

<b>CMS Manual System</b>	<b>Department of Health &amp; Human Services (DHHS)</b>
<b>Pub 100-08 Medicare Program Integrity</b>	<b>Centers for Medicare &amp; Medicaid Services (CMS)</b>
<b>Transmittal 459</b>	<b>Date: April 12, 2013</b>
	<b>Change Request 8258</b>

**SUBJECT: Tax Identification Numbers of Foreign Owning and Managing Entities and Individuals**

**I. SUMMARY OF CHANGES:** The purpose of this change request (CR) is to furnish guidance regarding the reporting of tax identification numbers in sections 5 and 6 of the Form CMS-855.

**EFFECTIVE DATE: May 13, 2013**

**IMPLEMENTATION DATE: May 13, 2013**

*Disclaimer for manual changes only: The revision date and transmittal number apply only to red italicized material. Any other material was previously published and remains unchanged. However, if this revision contains a table of contents, you will receive the new/revised information only, and not the entire table of contents.*

**II. CHANGES IN MANUAL INSTRUCTIONS:** (N/A if manual is not updated)

R=REVISED, N=NEW, D=DELETED-Only One Per Row.

<b>R/N/D</b>	<b>CHAPTER / SECTION / SUBSECTION / TITLE</b>
R	15/Table of Contents
R	15/15.5.5/Owning and Managing Organizations
R	15/15.5.6/Owning and Managing Individuals
N	15/15.5.6.1/Discloure of Tax Identification Numbers (TINs) of Owning and Managing Organizations and Individuals

**III. FUNDING:**

**For Fiscal Intermediaries (FIs), Regional Home Health Intermediaries (RHHIs) and/or Carriers:**

No additional funding will be provided by CMS; Contractor's activities are to be carried out within their operating budgets.

**For Medicare Administrative Contractors (MACs):**

The Medicare Administrative Contractor is hereby advised that this constitutes technical direction as defined in your contract. CMS does not construe this as a change to the MAC statement of Work. The contractor is not obliged to incur costs in excess of the amounts allotted in your contract unless and until specifically authorized by the Contracting Officer. If the contractor considers anything provided, as described above, to be outside the current scope of work, the contractor shall withhold performance on the part(s) in question and immediately notify the Contracting Officer, in writing or by e-mail, and request formal directions regarding continued performance requirements.

**IV. ATTACHMENTS:**

**Business Requirements**

**Manual Instructions**

*\*Unless otherwise specified, the effective date is the date of service.*

# Attachment - Business Requirements

Pub. 100-08	Transmittal: 459	Date: April 12, 2013	Change Request: 8258
-------------	------------------	----------------------	----------------------

**SUBJECT: Tax Identification Numbers of Foreign Owning and Managing Entities and Individuals**

**EFFECTIVE DATE: May 13, 2013**

**IMPLEMENTATION DATE: May 13, 2013**

## I. GENERAL INFORMATION

**A. Background:** The purpose of this change request (CR) is to furnish guidance regarding the reporting of tax identification numbers in sections 5 and 6 of the Form CMS-855.

**B. Policy:** This CR provides guidance regarding the reporting of tax identification numbers in sections 5 and 6 of the Form CMS-855.

## II. BUSINESS REQUIREMENTS TABLE

Number	Requirement	Responsibility											
		A/ B MA C	D M E	F I	C A R R I E R	R H H I	Shared-System Maintainers				Other		
							P a r t A	P a r t B	M A C	F I S S		M C S	V M S
8258.1	If the contractor receives an initial, reactivation, revalidation, or change of ownership Form CMS-855 application from a provider and the provider fails to disclose the tax identification number (TIN) of a particular organization or individual listed in section 5 or 6 of the application, the contractor shall follow normal development procedures for requesting the TIN.	X	X		X	X	X						
8258.2	In carrying out business requirement 8258.1, if the contractor learns or determines that the TIN was not furnished because the entity or person in question is foreign, the contractor shall take the steps outlined in business requirements 8258.2.1 through 8258.2.1.3.2.	X	X		X	X	X						
8258.2.1	The contractor shall ask the provider (via any means) whether the person or entity is able to obtain a TIN or, in the case of individuals, an individual taxpayer identification number (ITIN). (Only one inquiry is needed.)	X	X		X	X	X						
8258.2.1.1	If the provider fails to respond to the contractor's inquiry within 30 days, the contractor shall follow the	X	X		X	X	X						

