

Centers for Medicare & Medicaid Services  
Skilled Nursing Facilities/Long-Term Care Open Door Forum  
Thursday, October 17, 2024  
2:00 – 3:00 p.m. ET

*Webinar recording:* [https://cms.zoomgov.com/rec/share/Ly2Wg08uAnoBH-IRKbY8HZZ\\_uXxXsAxvfGcqZScSm3wmXdLANBR6JozTy04dPA.0kacA6QoCXii8BjS?startTime=1729188034000](https://cms.zoomgov.com/rec/share/Ly2Wg08uAnoBH-IRKbY8HZZ_uXxXsAxvfGcqZScSm3wmXdLANBR6JozTy04dPA.0kacA6QoCXii8BjS?startTime=1729188034000)

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**Jill Darling:** Hi, everyone, and welcome. We apologize that we opened up a little early, so that's why there was no talking, but we did provide the agenda slide for you all. Thank you for your patience, as always. So, good morning and good afternoon, everyone. My name is Jill Darling. I'm in the CMS Office of Communications. Welcome to the Skilled Nursing Facilities/Long-Term Care Open Door Forum (ODF). Before we begin our agenda, I have a few announcements. For those who need closed captioning, I will provide a link in the chat function of the webinar. This webinar is recorded. The recording and transcript will be available on the CMS Open Door Forum podcast and transcript webpage, and that link was on the agenda that was sent out. I will share that as well in the chat. If you are a member of the press, please refrain from asking questions during the webinar. If you do have any questions, please email [press@cms.hhs.gov](mailto:press@cms.hhs.gov). All participants are muted upon entry. For today's webinar, I have the agenda slide up for you. I will also provide a resource slide during our Q&A portion of the call. We will be taking questions at the end of the agenda today. We note that we will be presenting and answering questions on the topics listed on the agenda. We ask that any live questions relate to the topics presented during today's call. If you have any questions unrelated to these agenda items, we may not have the appropriate person on the call to answer your questions. As such, we ask that you send any of your unrelated questions to the appropriate policy component or you can send your email to the ODF resource mailbox that I will provide, and we will get your questions to the appropriate component for response. You may use the raise hand feature at the bottom of the screen. We will call on you when it is time for Q&A. Please introduce yourself with your organization or business you are calling from. When the moderator says your name, please unmute yourself on your end to ask your question and one follow-up. We will do our best to get to your questions. We'll begin our agenda with Frank Whelan.

**Frank Whelan:** Thank you so much, Jill. Hey, everyone. I hope everyone is having a good day and a good week so far. It is good to join this ODF. We are glad to talk to you today. I work in the CMS Provider Enrollment and Oversight Group. Today, we are going to talk about the new requirement that SNFs (skilled nursing facilities) report certain ownership, managerial, and related party information to CMS. Now, as many of you know, like other providers and suppliers, SNFs have long been required under section 1124A of the Social Security Act to disclose various ownership and managerial information. Traditionally, this data has been reported in Sections 5 and 6 of the CMS-855. As you also know, in November of last year, we published a final rule that implements part 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 certain other parties with which the SNF is associated, as well as the ownership structures of these other parties.

Some of this data that's required under Section 1124(c), as you know, is already disclosed under Section 1124(a). However, some of it is not, and therefore, this will constitute newly reported data. The SNF attachment of the Form 855-A collects all SNF data that was previously disclosed in Sections 5 and 6 of the 855-A as well as the additional information that Section 1124(c) requires. So SNFs will no longer complete Sections 5 and 6 of the Form 855-A.

In terms of the information, let's try to look at it this way—we currently have the data that is required under Section 1124(a). This is the data regarding ownership and management that you have always been reporting. That's the first layer. The second layer is the data regarding what is known as additional disclosable parties (ADPs). These are parties that go a little bit beyond the currently reported managing organizations. These involve entities that, for instance, provide certain services to the SNFs, such as cash management services and accounting services. So that's really the second level. The third level is reporting certain ownership and managerial interests in the additional disclosable parties. So, we are getting into the further layer of ownership regarding the additional disclosable parties. Think of it in terms of three levels, the last two being fairly new data that must be reported.

So now, preparation for the requirements and implementation. We posted very detailed sub-regulatory guidance on our CMS provider enrollment website. This outlines the statutory and regulatory requirements. It outlines who has to be reported, which entities and which individuals, how to complete each section of the SNF attachment on the 855-A, etc. It also contains additional information of relevance to the reporting requirements. If you haven't read this sub-regulatory guidance yet, we very strongly urge you to do so. Again, it is very detailed as to what is expected. This document is going to be the principal written means of outreach and education. We're going to constantly update it over the coming weeks and months. In fact, we just updated it two days ago. Going forward, we expect to update it again, perhaps as soon as tomorrow, probably also maybe on Monday as well as maybe by the end of next week. We expect constant updates to this sub-regulatory guidance to address issues as they arise.

