



April 14, 2023

Chiquita Brooks-LaSure
Administrator
The Centers for Medicare and Medicaid Services
7500 Security Boulevard
Baltimore, MD 21244

Dear Administrator Brooks-LaSure,

On behalf of the nation's Medicaid Directors, NAMD is pleased to offer comments on the proposed rule, [Disclosures of Ownership and Additional Disclosable Parties Information for Skilled Nursing Facilities and Nursing Facilities](#). The proposed rule would require nursing facilities to disclose information about ownership and management to Medicaid agencies as part of the provider enrollment and revalidation process. Medicaid agencies would also be given the authority to collect information on ownership by private equity companies and real estate investment trusts.

NAMD supports the proposed rule. Medicaid Directors express serious concerns over quality-of-care issues and financial stability in private equity-owned facilities. Although these new reporting requirements would take time to implement, Medicaid Directors believe that additional information on nursing facility ownership would be well worth the operational investments.

NAMD is a bipartisan, nonprofit, professional organization representing leaders of all Medicaid agencies across the country. NAMD represents, elevates, and supports state and territorial Medicaid leaders to deliver high value services to the millions of people served by Medicaid and CHIP so they can achieve their best health and thrive in their communities.

Medicaid Directors are Concerned about the Proliferation of Private Equity and Real Estate Investment Trusts in the Nursing Facility Industry

Medicaid Directors are concerned about the rise of nursing facilities owned by private equity companies and real estate investment trusts. Medicaid agencies report that these private equity-owned facilities are often understaffed and rely heavily on temporary agency staffing, resulting in quality-of-care concerns for residents. These concerns are reflected in research showing increased [emergency department visits](#) and [mortality](#) in private equity-owned facilities.

Medicaid Directors also report concerns over the stability and, more broadly, the motives of private equity and real estate investment trust-owned facilities. Private equity companies and real estate investment trusts may consider the property value of these facilities as a core component of their value proposition, and may therefore be inclined

to convert or sell facilities to profit on the appreciated value of the real estate. This would have negative impacts on access and continuity of care for members. One agency reports that private equity-owned facilities in their state often go through several Changes of Ownership and face challenges with financial stability, often resulting in facility closures. These companies typically do not have direct ties to the communities they serve, raising concerns that their primary motivation is profit and not the provision of high-quality healthcare.

The Proposed Rule Would Help Medicaid Agencies Ensure Provider Accountability

Without clear data on facility ownership, it is difficult for Medicaid Directors to ensure accountability of Medicaid-enrolled nursing facilities. The proposed rule would give Medicaid agencies the authority to require nursing facilities to report additional information on ownership, including by private equity companies and real estate investment trusts, upon enrollment, revalidation, and changes in ownership.

This reporting would be very helpful to Medicaid agencies. Agencies often seek to evaluate the financial stability of Medicaid-enrolled providers. **Ownership data would be helpful for these evaluations and, over time, would give Medicaid agencies crucial insights into whether financial stability and quality-of-care issues are more prevalent at private equity or real estate investment trust-owned facilities.**

Ownership data would also be invaluable during the rate-setting process. Capital is a component of many agencies' rate-setting methodologies, and ownership data helps Medicaid agencies understand the types of costs the provider incurs and the reasonableness of those costs. These data would also be helpful when evaluating requests for rate increases, as they would offer insights into if rate increases will be used to improve quality-of-care (e.g., by increasing pay for direct service workers or hiring additional staff) or simply increase profit for investors.

Implementation Considerations

Medicaid agencies report that implementing the proposed provisions would require some operational changes, including updating the provider enrollment process, creating new ownership forms, and building out additional monitoring activities. However, Medicaid agencies report these changes would be operationally feasible and offer a high return on investment.

If CMS finalizes the proposed rule, **Medicaid Directors would appreciate additional information on enforcement.** The proposed rule states that federal financial participation would not be available for facilities that fail to report required ownership or control information; CMS should provide additional clarity on how this oversight would occur, including any enforcement authorities given to the Medicaid program.

Given that many facilities participate in both Medicare and Medicaid, **it would be helpful if CMS shared ownership data gathered during Medicare enrollment with Medicaid agencies**, or otherwise align disclosure processes.

Looking forward, CMS could consider expanding Medicaid agencies' authority to require reporting on ownership structures to other types of long-term services and supports, including assisted-living facilities, adult day health programs, and senior living communities.

Thank you for the opportunity to provide comments on this proposed rule. NAMD looks forward to continuing to work with CMS to ensure Medicaid members have access to high-quality care.

Sincerely,

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