Number	Requirement	Responsibility									
		A/B M A C	D M E	F I	C A R R I E R	R H H I	Shared-System Maintainers				Other
		P a r t A	P a r t B	M A C			F I S S	M C S	V M S	C W F	
	instructions in business requirement 8258.2.1.3.2 below.										
8258.2.1.2	If the provider states that the person or entity is able to obtain a TIN or ITIN, the contractor shall send an e-mail, fax, or letter to the provider stating that (i) the person or entity must obtain a TIN/ITIN, and (ii) the provider must furnish the TIN/ITIN on the Form CMS-855 with a newly-signed certification statement within 90 days of the contractor's request.	X	X		X	X	X				
8258.2.1.3	If the provider states that the person or entity is unable to obtain a TIN or ITIN, the contractor shall send an e-mail, fax, or letter to the provider stating that (i) the provider must submit written documentation to the contractor explaining why the person or entity cannot legally obtain a TIN or ITIN, and (ii) the explanation – which can be in any written format and may be submitted electronically or via fax – must be submitted within 30 days of the contractor's request.	X	X		X	X	X				
8258.2.1.3.1	If the provider timely submits the explanation in business requirement 8258.2.1.3, the contractor shall forward the explanation to its Provider Enrollment Operations Group Business Function Lead (PEOG BFL). (PEOG will notify the contractor as to how the application should be handled.)	X	X		X	X	X				
8258.2.1.3.2	If the provider fails to timely respond to the contractor's inquiry in business requirement 8258.2.1 or fails to timely furnish the TIN/ITIN per business requirement 8258.2.1.3, the contractor shall – unless another CMS instruction directs otherwise - reject the application in accordance with existing procedures.	X	X		X	X	X				
8258.3	If the contractor exceeds timeliness standards on a particular application because of the procedures outlined in Pub. 100-08, chapter 15, section 15.5.6.1, the contractor shall document the provider file in accordance with section 15.7.3 of chapter 15.	X	X		X	X	X				
8258.4	For purposes of section 15.5.6.1 only, the term	X	X		X	X	X				

Number	Requirement	Responsibility										
		A/B MA C	D M E	F I	C A R R I E R	R H H I	Shared-System Maintainers				Other	
		P a r t A	P a r t B	M A C				F I S S	M C S	V M S	C W F	
	“change of ownership” - as used in the first paragraph of that section - shall refer to (1) CHOW, acquisition/merger, and consolidation applications submitted by the new owner, (2) change in majority ownership applications submitted by a home health agency, and (3) change of information applications in which a new entity or individual (e.g., owner, managing employee, corporate director) is being added in section 5 or 6.											

### III. PROVIDER EDUCATION TABLE

Number	Requirement	Responsibility							Other
		A/B MA C	D M E	F I	C A R R I E R	R H H I			
		P a r t A	P a r t B	M A C					
8258.5	MLN Article : A provider education article related to this instruction will be available at <a href="http://www.cms.hhs.gov/MLNMattersArticles/">http://www.cms.hhs.gov/MLNMattersArticles/</a> shortly after the CR is released. You will receive notification of the article release via the established "MLN Matters" listserv. Contractors shall post this article, or a direct link to this article, on their Web sites and include information about it in a listserv message within one week of the availability of the provider education article. In addition, the provider education article shall be included in the contractor’s next regularly scheduled bulletin. Contractors are free to supplement MLN Matters articles with localized information that would benefit their provider community in billing and administering the Medicare program correctly.	X	X		X	X	X		

#### IV. SUPPORTING INFORMATION

**Section A: Recommendations and supporting information associated with listed requirements: N/A**

X-Ref Requirement Number	Recommendations or other supporting information:
--------------------------	--

**Section B: All other recommendations and supporting information: N/A**

#### V. CONTACTS

**Pre-Implementation Contact(s):** Frank Whelan, 410-786-1302 or frank.whelan@cms.hhs.gov

**Post-Implementation Contact(s):** Contact your Contracting Officer's Representative (COR) or Contractor Manager, as applicable.

#### VI. FUNDING

**Section A: For Fiscal Intermediaries (FIs), Regional Home Health Intermediaries (RHHIs), and/or Carriers:**

No additional funding will be provided by CMS; Contractor's activities are to be carried out within their operating budgets.