Now, as we announced in a recent newsletter, the requirement will largely be implemented through an off-cycle revalidation process. At the beginning of October, November, and December, approximately one-third of SNFs will receive a letter from their MAC (Medicare Administrative Contractor) requesting the completion of Form 855-A, including the SNF attachment. Some SNFs have already received this letter. However, and this is very important, this was part of the update that I spoke about to the sub-regulatory guidance two days ago. Due to the recent disaster declaration, SNFs in the states of Florida, Georgia, South Carolina, North Carolina, and Tennessee will not have to submit their revalidation application until May 1, 2025. SNFs in the states of Florida, Georgia, South Carolina, North Carolina, and Tennessee will not have to submit their revalidation applications until May 1, 2025. Let me stress that it doesn't matter when the SNF received their revalidation letter. Even if they have received it this month, they will still have until May 1 of 2025 to submit their application. Also, the validation application fees and site visits will be waived for SNFs in those states to the extent that the site visit and the fee has not already, that the site visit has not been performed and the fee has not been paid. That is the first part. The second part is this also applies to SNFs in the five states that have pending initial revalidation, reactivation, and CHOW (Hospital Change of Ownership)

applications as of October 1 of this year. As the sub-regulatory guidance indicated, these SNFs were asked to submit the SNF attachment as part of these applications. However, instead of the 60 days they were originally given to submit the attachment, they will have until May 1, 2025, as well, just like with the revalidations. We do want to reiterate that the May 1 date for 2025 only applies to these five states both in terms of revalidation as well as submitting the attachment for the pending applications. We will, of course, update the sub-regulatory guidance to reflect this. During the Q&A format of this session, we'll address what we can. However, please note that there could be some questions that we will need to take back and consider and address through the sub-regulatory guidance. We want to make sure that we give you clear, consistent written guidance across the board. So, during the Q&A format, we do ask you to please be patient with us. However, during the Q&A process, we also would be interested in hearing feedback from SNFs regarding any points of clarification that you feel the sub-regulatory guidance needs and any other issues of concern that you might have.

One last point before I turn it over, and that is that the sub-regulatory guidance has been updated to include an email box to which you can submit questions. That email box here at CMS is [SNFdisclosures@cms.hhs.gov](mailto:SNFdisclosures@cms.hhs.gov). Again, that is [SNFdisclosures@cms.hhs.gov](mailto:SNFdisclosures@cms.hhs.gov). However, we urge you to use the sub-regulatory guidance as your principal means of obtaining information. That is all I have. I appreciate your time. I will pass it on to the next presenter.

**Heidi Magladry:** Good afternoon. This is Heidi Magladry, the SNF QRP (Quality Reporting Program) lead. I have a couple of MDS (Minimum Data Set) updates to share. On October 1, CMS posted the draft MDS 3.0 item sets version 1.20.1 and the accompanying draft data submission specifications. This version will be implemented on October 1, 2025. Notable changes to the MDS include the retirement of most of the 00400 therapy items, the addition of the 00390 therapy services items, and the addition of the new Section R health-related needs section, where you will find the new living situation, food, utilities, and transportation items finalized in the fiscal year 2025 SNF PPS (Prospective Payment System) final rule. We want to encourage the vendor community to begin reviewing the draft data specifications in preparation for a vendor call on November 14. The vendor call announcement was distributed yesterday, and the agenda is posted on the website. The second update I have, as mentioned on previous Open Door Forums, is that CMS will no longer update the iQIES (Internet Quality Improvement & Evaluation System) MDS user interface, which is the manual entry aspect of iQIES for MDS completion and submission, beginning October 1, 2025. This means that assessments with a target date of October 1, 2025, and later must be submitted in XML format. Providers who use the iQIES user interface will need to use vendor, third-party, or company software to complete MDS records. Providers may submit MDS records themselves or use a third party. The iQIES MDS user interface has many limitations. First and foremost, it is not interoperable with any EHR software. CMS has and continues to support interoperability, which we are supporting by sunseting the user interface. The take-home for providers who only use the iQIES MDS user interface for MDS submission is that you have less than one year to transition to MDS software.

Finally, another change occurring on October 1, 2025, one that should also not be a surprise, is that CMS will no longer process the optional state assessment, or the OSA, for providers in states that require this assessment with target dates of October 1, 2025, and later. CMS is not involved in whether a state will continue to require the completion and submission of the OSA. Should

your state require the OSA after 10/1/2025, they will inform you of their processes. You should not direct your questions regarding the OSA to CMS, as we will not be able to assist you at that point. That completes the updates I have. I'll go ahead and turn it back to Jill.

