



## Client Alert



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### **CMS to Finalize Nursing Home Ownership Disclosure Rules in 2012**

On July 29, 2011, the Centers for Medicare & Medicaid Services (CMS) announced that it will wait to finalize certain provisions that will expand nursing home ownership disclosure requirements. This announcement was made in the Final Rule for the Skilled Nursing Facility Prospective Payment System for Fiscal Year 2012 (SNF PPS Final Rule).<sup>1</sup> It was anticipated that the final ownership disclosure provisions would be included in the SNF PPS Final Rule, as these disclosure provisions were proposed in the SNF PPS Proposed Rule that appeared in the Federal Register on May 6, 2011 (Proposed Rule).

The Proposed Rule included the expanded nursing home ownership disclosure provisions that are required under the Patient Protection and Affordable Care Act (ACA). Subtitle B of Title VI of the Act, entitled "Nursing Home Transparency and Improvement," included broad changes to the federal ownership disclosures that must be made by nursing homes participating in the Medicare or Medicaid programs. Our previous article addressing these provisions under ACA can be accessed [here](#).<sup>2</sup> The provisions contained in the Proposed Rule closely mirror the provisions contained in ACA. Notably, the Proposed Rule also included a revision to the regulations that would require any changes to a nursing home's ownership information to be reported to Medicare and Medicaid within 30 days of the change.

In the Proposed Rule, CMS included, among other things, definitions for the term "additional disclosable party" and "organizational structure", and revised the definition for "managing employee." These definitions in the Proposed Rule were consistent with the requirements set forth under ACA. In the Proposed Rule, CMS solicited comments on how to best narrow the scope of the definition of "additional disclosable party." CMS also solicited comments on "a potential alternative approach in which [CMS] would collect certain information from Medicare SNFs only upon revalidation consistent with the requirements set forth in [42 C.F.R.] §424.515."

CMS explained in the SNF PPS Final Rule that it will publish a separate final rule in calendar year 2012 specifically addressing the ownership disclosure requirements in order to properly respond to all comments received. Although the regulations are not yet in effect, nursing homes are currently required

- <sup>1</sup> 76 Fed. Reg. 48486 (August 8, 2011), available at <http://www.gpo.gov/fdsys/pkg/FR-2011-08-08/pdf/2011-19544.pdf>
- <sup>2</sup> <http://www.agg.com/media/interior/publications/Rubinger-Grozine-CMS-Reduces-Payments-to-Skilled-Nursing-Facilities-for-FY-2012.pdf>



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immediately to have such information “available” upon request by HHS, CMS, the state, or the state’s long-term care ombudsman. Facilities must certify that the information reported is, to the best of the facility’s knowledge, accurate and current. Note that the new CMS 855A form, which was revised on July 1, 2011, now captures certain new ownership disclosure information that was introduced under ACA.

Note also that the Final Rule as released focused on the reduction of payments for SNFs for FY 2012, which is discussed in our previous article available by clicking [here](#).<sup>3</sup>

<sup>3</sup> <http://www.agg.com/media/interior/publications/Rubinger-Grozone-CMS-Reduces-Payments-to-Skilled-Nursing-Facilities-for-FY-2012.pdf>

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