**Section B: For Medicare Administrative Contractors (MACs):**

The Medicare Administrative Contractor is hereby advised that this constitutes technical direction as defined in your contract. CMS do not construe this as a change to the MAC Statement of Work. The contractor is not obligated to incur costs in excess of the amounts allotted in your contract unless and until specifically authorized by the Contracting Officer. If the contractor considers anything provided, as described above, to be outside the current scope of work, the contractor shall withhold performance on the part(s) in question and immediately notify the Contracting Officer, in writing or by e-mail, and request formal directions regarding continued performance requirements.

# Medicare Program Integrity Manual

## Chapter 15 - Medicare Enrollment

Table of Contents  
*(Rev.459, Issued: 04-12-13)*

---

*15.5.6.1 – Tax Identification Numbers (TINs) of Owning and Managing Individuals and Organizations*

## 15.5.5 – Owning and Managing Organizations

*(Rev.459, Issued: 04-12-13, Effective: 05-13-13, Implementation: 05-13-13)*

(This section only applies to section 5 of the Form CMS-855A and Form CMS-855B. It does not apply to the Form CMS-855I.)

All organizations that have any of the following must be listed in section 5A of the Form CMS-855:

### **1. A 5 percent or greater direct or indirect ownership interest in the provider.**

The following illustrates the difference between direct and indirect ownership:

**EXAMPLE:** The supplier listed in section 2 of the Form CMS-855B is an ambulance company that is wholly (100 percent) owned by Company A. Company A is considered to be a direct owner of the supplier (the ambulance company), in that it actually owns the assets of the business. Now assume that Company B owns 100 percent of Company A. Company B is considered an indirect owner - but an owner, nevertheless - of the supplier. In other words, a direct owner has an actual ownership interest in the supplier, whereas an indirect owner has an ownership interest in an organization that owns the supplier.

See the instructions for section 5 of the Form CMS-855 for additional information on indirect ownership.

### **2. Mortgage or security interest**

For purposes of enrollment, ownership also includes "financial control." Financial control exists when:

(a) An organization or individual is the owner of a whole or part interest in any mortgage, deed of trust, note, or other obligation secured (in whole or in part) by the provider or any of the property or assets of the provider, and

(b) The interest is equal to or exceeds 5 percent of the total property and assets of the provider.

All entities with at least a 5 percent mortgage, deed of trust or other security interest in the provider must be reported in section 5. This frequently will include banks, other financial institutions, and investment firms,

### **3. Any general partnership interest in the provider, regardless of the percentage. This includes: (1) all interests in a non-limited partnership, and (2) all general partnership interests in a limited partnership.**

### **4. For limited partnerships, any limited partnership interest that is 10 percent or greater.**

### **5. Managing control of the provider or supplier**

A managing organization is one that exercises operational or managerial control over the provider, or conducts the day-to-day operations of the provider. The organization need not have an ownership interest in the provider in order to qualify as a managing organization. For instance, the entity could be a management services organization under contract with the provider to furnish management services for one of the provider's practice locations.

The organizations referred to above generally fall into one or more of the following categories:

- Corporations
- Partnerships and limited partnerships
- Limited liability companies
- Charitable and religious organizations
- Governmental/tribal organizations

- Banks and financial institutions
- Investment firms
- Holding companies
- Trusts and trustees
- Medical providers/suppliers
- Consulting firms
- Management services companies
- Medical staffing companies
- Non-profit entities

In section 5(A)(2) of the Form CMS-855, the provider must indicate the type(s) of organizational categories the reported entity falls into.

The following principles also apply with respect to section 5:

a. Diagrams – In addition to completing section 5(A):

- The provider must submit an organizational structure diagram/flowchart identifying all of the entities listed in section 5 and their relationships with the provider and each other. (This applies to the Form CMS-855A, CMS-855B and CMS-855S.)
- If the provider is a skilled nursing facility (SNF), it must submit a diagram/flowchart identifying the organizational structures of all of its owners, including those that were not required to be listed in section 5 or 6. This must be submitted in addition to the diagram/flowchart in the previous bullet.