**Jill Darling:** All right, great. Thank you, Heidi, and Frank. We do have some ample time for questions. So, reminder to please use the raise hand feature at the bottom of your screen. We will call on you. A reminder to also unmute yourself when you are called upon.

**Jackie:** It looks like Joel is the first person with their hand raised.

**Joel Van Eaton:** Thank you so much for taking—yes, can you hear me?

**Jackie:** Yes, OK.

**Joel Van Eaton:** OK, thank you. Thank you so much for taking my questions today. I think this is for Heidi. Heidi, on the MDS updates, just a sort of curiosity question, I think. As the new section of the MDS has been added for social determinants of health, health-related factors, is there any consideration because it is such an important piece of what has happened in the proposed and final rule-making process in the last couple of years in relationship to how that fits into health equity and all of the kind of press towards social determinants of health and health equity to move some of the other items that are considered to be social determinants of health like health literacy, social isolation, those kinds of things, into Section R to make that more evident that those are also important things to consider in terms of social determinants of health. That is my first question.

And my second question has to do with the—this is something I am I have asked in the past, but I just want to continue to put this out there as an SNF quality reporting question. In relationship to the new discharge function score quality measure, which of course, will affect our five-star rating this month, we are all waiting to see those reports, as we have seen the provider preview reports we have seen this show up on our iQIES reports and so forth, the question I have and the request to CMS is to consider in the iQIES reporting that there be some way for us to, as a provider community, to be able to make that data that comes from that discharge function score actionable in our facilities. What I mean by that is to know that it triggered or didn't trigger is one thing. To understand why is that actionable piece of the quality measure. As you know, that's a very complex quality measure with the co-variant interactions and coefficients impacting the expected discharge function score. It would be super helpful to providers to have some sort of reporting capacity within iQIES to see why that triggered or didn't trigger to make that information actionable. That is just a continued request on my part and a lot of other people. There's only one software product that I know out there, at least at this point, that actually does something, but you have to purchase that, so it is a separate stand-alone thing.

And then finally, I'm sorry, the third question is, could you repeat the location where the November training is going to be—the provider call that you mentioned? Thank you so much.

**Heidi Magladry:** Hi, Joel. Currently, you can see on the October 1, 2025, MDS we have not relocated any of those other health-related social needs items. Your point is well taken, and we

can take that under consideration now that we have so many we are highlighting. Obviously, CMS is dedicated to highlighting the importance of health-related social needs, and part of that is we have finalized a new transportation item. We took that opportunity to move that out of Section A into this new Section R. So, I think you possibly will see in future versions a consolidation of those items that would fall under that health-related social need umbrella to highlight the importance of those. I can think of social isolation as well as the health literacy item. I can see that possibly going into that section.

In terms of your comment about the discharge function score and a way to make the data more actionable, I can certainly take that back. I don't think I have anybody today from the Division of Quality Measurement that leads that work. I will certainly take that back to them as well.

Your final question about the training. That is a vendor call. It's going to be for the vendor community on the 14<sup>th</sup>. That is on the QTSO (QIES Technical Support Office) website. I can pop that link if it is not showing on the screen. I can just pop that link in the chat where that invite is right now.

**Joel Van Eaton:** Thank you very much. I didn't hear that was a vendor call. Thank you so much, Heidi, I appreciate it.

**Heidi Magladry:** No problem.

**Jackie:** The next person I see is Sheila. You are able to unmute. Sheila, you are able to unmute.

**Sheila Ozhayta:** I think the questions were just answered. Thank you so much.

**Jackie:** OK, good. Let's see who is next. Angie, you are able to unmute. Angie Smith.

**Angie Smith:** Hi, yes, can you hear me? My question is about disclosure requirements. I was under the impression that the deadline was going to be—to give the facilities 90 days to respond. We have facilities and providers receiving letters of revalidation that require a response in 30 days, which is quite impossible given the amount of information you are requesting. So, some clarification on the time frame in which they are supposed to respond to the SNF attachment.

**Frank Whelan:** Hi, this is Frank. I'm glad you raised this. Were these revalidation requests, or were they—did you have a pending application, and the MAC is requesting just a submission of the SNF attachment?

**Angie Smith:** Two different things. One was a change of information that the MAC converted to revalidation on its own doing and requested that they respond in 14 days outside the deadline of 30 days to complete the SNF attachment—again, almost impossible to do. Another one was a pending CHOW. They are making the provider respond in 60 days to the CHOW. But again, I thought the deadline was going to give us 90 days to allow for a response.

**Frank Whelan:** For a revalidation request, it is 90 days. For a—if you have a pending application, let's say you had a CHOW in progress, the deadline is 60 days. What I would like

you to do, if it is not too much trouble, if you could put that in writing and tell us which MACs you are working with, I gave you the email address for the SNF disclosure mailbox. Would you mind doing that so we have a little bit more background and we can look into this?

