



MEDICAID PROGRAM INTEGRITY

Toolkits to Address Frequent Findings: 42 CFR 455.105

Disclosures of Business Transactions

The following information addresses frequent findings from CMS's comprehensive program integrity reviews of State Medicaid Agencies' operations. This information helps address common issues for states when referencing the federal regulation for disclosures of certain business transactions.

42 CFR 455.105 Disclosure by providers: Information related to business transactions.

- (a) *Provider agreements.* A Medicaid agency must enter into an agreement with each provider under which the provider agrees to furnish to it or to the Secretary on request, information related to business transactions in accordance with paragraph (b) of this section.**

- (b) *Information that must be submitted.* A provider must submit, within 35 days of the date on a request by the Secretary or the Medicaid agency, full and complete information about—**
 - (1) The ownership of any subcontractor with whom the provider has had business transactions totaling more than \$25,000 during the 12-month period ending on the date of the request; and**
 - (2) Any significant business transactions between the provider and any wholly owned supplier, or between the provider and any subcontractor, during the 5-year period ending on the date of the request.**

- (c) *Denial of Federal financial participation (FFP).***
 - (1) FFP is not available in expenditures for services furnished by providers who fail to comply with a request made by the Secretary or the Medicaid agency under paragraph (b) of this section or under § 420.205 of this chapter (Medicare requirements for disclosure).**
 - (2) FFP will be denied in expenditures for services furnished during the period beginning on the day following the date the information was due to the Secretary or the Medicaid agency and ending on the day before the date on which the information was supplied.**

This regulation is the second of three regulations (the others are 42 CFR 455.104 and 455.106) that address disclosures that must be made by providers. While managed care entities (MCEs) are not legally mandated by this regulation to require their network providers to furnish information related to business transactions upon request, CMS considers these requirements to be a program safeguard that would be prudent to adopt in managed care settings. States may delegate these requirements to their MCEs through their contracts with the MCEs.

Below are some **Common Issues** we have observed in our reviews, followed by **Solutions** that states can implement to ensure compliance with the regulation.

Common Issues:

- 1) States fail to include any reference to 42 CFR 455.105 in their provider agreement or contract with providers and MCEs.
- 2) States do not completely reference the regulation in their provider agreement or contracts.

Solutions:

- a) The requirements for providers and MCEs must be included in the provider agreement or contract.
- b) There are several ways for this regulation to be cited in the provider agreement or contract. States can choose the citation that they believe will be most helpful for their providers to understand the requirements. Possible citations include:
 - (1) Inserting the entire 455.105 regulation, **or**
 - (2) Inserting only the 455.105(b) subsection, **or**
 - (3) Referencing the regulation by citation, such as:
 - 42 CFR 455.105, **or**
 - 42 CFR 455.105(b), **or**
 - 42 CFR 455 Subpart B (which includes all disclosure requirements from 455.100 through 455.106).
- c) Unlike the disclosures at 42 CFR 455.104 and 455.106, business transaction disclosures do not necessarily have to be obtained at enrollment or reenrollment. Also, these disclosures do not have to be included in a provider enrollment form, unless the state's or MCE's provider agreement is part of the enrollment package. Instead, the language in the provider agreement or contract can serve as a notification to the provider that they will be held to these requirements if the information is requested by the Secretary of the Department of Health and Human Services (HHS) (typically this will be an agency of HHS, like the Office of the Inspector General or CMS) or the State Medicaid Agency.

We hope this information on handling federally mandated business transaction disclosures has been helpful to states. Please direct any suggestions or feedback to: [Medicaid Integrity Program@cms.hhs.gov](mailto:Medicaid_Integrity_Program@cms.hhs.gov).