These diagrams/flowcharts must be submitted for initial enrollments, revalidations and reactivations, and upon any contractor requests.

b. Percentage of Interest (section 5(B)) – The provider need not:

- Disclose a percentage of managerial control
- Submit documentation verifying the percentage of ownership, partnership interest or security/mortgage interest, unless the contractor requests it.

c. Section 2 - Any entity listed as the provider in section 2 of the Form CMS-855 need not be reported in section 5A. The only exception involves governmental entities, which must be identified in section 5A even if they are already listed in section 2.

d. Governmental and Tribal Organization Letter - For governmental and tribal organizations, the letter referred to in the Form CMS-855 instructions for section 5 must be signed by an appointed or elected official of the governmental or tribal entity who has the authority to legally and financially bind the governmental or tribal entity to the laws, regulations, and program instructions of Medicare. This governmental or tribal official is not required to be an authorized official, or vice versa.

e. Non-Profit Organizations - Many non-profit organizations are charitable or religious in nature, and are operated and/or managed by a Board of Trustees or other governing body. The actual name of the Board of Trustees or other governing body must be listed in section 5A of the Form CMS-855. The provider must submit a copy of its 501(c)(3) approval notification for non-profit status. If it does not possess such documentation but nevertheless claims it is a non-profit entity, the provider may submit any other documentation that supports its claim (e.g., written documentation from the State).

Governmental and tribal entities need not submit a copy of a 501(c)(3) if it is otherwise obvious to the contractor that the entity is a governmental or tribal entity. The contractor can assume that the governmental or tribal entity is non-profit.

f. IRS CP-575 - Owing/managing organizations need not furnish an IRS CP-575 document unless requested by the contractor (e.g., the contractor discovers a potential discrepancy between the organization's reported legal business name and tax identification number.)

g. Documentation – Proof of ownership, managerial control, security interest, etc., need not be submitted unless the contractor requests it. This also means that articles of incorporation, partnership agreements, etc., need not be submitted absent a contractor's request.

h. Partnerships – Only partnership interests in the enrolling provider need be disclosed in section 5. Partnership interests in the provider's indirect owners need not be reported. However, if the partnership interest in the indirect owner results in a greater than 5 percent indirect ownership interest in the enrolling provider, this indirect ownership interest would have to be disclosed in section 5.

*See section 15.5.6.1 of this chapter for special instructions regarding the reporting of tax identification numbers of owning and managing entities.*

## **15.5.6 – Owning and Managing Individual**

*(Rev.459, Issued: 04-12-13, Effective: 05-13-13, Implementation: 05-13-13)*

(This section applies to section 6 of the Form CMS-855A, the Form CMS-855B, and the Form CMS-855I.)

All individuals who have any of the following must be listed in section 6A:

1. A 5 percent or greater direct or indirect ownership interest in the provider.
2. A 5 percent or greater mortgage or security interest in the provider.

(See section 15.5.5 of this chapter for more information on direct and indirect ownership, and on mortgage and security interests.)

3. Any general partnership interest in the provider, regardless of the percentage. This includes: (1) all interests in a non-limited partnership, and (2) all general partnership interests in a limited partnership.
4. For limited partnerships, any limited partnership interest that is 10 percent or greater.
5. Managing control of the provider. (For purposes of enrollment, such a person is considered to be a "managing employee." A managing employee is any individual, including a general manager, business manager, office manager or administrator, who exercises operational or managerial control over the provider's business, or who conducts the day-to-day operations of the business. A managing employee also includes any individual who is not an actual W-2 employee but who, either under contract or through some other arrangement, manages the day-to-day operations of the business.)
6. Officers and directors/board members, if – and only if - the applicant is a corporation. (For-profit and non-profit corporations must list all of their officers and directors. If a non-profit corporation has "trustees" instead of officers or directors, these trustees must be listed in section 6 of the Form CMS-855.) Only officers and directors of the enrolling provider must be reported. Board members of the provider's indirect owners need not be disclosed to the extent they are not otherwise required to be reported (e.g., as an owner or managing employee) in section 6. However, there may be situations where the officers and directors/board members of the enrolling provider's corporate owner/parent also serve as the enrolling provider's officers and directors/board members. In such cases – and again assuming that the provider is a

corporation – the indirect owner’s officers and directors/board members would have to be disclosed as the provider’s officers and directors/board members in section 6.

With respect to corporations, the term “director” refers to members of the board of directors. If a corporation has, for instance, a Director of Finance who nonetheless is not a member of the board of directors, he/she would not need to be listed as a director/board member in section 6. However, he/she may need to be listed as a managing employee in section 6.