**Angie Smith:** Absolutely.

**Frank Whelan:** Do you need me to read the email address?

**Angie Smith:** I got it. [SNFdisclosures@cms.hhs.gov](mailto:SNFdisclosures@cms.hhs.gov)

**Frank Whelan:** If you could send that, that would be great.

**Jackie:** The next handy see is Genice. Genice, you are able to unmute.

**Genice Hornberger:** Hello, thank you for taking my call. I have a question about the October 1, 2024, updates. It is specific to additional items required by states. So, we are seeing that Minnesota is now asking for some additional questions to be added to the quarterly in Section I. I have not seen any updates on the QTSO websites. However, IQIES is giving us a validation warning message. So, how has that process of communicating to the vendors changed? Can we confirm that we do need to add those to the quarterly?

**Heidi Magladry:** This is Heidi. I don't have any of my iQIES people here right now. Would you be able to send that question into the Open Door Forum mailbox?

**Genice Hornberger:** Sure.

**Heidi Magladry:** We will make sure we get you a response.

**Jackie:** All right. The next hand I'm seeing is J Michael, if you are able to unmute. J Michael, you are able to unmute.

**J Michael Grubbs:** Yes, can you hear me?

**Jackie:** Yes.

**J Michael Grubbs:** Thank you, my question [inaudible] housekeeping, maintenance, laundry, social services [inaudible].

**Jill Darling:** I'm sorry to interrupt, but we are not able to hear you.

**Unknown Person:** I hear you.

**J Michael Grubbs:** OK...

**Jill Darling:** It's very [inaudible]. If you could send it to the SNF mailbox that I just put in the chat, would you be able to do that? Or you could try logging off and logging back in.

**Frank Whelan:** Jill, this is Frank. Even though my hearing generally is not very good, I did manage to get enough of the gentleman's question. I think it had to do with the interpretation of the term operational control. As we stated in the sub-regulatory guidance, we are not able to address all conceivable factual scenarios or to interpret terms above and beyond what is already there. However, as Jill pointed out, if you have a question regarding that term, we would certainly be happy to consider it and, if necessary, update the sub-regulatory guidance, so if you could send that in, that would be great. We would love to hear from you.

**J Michael Grubbs:** Thank you.

**Jackie:** OK. Let's see here. Christopher, you are able to unmute.

**Christopher Puri:** Good afternoon. Can you hear me?

**Jackie:** Yes, I can.

**Christopher Puri:** My question is on the revalidation section. It relates to providers who would undergo a change of ownership during that period of time before the revalidation request would be due. My question is, since the incoming provider will be submitting a new application, these would be post October 1 changes of ownership submitted since the new provider will be submitting the SNF attachment with the relevant disclosures for the facility. Am I correct in that the outgoing provider, if the change of ownership is completed prior to the sale, would not then complete the revalidation that was requested by the MAC?

**Frank Whelan:** Hi, this is Frank. Thank you very much for the question. Are you saying that the revalidation happened first and then the CHOW, or is it the reverse?

**Christopher Puri:** I think—this is a hypothetical question. Let's assume the revalidation request was received by the provider, but the provider then subsequently had a transaction during the period of time in which they would have otherwise submitted the revalidation request.

**Frank Whelan:** OK. Let me take that back. If you could send that, that is actually an excellent question. I really appreciate it. If you could send that to the SNF email box. I would like to consider that a little further. That is a good question. I'm glad you raised it. If you could send that, that would be terrific. We would be more than happy to address it in the sub-regulatory guidance.

**Christopher Puri:** One other quick question. With the extension in the states that are affected by the storms, do they need to do anything in terms of corresponding with the MAC if they have gotten the letters, or will it just be assumed that that deadline is in place?

**Frank Whelan:** Should the SNFs assume that the May 1, 2025, date will apply?

**Christopher Puri:** Correct.

**Frank Whelan:** Yes, they should. In those five states, they will probably not get any additional notice that they have received a revaluation letter that it is extended. We have already made that public through the various CMS resources as well as the sub-regulatory guidance. No, they don't need to do anything.

**Christopher Puri:** Thank you.

**Frank Whelan:** You bet. Thanks.

**Jackie:** It looks like Laurie, you are next. You are able to unmute.

**Laurie Laxton:** Hi, I wanted to tack on a question to what Joel asked about how nursing homes are needing a better way to figure out why their discharge function score is triggering. I was wondering and proposing if, in addition to posting the time discharge function score, if CMS would consider posting the expected score post five-day assessment submission. So that was my first question and suggestion. And my second is, do we happen to have a timeline on when we think the PBJ (Payroll Based Journal) might be moving over to iQIES?

**Heidi Magladry:** Hello, Laurie. As far as providing after the five-day score what the expected discharge function score would be, we are not considering providing that at this time. Although, I can take it back to our team. I'm not sure if we have somebody on for the PBJ data or iQIES. If you would like to send that to the ODF mailbox, we can get an answer for you.

