



October 16, 2024

The Honorable Xavier Becerra
Secretary
The U.S. Department of Health & Human Services
200 Independence Avenue, S.W.
Washington, D.C. 20201

The Honorable Chiquita Brooks-LaSure
Administrator
Centers for Medicare & Medicaid Services
200 Independence Avenue, S.W.
Washington, D.C. 20201

**Re: Request for Flexibilities for SNF Mandatory Provider Enrollment Off-Cycle
Revalidation Data Submission**

Dear Secretary Becerra and Administrator Brooks-LaSure:

As the largest association representing our nation's long term and post-acute care facilities, the American Health Care Association/National Center for Assisted Living (AHCA/NCAL)'s mission is to improve lives by delivering solutions for quality care. Our members provide essential care to millions of individuals in nursing homes, assisted living communities, and centers for individuals with intellectual and developmental disabilities (ID/DD).

We appreciate the Administration's efforts to enhance transparency in health care and to assist residents and families in making more informed long term care decisions. We support transparency and accountability. However, we are concerned that recent actions by the Centers for Medicare and Medicaid Services (CMS) to revalidate Medicare-enrolled skilled nursing facilities (SNFs) by implementing the collection of extensive data without proper notice or sufficient advanced guidance is unnecessarily burdensome and puts paperwork over patients.

As way of background, on September 19, 2024, CMS [announced](#) that the agency will revalidate enrolled SNFs from October-December 2024 to collect additional data on ownership, managerial, and related party information not previously required. This is in alignment with the disclosure rule that was [finalized](#) in November 2023 and requires providers to submit the information in a new appendix on Form 855A. Approximately one-third (5,000) of SNFs will receive these notices each month. Providers then have 90 days from the date of the letter to respond and submit the newly required information to keep their Medicare enrollment status active; otherwise, they may no longer receive Medicare payments.

We are grateful that CMS provided some relief, clarity, and assistance in the past week. The extension for providers in states impacted by Hurricanes Helene and Milton; a clarification on the number of individuals who must be disclosed; and the dedicated email address for questions were welcomed developments. However, we still have numerous, serious concerns about this announcement.

- The implementation of these requirements is duplicative of some pre-existing organizational information that SNFs currently report or that related parties already report to CMS.
- The Additional Disclosable Party (ADP) reporting requirements represents an extensive expansion of the number of parties and data elements reported by SNF providers. Of the 70 pages that make up Form 855A, 18 of them are new and specific to SNF. The ADP information detail is far beyond that required of any other Medicare provider or supplier and in some cases is beyond what those third-party organizations are required to report as part of their own Medicare enrollment requirements.
- CMS announced the implementation two weeks prior to the effective date of October 1, 2024, and only provided limited guidance one week prior to the effective date. In the past providers were given six months advance notice of revalidation, which would indicate that 90 days is not adequate time to gather the required information.
- We have also identified issues in being able to complete the new provider enrollment form—many fields produce errors.
- We are also extremely concerned about representations from CMS that it intends to post online all of the collected information. This is contrary to CMS's longstanding previous practices that protect the confidentiality of information submitted during the Medicare enrollment process. In addition, this is contrary to page 71 of the revised Form 855A privacy obligations. For example, the form asks for the personal identifiable information (PII) of a variety of additional individuals from within and outside of SNFs, including social security numbers and birth dates. Not only is this information challenging to collect but given that the agency intends to publish this information publicly, it poses a significant security risk to these individuals. In today's world with scammers and identity theft, this should not be collected and made publicly available, as recommended by the [Social Security Administration](#).

When final regulations result in substantial changes or new requirements, agencies traditionally provide ample notice, guidance, and communication prior to implementation. In doing so, there is a shared responsibility to ensure compliance. We saw this when CMS finalized the new SNF Part A Patient Driven Payment Model and when the U.S. Department of Health and Human Services (HHS) developed the Provider Relief Fund during the COVID-19 pandemic. We appreciated the early notification and education that was provided in those instances. Therefore, given the significant expansion of these new reporting requirements, we ask that CMS offer some reasonable flexibility and offer additional support like it has done in the past.

Specifically, we request that CMS:

- Retract the revalidation requests that have been issued and follow the past practice of providing six months' advance notice of revalidation.

- Extend the timeline for submission for all SNFs from the current 90 days to 180 days, which is consistent with what CMS says is the traditional timeline for revalidation notices.
- Develop more detailed guidance.
- Direct the Medicare Administrative Contractors to respond to provider questions and to outline some general guidance on how to complete this form well before it is due.
- Provide clarity on how PII will be protected and confirm this sensitive information will not be posted online.

The skilled nursing profession stands ready to comply with these reporting requirements and is committed to providing accurate information. We hope to work with the Administration to ensure this effort is successful. Ultimately, it's important to balance and streamline reporting, so that long term care staff can devote their time where it should be—with their residents. Meanwhile, let's continue to work together on what will truly drive quality for our nation's nursing home residents: investing in their caregivers and focusing on the metrics that matter.

We look forward to hearing from you about this matter. Please do not hesitate to contact me (mallen@ahca.org) if you have any questions or would like to meet to further.

Sincerely,



Martin Allen
Senior Vice President of Reimbursement Policy
AHCA/NCAL