclosable event (see below):

- A 5-percent or greater direct or indirect ownership interest that an individual or entity has in another organization
- A general or limited partnership interest (regardless of the percentage) that an individual or entity has in another organization
- An interest in which an individual or entity exercises operational or managerial control over, or directly or indirectly conducts, the day-to-day operations of another organization (including, for the purposes of the affiliation requirement only, sole proprietorships), either under contract or through some other arrangement, regardless of whether or not the managing individual or entity is a W-2 employee of the organization
- An interest in which an individual is acting as an officer or director of a corporation
- Any reassignment relationship under [42 Code of Federal Regulations \(CFR\) Section 424.80](#)

Disclosable Events

Affiliations are only potentially problematic when linked to a disclosable event, such as another entity's Medicare revocation. A provider or supplier has a disclosable event if it:

- Currently has an uncollected debt to Medicare, Medicaid, or CHIP

- Has been or is subject to a payment suspension under a Federal health care program regardless of when the payment suspension occurred or was imposed
- Has been or is excluded by the Office of the Inspector General (OIG) from participation in Medicare, Medicaid, or CHIP
- Has had its Medicare, Medicaid, or CHIP enrollment denied, revoked, or terminated

Medicare will review each affiliation on a case-by-case basis, reviewing the undue risk factors outlined at [42 CFR Section 424.519\(f\)](#). We are not focusing on technicalities based on remote associations to past administrative actions. The affiliation provisions in [CMS-6058-FC](#) also apply to Medicaid and CHIP providers. State Medicaid Agencies (SMAs) will provide further guidance to their Medicaid and CHIP providers before operationalizing the Medicaid and CHIP affiliation provisions.

Note: Please review [CMS-6058-FC](#) for more information about the affiliation disclosure requirements.

Other New Regulatory Authorities

Reenrollment Bar Expansion

[CMS-6058-FC](#) included several expansions to reenrollment bars – the bar that prevents a provider or supplier from reenrolling in Medicare after a revocation for a certain period. Under [CMS-6058-FC](#), we can:

- Apply a maximum Medicare reenrollment bar of 10 years – previously the maximum reenrollment bar was 3 years
- Increase a provider's or supplier's Medicare reenrollment bar by 3 years (even if it exceeds the 10-year period) if the provider or supplier is attempting to circumvent its existing reenrollment bar by enrolling in Medicare under a different name, numerical identifier, or business identity
- Apply a maximum 20-year Medicare reenrollment bar when CMS revokes a provider or supplier for a second time

Reapplication Bar

The reapplication bar is a new program integrity tool stemming from [CMS-6058-FC](#). At our discretion, we may apply a reapplication bar from Medicare if a provider or supplier submits false or misleading information on an initial enrollment application. We can prevent a provider or supplier from enrolling for up to 3 years under a reapplication bar.

REFERENCES

- [Section 1866\(j\)\(5\)](#) of the Social Security Act

- [CMS-6058-FC](#), “Medicare, Medicaid, and Children’s Health Insurance Programs; Program Integrity Enhancements to the Provider Enrollment Process”
- [42 CFR Section 424.80](#)
- [42 CFR Section 424.519\(f\)](#)

If you have questions, your MACs may have more information. Find their website at <http://go.cms.gov/MAC-website-list>.

DOCUMENT HISTORY

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March 24, 2021	Initial article released.

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