**Laurie Laxton:** Thank you very much.

**Jackie:** Michael, you are next. You are able to unmute. Michael Cuneo.

**Michael Cuneo:** Yes, I have a two-part question. First, we have received a letter from First Coast in Florida with a pending CHOW three-quarters of the way through to complete Attachment 1. I just want to make sure is that now automatically extended to May 1, 2025, because there is a 30-day deadline of November 5 right now according to the letter. I just want to make sure.

**Frank Whelan:** Michael, thank you so much for that question. Yes, it is extended to May 1, 2025. Number one, you are in one of the five affected states that I mentioned before. Number two, you had a pending application as of October 1. But you said that the due date that was given was 30 days originally?

**Michael Cuneo:** Yes. For the Attachment 1.

**Frank Whelan:** Yes, thank you. Yes, you're extended to May 1, 2025.

**Michael Cuneo:** Thank you. My second part or question is in completing previous revalidations in years past, I've gone into PECOS (Provider Enrollment, Chain, and Ownership System). On the home page, there is a revalidation notification center and it's been very helpful with the provider's name, the due date of the revalidation. It's tracking as to the status of the issuance of the revalidation notice letter and if it's been submitted. As of yesterday, I didn't see anything in

the revalidation notification center field as before. My question is, are there going to be—I've already received three revalidation notices, and there is still nothing in the revalidation notice center so I can track what revalidations are coming up and try to hunt down the revalidation notice letter that is sent to the community.

**Frank Whelan:** Thank you for raising that. The SNF revalidation tool is not going to be updated for SNFs that are a part of that revalidation effort.

**Michael Cuneo:** OK, thank you.

**Frank Whelan:** Sure, you bet. Thanks for the questions.

**Jackie:** All right, next up will be Wendy. Wendy, you are able to unmute. Wendy, you are able to unmute. We will move on and come back to her. Martin Allen, you are able to unmute.

**Martin Allen:** Good afternoon, can you hear me?

**Jackie:** Yes.

**Martin Allen:** I'm Martin Allen with the American Health Care Association. First of all, I want to thank you for having this Open Door Forum so close to the issuance of the new revalidation guidance. I was wondering, looking at the latest guidance as of yesterday or the day before actually, there was additional clarification on additional disclosable parties. The PII, personally identifiable information, that needs to be disclosed. I was wondering if you could help us differentiate between ADPs from an ownership perspective or ADPs of vendors who may complete this. The sub-regulatory guidance talks about ADPs of the SNF, and it seems like we need more information on what we're required to disclose and the vendors that would qualify in there as well. Thank you very much.

**Frank Whelan:** Hi, Martin, this is Frank. That is something that we would need to take back. You can either email the general SNF mailbox, or I know you and I have been corresponding. You can send that directly to me if you want. We would be happy to update the sub-regulatory guidance. Whatever works best for you is fine with us.

**Martin Allen:** Thank you very much. I appreciate your flexibility and the fact that you'll be responding to those questions coming into your email box.

**Frank Whelan:** No problem. Thanks a lot. Appreciate the question.

**Jackie:** All right. Let's move on Cyndi.

**Cyndi Howell:** My question is related to the MDS changes for Section N that went into effect on October 1 of this year regarding the new requirement to code anticonvulsants. There seems to be a lot of chatter and confusion in the industry about which medications should or should not be counted as anticonvulsants. And the links in the RAI (Resident Assessment Instrument) manual, there is a discrepancy between the different sources, and the vendor that we use uses the Medi-

Span library from the FDA (U.S. Food and Drug Administration). I would like to rely on that and auto-populate into Section N, but there doesn't seem to be a standard in the way people are doing it, and there is still confusion around that. I would love to see the RAI provide us with a list of common medications and which classification they should be counted in so that everyone is doing it the same way. I feel like the way it is now, people are making their own personal cheat sheet or their subjective interpretations going into the coding of it. It really feels like it should be more standard, especially the benzodiazepines like lorazepam, valium, primidone. There's some that are on some lists but not on other lists. The example in the RAI manual on page N12 specifically for lorazepam, there is an example in the RAI manual for a resident that takes lorazepam, and it is not being counted as anticonvulsant, but I see some experts saying you should count lorazepam as an anticonvulsant. Just seeking some clarification for all of us, please. Thank you.

**Heidi Magladry:** So, we offer some resources in the REI manual. We don't have a single resource that we say is the definitive resource. We would—if you have questions, as always, we recommend that you should consult with the pharmacist at your facility in terms of these medication classifications. But I will take this back to our larger working group.

**Cyndi Howell:** Thank you because I feel like the different facilities and different pharmacists might have different interpretations. So, if it's a federal requirement on the MDS then I feel like everybody should be doing it the same way. Thank you.