In addition:

- The provider need not disclose a percentage of: (1) control as an officer or director, (2) W-2 or contracted managerial control, or (3) operational control. Also, the provider need not submit documentation verifying the percentage of ownership, partnership interest or security/mortgage interest, unless the contractor requests it.
- Government entities need only list their managing employees in section 6 of the Form CMS-855, as they do not have owners, partners, corporate officers, or corporate directors.
- The applicant must list at least one managing employee in section 6 if it is completing the Form CMS-855A or the Form CMS-855B. An individual completing the Form CMS-855I need not list a managing employee if he/she does not have one.
- All managing employees at any of the practice locations listed in section 4C of the Form CMS-855I must be reported in section 6A. However, individuals who: (1) are employed by hospitals, health care facilities, or other organizations shown in section 4C (e.g., the chief executive officer of a hospital listed in section 4C), or (2) are managing employees of any group/organization to which the practitioner will be reassigning his/her benefits, need not be reported.
- The contractor need not request a copy of the individual’s W-2 to confirm that he/she is a W-2 employee (as opposed to a contracted employee), although it reserves the right to do so.
- Proof of ownership, managerial control, security interests, etc., need not be submitted unless the contractor requests it.
- Only partnership interests in the enrolling provider need be disclosed. Partnership interests in the provider’s indirect owners need not be reported. Of course, if the partnership interest in the indirect owner results in a greater than 5 percent indirect ownership interest in the enrolling provider, this indirect ownership interest would have to be disclosed in section 6.

*See section 15.5.6.1 of this chapter for special instructions regarding the reporting of tax identification numbers of owning and managing individuals.*

### ***15.5.6.1 – Tax Identification Numbers (TINs) of Owning and Managing Organizations and Individuals***

***(Rev.459, Issued: 04-12-13, Effective: 05-13-13, Implementation: 05-13-13)***

*Consistent with sections 1124 and 1124A of the Social Security Act, the TINs (employer identification numbers or social security numbers) of all entities and individuals listed in sections 5 and 6, respectively, of the Form CMS-855 must be disclosed. If the contractor receives an initial, reactivation, revalidation, or change of ownership application from a provider and the provider fails to disclose the TIN of a particular organization or individual listed in section 5 or 6, the contractor shall follow normal development procedures for requesting the TIN. In doing so, if the contractor learns or determines that the TIN was not furnished because the entity or person in question is foreign, the contractor shall take the following steps:*

*a. The contractor shall ask the provider (via any means) whether the person or entity is able to obtain a TIN or, in the case of individuals, an individual taxpayer identification number (ITIN). (Only one inquiry is needed.)*

- (1) If the provider fails to respond to the contractor's inquiry within 30 days, the contractor shall follow the instructions in (c) below.*
- (2) If the provider states that the person or entity is able to obtain a TIN or ITIN, the contractor shall send an e-mail, fax, or letter to the provider stating that (i) the person or entity must obtain a TIN/ITIN, and (ii) the provider must furnish the TIN/ITIN on the Form CMS-855 with a newly-signed certification statement within 90 days of the contractor's request.*
- (3) If the provider states that the person or entity is unable to obtain a TIN or ITIN, the contractor shall send an e-mail, fax, or letter to the provider stating that (i) the provider must submit written documentation to the contractor explaining why the person or entity cannot legally obtain a TIN or ITIN, and (ii) the explanation – which can be in any written format and may be submitted electronically or via fax – must be submitted within 30 days of the contractor's request.*

*b. If the provider timely submits the explanation in (a)(3) above, the contractor shall forward the explanation to its Provider Enrollment Operations Group Business Function Lead (PEOG BFL). PEOG will notify the contractor as to how the application should be handled.*

*c. If the provider fails to timely respond to the contractor's inquiry in (a) or fails to timely furnish the TIN/ITIN in (a)(2), the contractor shall – unless another CMS instruction directs otherwise - reject the application in accordance with the procedures identified in this chapter.*

*In addition:*

- If the contractor exceeds timeliness standards on a particular application because of the procedures outlined in this section, the contractor shall document the provider file in accordance with section 15.7.3 of this chapter.*
- For purposes of this section 15.5.6.1 only, the term “change of ownership” - as used in the first paragraph of this section - refers to (1) CHOW, acquisition/merger, and consolidation applications submitted by the new owner, (2) change in majority ownership applications submitted by a home health agency, and (3) change of information applications in which a new entity or individual (e.g., owner, managing employee, corporate director) is being added in section 5 or 6.*