



December 12, 2024

Chiquita Brooks-LaSure
Administrator
Centers for Medicare & Medicaid Services
7500 Security Boulevard
Baltimore, Maryland 21244-1850

Dear Administrator Brooks-LaSure:

We are writing today regarding nursing home transparency requirements and the recently updated 855A form. As providers prepare for off-cycle revalidations to be compliant with these new requirements, many questions and concerns have emerged that we hope you can address.

In a November 2023 rule, CMS finalized provisions to require nursing homes to submit ownership, managerial, and related party data. Specifically, nursing homes will disclose information on members of the nursing home's governing body, officers, directors, members, partners, trustees, managing employees, and additional disclosable parties, including the organizational structure and a description of the relationship of each additional disclosable party to the nursing home and to one another. CMS has determined that nursing homes will meet this requirement by submitting data through the Medicare Enrollment Application Form 855A, which is completed upon enrollment and every five years thereafter as part of the revalidation process.

To set a baseline for compliance, CMS, through the Medicare Administrative Contractors (MACs), began contacting providers in October, requesting the newly updated form be submitted as part of an off-cycle validation process. This off-cycle validation would ensure compliance with requirements for all providers in the first quarter of calendar year 2025. This compliance date was later adjusted to May 2025 and we thank CMS for your attention and responsiveness to providers' concerns in making that adjustment. We further appreciate the release of and multiple updates to accompanying guidance.

The intent of this new requirement is to provide better transparency around nursing home ownership to empower nursing home residents and their families to make informed decisions about care and to hold nursing homes accountable for the services they provide. Presumably, having access to this information will also enable CMS to better identify tunneling and other questionable uses of funds. LeadingAge supports transparency to ensure that nursing home owners, managers, operators, and affiliated businesses do not profit at the cost of quality care.

We are concerned, however, about the feasibility of this undertaking. CMS has requested that providers submit vast amounts of information. Specifically, our members tell us that the information required relative to Additional Disclosable Parties is extensive. These volumes of submitted data will need to be verified, sorted, organized, and translated in such a way that it actually helps consumers and the public. With this in mind, we are seeking answers to the following questions and concerns:

- **How will the reported data be verified?** Some of our members tell us that, per the CMS guidance, they are reporting more than 1,000 additional disclosable parties. Does CMS

and/or the MACs have the manpower to review and evaluate for accuracy and completeness the information submitted by all 15,000+ certified nursing homes in the country?

- **How will CMS address erroneous or incomplete data?** There is much uncertainty and confusion as nursing homes attempt to navigate this new requirement. We appreciate CMS's responsiveness in hearing our questions and promptly updating guidance accordingly, but as with any new requirement, and such an extensive one at that, there are bound to be errors and omissions. Will CMS or the MACs be working with nursing homes to ensure that data is corrected if inaccuracies or omissions are identified?
- **How will this data be used?** We know that CMS intends to report this data publicly, but where will it be reported and in what format? Will all reported data be shared publicly, or only select data? While it seems likely that the CMS data site can accommodate a significant amount of data such as this, by CMS's own admission, the site is most useful for researchers and academics and provides little benefit to the average consumer and general public. On the other hand, it seems unlikely that the more consumer-friendly Care Compare site could display so much information in a useful way. Assuming that such an extensive amount of information is necessary, how will CMS make this data, and the heavy burden of collecting and submitting it, meaningful?

Thank you for your attention to these concerns and we look forward to your response.

Sincerely,



Jodi Eyigor
Director, Nursing Home Quality & Policy

CC: Jonathan Blum, Principal Deputy Administrator
Frank Whelan, Technical Advisor
Evan Shulman, Director, Division of Nursing Homes
Celeste Saunders, Acting Director, Division of Nursing Homes