**Heidi Magladry:** You bet.

**Jackie:** Let's see here, Pete, you are next. You are able to unmute. Pete, you are able to unmute.

**Pete Van Runkle:** OK. Can you hear me?

**Jackie:** Yes, I can.

**Pete Van Runkle:** It took a moment for the unmute screen to pop up. I'm with a trade association, a state trade association, an affiliate of Martin's, actually. My question is something I've been hearing a great deal of angst from our members about. It has to do with lenders or financing partners of the facilities. The concern is how far you go up in the chain in terms of reports. Say, for example, you have a financing company of one type or another. Clearly, they are an additional disclosable party. They may have complex ownership structures themselves. Say, for example, if a company, a financing company, has several LLCs that are the owners of that company and then those LLCs have other people or entities that have ownership of the LLCs, how far does that reporting go? Is it to the first layer? Or does it have to go beyond that until you have kind of tracked down everybody, which would be frankly impossible for a provider to do because this is information that is held by an outside company and maybe several layers deep?

**Frank Whelan:** OK, hi, this is Frank. This is a question that we understand is out there. Not your particular question but the general concept of how far to go. We discussed this in the sub-regulatory guidance. So, if I can give you an example. ADPs are required, or SNFs are required to report the organizational structures of their ADPs. So, you mentioned this financing company

being an ADP. The question is, what owners and managers of that ADP have to be reported? If this ADP were, let's say, a corporation, all 5% or greater direct or indirect owners have to be reported. The term indirect can go up the chain. It is not necessarily limited to that first level. So, let's say you have an indirect owner that owns 50% of the ADP and that is on the second level. If you go above that, and let's say there are other entities and people that have at least a 5% ownership interest that flows down several levels to the ADP, they would have to be reported as well. So, it is not just the first level, it goes beyond that as well. That's very similar to what we require today. So, in Sections 5 and 6 of the 855-A, the SNF has to report all of their direct and indirect owners of at least 5%. Now we understand in the ADP world, it is a little bit different. You're talking about the ownership structures of the ADPs. Let me take a step back here. What we can say is that in terms of how far you go, SNFs are basically expected to use the maximum feasible efforts to secure the required data. Again, this really isn't any different from today when providers and suppliers sometimes have difficulties obtaining information. It is critical that SNFs make all attempts possible, even multiple ones, if need be, to acquire the SNF data. With that said, the point you raised is a valid one. We understand that SNFs are concerned about how far they go in terms of getting this data. We are considering the matter internally, and we will issue updated sub-regulatory guidance on that topic. So, there are two parts. Number one is your specific, narrow question and the much larger question of how far a SNF needs to go to collect this information. I hope that makes sense. Does that answer your question?

**Pete Van Runkle:** It does. I appreciate that. I was using that scenario as an example of the larger question. It is the larger question that is at play: how far do you go with an ADP as distinguished from the ownership structure of the facility itself, which is more within their control?

**Frank Whelan:** Right, yeah, and it is a little bit different in terms of ownership because ownership is a specific numerical figure, whereas issues such as control and the types of services involved can be somewhat more nebulous. But at least in terms of ownership and the specific example you cited, it is a little bit more clear-cut. So, I hope I addressed that question.

**Pete Van Runkle:** Thank you, Frank.

**Frank Whelan:** You bet. Thanks a lot.

**Jackie:** Let's go back to Wendy. Wendy, you are able to unmute.

**Wendy Vorpahl:** Can you hear me?

**Jackie:** Yes, I can.

**Wendy Vorpahl:** My question is regarding the 855. We have an unusual circumstance. We have a corporation that owns one SNF. We are governed by a board. No one has any controlling interest. So, we struggle with filling out those Sections 4 and 5. I'm wondering if you have any insights on that.

**Frank Whelan:** Ma'am, I'm sorry I missed the last part of your question. Could you kindly repeat that? I'm sorry.

**Wendy Vorpahl:** We don't have anyone with controlling interest. We are governed by a board. No one has any type of ownership in the corporation at all. So, it's hard to fill out that form the 855 form because it requires you to—go ahead.

**Frank Whelan:** No ma'am, go right ahead. Finish your thought, I'm sorry.

**Wendy Vorpahl:** Because it requires you to put a certain amount of controlling interest on each person. We do list the board members, and we have to change the CMS-855 every year because the board changes every year. By the time we are ready to get one approved, we are already starting a second one.

**Frank Whelan:** OK, are you speaking just specifically to SNFs or to providers in general? And the reason why I ask that is because the question of government-owned entities has come up before. Right now, on the 855, government-owned entities are only required to report their managing employees as well as directors and officers if they happen to be a corporation. And that's because they basically don't have owners. Now, there is some information about having to report the government body that owns the entity. But for the most part, it is only managing employees. I should mention with respect to SNFs, we did update the sub-regulatory guidance to address what to report if you are a government owned SNF. If I'm not mistaken, I believe it is the very, very last item on the very last page of the sub-regulatory guidance. So, you may want to take a look at that. However, I will say again the issue of government-owned entities has come up before. So, hopefully, the guidance that's now in the sub-regulatory guidance will assist you in that.

**Wendy Vorpahl:** OK, we are not government-owned owned—we are private.

**Frank Whelan:** OK, I'm sorry—I misunderstood.

**Wendy Vorpahl:** So, I guess we struggle with, we are...are we a direct ownership or indirect then?

**Frank Whelan:** OK. So basically, what you are is, you are a SNF, and you're owned by a corporation?

**Wendy Vorpahl:** We are a SNF, and we have IL (independent living), AL (assisted living), kind of one location in general. But we are one SNF. We don't have an owner. We do have a board. The board is the head of everything.

**Frank Whelan:** OK. This is a somewhat unique scenario. Ma'am, I apologize. I thought you mentioned a government-owned entity. I apologize, my mistake. If you could submit that to the SNF disclosure mailbox that I mentioned before, and maybe if you could include an organizational chart or whatever, we could assist you with that because that's probably the easiest way to address this since I don't have a chart in front of me or the specific layout.

**Wendy Vorpahl:** OK, thank you.

**Frank Whelan:** Sure, no problem.

**Jackie:** Let's move on to Nicholas. Nicholas, you are able to unmute.

**Nicholas Beckham:** Thank you for calling on me and answering my question. I had a two-part question. Earlier, you mentioned that the sub-regulatory guidance will be updated weekly. We understand that, given the unprecedented nature of the request, that it is relatively a fluid moving information, but can we, as providers, expect latitude and chances to correct the information in a non-penalizing way as information is provided, given that the information and guidance is so fluid? A follow-up to the gentleman's questions earlier; it is very similar. It can be very challenging for us as SNFs to disclose all partners of ADPs that are vendors of which we have zero direct or indirect ownership. For example, large CPA firms, including the ones we use, are LLCs. The regulatory guidance does state that LLCs, regardless of percentage of ownership, even if it is not 5%, must be disclosed given that it is in this particular case, this firm has 300 plus partners, and we have zero ownership. What would we consider the maximum feasible effort to obtain this, and what do we do if we can't get that information, or they don't participate? Some of that seems like an impossible task. I apologize for the length of the question.

**Frank Whelan:** No, that's OK. I appreciate them. They are all excellent questions. I may ask you to repeat them as I go through them. The first issue is with respect to, again, how far you go in getting this information, particularly with respect to ADPs. We're not really able, on this forum, to define what maximum feasible efforts is because every factual situation is going to be different. For the same reason, we are not really able to establish on this call a threshold of the number of attempts you have to make to get the data. So, for instance, if you tried to get the data and you can't, do you need to make a follow-up? We're not really able to do that on this call. We do have one recommendation and that is that we do recommend that you thoroughly document all of the efforts you made to secure any information that you weren't able to get. So, if you document those efforts, that would probably be helpful. So that's that. Again, I'm sorry, could you go back to the first part of your second question?

**Nicholas Beckham:** On the sub-regulatory guidance being updated. That question?

**Frank Whelan:** Yeah, I think there were like three separate questions.

**Nicholas Beckham:** I apologize. The first one was based on the fact that you are updating the sub-regulatory guidance. We all understand this is new, and as things come up and you are feeling your way through this, there may be reasons and needs for up-to-date guidance. That can be challenging for us as providers to be compliant in our following of the guidance. Given that it is updated on a weekly basis, can we as providers be expected to have chances to update or correct information in a non-penalizing way as information is updated? If, for example, we may submit information to the best of our ability and due diligence to be compliant and notice that the sub-regulatory guidance was updated, and we might have done it differently, but that point has already been submitted and closed.

**Frank Whelan:** Yeah, what I can say with respect to that is that most of the updates that we've had have been fairly minor. I'm not really sure that the updates would be so substantive that you would have to go back and necessarily correct anything. Certainly, if there is data that did need to be updated, that would be part of the application development process, and the MAC would request that information. So that's really the best way I can answer that question. Like I said, the updates will probably be weekly. Maybe a little more frequently. But, again, they are mostly going to be tinkering on the edges. We are not going to be talking about massive updates.

**Nicholas Beckham:** OK. And on the...since we were, you know, a little fluid on how we define maximum feasibility, as we submit our ADPs for those providers that either refuse to participate or simply can't provide the information we need, we should provide the documentation of our efforts to obtain it with a statement saying "after diligent efforts of these instances, this is the maximum information we were able to provide."

**Frank Whelan:** What I can say is we do recommend that you retain documentation of your efforts. That's pretty much what I can say on that. It's certainly not a requirement, but it is a recommendation.

**Nicholas Beckham:** OK. Thank you.

**Frank Whelan:** No, thank you. They are all very good points. I appreciate the questions.

**Jackie:** OK, I think we have time for maybe one or two more questions. So, Kathy, I have seen your hand raised. You are able to unmute.

**Kathy Corbin:** Hi. Back to the original question about the change of ownership. I do have a situation where a change of ownership is expected to close early in December. I have a revalidation that is not due until January. So, does that negate the requirement for us as the outgoing provider to submit that revalidation, given that the new provider obviously will be submitting their Change of Ownership 855 with the disclosure for the new owning entity?

**Frank Whelan:** That is a fabulous question. It is similar to the question that one of the callers raised earlier. If you feel that that question mirrors yours, we can take a look at that person's question because it will be submitted to the SNF email box. We can take a look at that, and we can update the sub-regulatory guidance. But your question is a very good one. I appreciate you raising it.

**Kathy Corbin:** Thank you.

**Frank Whelan:** You bet.

**Jackie:** Let me see, somebody who hasn't had their hand raised already. Diane, let's take your question last. You are able to unmute.

**Diane Dietz:** Well, thank you very much. I, too, am with a state trade association that's affiliated with ACA, and I have a two-part question. The first has to do with the ADPs...specifically as it

relates to organizations that provide management and administrative services, clinical consulting...those are, there are many of these out there, and I guess the two parts is some of these providers that provide clinical consultation to us are Medicare-certified providers already. Think of institutional pharmacy as an example. You have ownership information on them. I guess my first question is, why would we have to disclose ownership information related to a Medicare-certified provider? That's part one. Part two, I'm really curious, and I think we're all curious. Why are you asking for so much information related to consultants? We certainly understand ownership information. But we have a variety of entities that come in. Let's just talk about MDS consulting—they can change. We might like this person or company one day, and somebody else comes along six months later, and you say gosh, it sounds like they are very talented, we want to bring them in. Do we have to change and update every time we change a consultant? I guess, kind of a two-part, why are we going so far, so deep with consultants? What about the entities that are already certified with Medicare, and you have the ownership information? Shouldn't we exempt those and list that we are using XYZ, which is Medicare certified, and you already have that information?

**Frank Whelan:** Ma'am, thank you very much for the question. I can basically answer both of them with one answer. That is that the statute Section 1124(c) is very, very clear as to what is required in terms of the scope of the data. Now, admittedly, this data goes far beyond what an SNF normally submits under Section 1124(a) of the act. By that, I mean the current information reported in Sections 5 and 6. Part of the issue was that there was concern about making sure that we understood all of the different ownership layers and all of the associations that SNFs may have. We explained this in the final rule to help beneficiaries make informed decisions as to care. So that's the first thing. It is basically what is in the statute. That's what we have here. The second thing is that because it is outlined in the statute, we're not really able to take data that has already been submitted with respect to a certified provider and not have that data submitted by the SNF. Again, we have to go by what is in the statute and in the regulation. So that is basically the reason why this data is required. Not only because it is in the statute but because we do need to make sure the beneficiaries have robust information when making decisions.

**Diane Dietz:** Just as a follow-up just because we'll get questions on this, so if I do have a clinical consultant for MDS services helping my MDS nurses perform better and I disclose to the best of my ability their ownership and in three months, I choose a new one, do I have to disclose again, go back into the 855-A and update this? And number two, how will the...the beneficiaries are actually going to see what clinical consultants a facility uses for such things as MDS consulting?

**Frank Whelan:** Yeah, in terms of the second question, this data is going to be published. It is going to be made public on [CMSdata.gov](https://cmsdata.gov). This is a statutory requirement whereby the data will be made public so they can see who the clinical consultants are, who the owners are, and who the managers are. So, they and their families will be able to see this information. Ma'am, I'm sorry, could you repeat your first question?

**Diane Dietz:** That's OK. I sincerely appreciate you attempting to answer these. I really do. If there is a change for a clinical consultant three months after they complete this.

**Frank Whelan:** Right, yes. We address this in the sub-regulatory guidance. Changes in clinical consultants would have to be reported within 30 days. Information about if you have an ADP organization and the ownership structure of that changes, those would only have to be reported every 90 days. Data that is currently required could be reported every 30 days in Sections 5 and 6 of the form would still be 30 days, and the clinical consulting that would be every 30 days as well.

**Diane Dietz:** Thank you very much.

**Frank Whelan:** No problem, ma'am. I appreciate your questions. Have a great day.

**Jill Darling:** Thank you, Frank, for taking the majority of the questions. Thank you, everyone, for joining us. We greatly appreciate you joining us with your questions and comments. Please utilize the helpful emails and links on the resource page, and we appreciate you joining us, so that will conclude today's call. Thank you, everyone.