

# MISSISSIPPI DIVISION OF MEDICAID

## Instructions for Provider Disclosure Form

The Code of Federal Regulations set forth in 42 CFR. §§ 455.100-106 requires that all providers disclose specified information regarding business ownership and control, business transactions, and criminal convictions to the Mississippi Division of Medicaid (DOM). In addition, state law provides that Medicaid enrollment may be denied or revoked when providers or their agents, managing employees, or those with minimum ownership interests are convicted of certain crimes and other circumstances. These disclosures will be used to determine the applicability of Miss. Code Ann. § 43-13-121(7).

The Provider Disclosure Form is due at any of the following times:

- 1) Upon submission of a provider enrollment application,
- 2) Upon change of required disclosing information,
- 3) Upon request of DOM during revalidation of enrollment, and
- 4) Within thirty-five (35) days after any change in ownership of provider, and/or upon request by Mississippi Medicaid.

### General Instructions

- ✓ Please answer all questions as of the date of submission.
- ✓ Additional pages should be attached and completed as necessary to provide accurate responses.
- ✓ Every question should be answered in an accurate manner and applicable responses provided.
- ✓ Retain a copy for your files.

### Definitions

The definitions below are designed to clarify certain questions on the Provider Disclosure Form. These definitions may be found in 42 CFR § 455.101 and the Mississippi Medicaid Admin. Code (Part 200, Rule 4.1), both of which should be consulted for any amendments.

- A. **Agent** means any person who has been delegated the authority to obligate or act on behalf of a provider.
- B. **Director** is a member of the provider's "board of directors". It does not necessarily include a person who may have the word "director" in his/her job title (e.g. departmental director, director of operations). Moreover, where a provider has a governing body that does not use the term "board of directors", the members of that governing body will still be considered "directors". Thus, if the provider has a governing body titled "board of trustees" (as opposed to "board of directors"); the individual trustees are considered "directors" for Medicaid enrollment purposes.
- C. **Disclosing entity** means a Medicaid provider (other than an individual practitioner or group of practitioners) or a fiscal agent.
- D. **Group of practitioners** means two or more health care practitioners who practice their profession at a common location (whether or not they share common facilities, common supporting staff, or common equipment).
- E. **Indirect ownership interest** means an ownership interest in an entity that has an ownership interest in the disclosing entity. This term includes an ownership interest in any entity that has an indirect ownership interest in the disclosing entity.
- F. **Managing employee** means a general manager, business manager, administrator, director, or other individual who exercises operational or managerial control over, or

who directly or indirectly conducts the day-to-day operation of an institution, organization, or agency.

- G. **Officer** is any person whose position is listed as being that of an officer in the provider's "articles of incorporation" or "corporate bylaws" or anyone who is appointed by the board of directors as an officer in accordance with the provider's corporate bylaws.
- H. **Other disclosing entity** means any other Medicaid disclosing entity and any entity that does not participate in Medicaid, but is required to disclose certain ownership and control information because of participation in any of the programs established under Title V, XVIII, or XX of the Act. This includes:
- Any hospital, nursing facility, home health agency, independent clinical laboratory, renal disease facility, rural health clinic, or health maintenance organization that participates in Medicare (Title XVIII);
  - Any Medicare intermediary or carrier; and
  - Any entity (other than an individual practitioner or group of practitioners) that furnishes, or arranges for the furnishing of, health-related services for which it claims payment under any plan or program established under Title V or Title XX of the Act.
- I. **Ownership interest** means the possession of equity in the capital, the stock, or the profits of the disclosing entity.
- J. **Person with an ownership or control interest** means a person or corporation that (a) has an ownership interest totaling five percent or more in a disclosing entity; (b) has an indirect ownership interest equal to five percent or more in a disclosing entity; (c) has a combination of direct and indirect ownership interests equal to five percent or more in a disclosing entity; (d) owns an interest of five percent or more in any mortgage, deed of trust, note, or other obligation secured by the disclosing entity if that interest equals at least five percent of the value of the property or assets of the disclosing entity; (e) is an officer or director of a disclosing entity that is organized as a corporation; or (f) is a partner in a disclosing entity that is organized as a partnership.
- K. **Significant business transaction** means any business transaction or series of transactions that, during any one fiscal year, exceed the lesser of \$25,000 and five percent of a provider's total operating expenses.
- L. **Subcontractor** means (a) an individual, agency, or organization to which a disclosing entity has contracted or delegated some of its management functions or responsibilities of providing medical care to its patients; or (b) an individual, agency, or organization with which a fiscal agent has entered into a contract, agreement, purchase order, or lease (or leases of real property) to obtain space, supplies, equipment, or services provided under the Medicaid agreement.
- M. **Supplier** means an individual, agency, or organization from which a provider purchases goods and services used in carrying out its responsibilities under Medicaid (e.g., a commercial laundry, a manufacturer of hospital beds, or a pharmaceutical firm).
- N. **Termination** means:
- 1) For a (i) Medicaid or CHIP provider, a State Medicaid program or CHIP has taken an action to revoke the provider's billing privileges, and the provider has exhausted all applicable appeal rights or the timeline for appeal has expired, and (ii) Medicare provider, supplier or eligible professional, the Medicare program has revoked the provider or supplier's billing privileges, and the provider has exhausted all applicable appeal rights or the timeline for appeal has expired.
  - 2) (i) In all three programs, there is no expectation on the part of the provider or supplier or

the State or Medicare program that the revocation is temporary. (ii) The provider, supplier, or eligible professional will be required to reenroll with the applicable program if they wish billing privileges to be reinstated.

3) The requirement for termination applies in cases where providers, suppliers, or eligible professionals were terminated or had their billing privileges revoked for cause which may include, but is not limited to (i) fraud, (ii) integrity, or (iii) quality.

- O. **Wholly owned supplier** means a supplier whose total ownership interest is held by a provider or by a person, persons, or other entity with an ownership or control interest in a provider.

The definitions below should be used in answering questions on the Provider Disclosure Form concerning relationships to excluded, penalized, or convicted persons (Section D). These definitions may be found in 42 CFR § 1001.1001, which should be consulted for any amendments.

- A. **Agent** means any person who has express or implied authority to obligate or act on behalf of an entity.
- B. **Immediate family member** means, a person's husband or wife; natural or adoptive parent; child or sibling; stepparent, stepchild, stepbrother or stepsister; father-, mother-, daughter-, son-, brother- or sister-in-law; grandparent or grandchild; or spouse of a grandparent or grandchild.
- C. **Indirect ownership interest** includes an ownership interest through any other entities that ultimately have an ownership interest in the entity in issue. (For example, an individual has a 10 percent ownership interest in the entity at issue if he or she has a 20 percent ownership interest in a corporation that wholly owns a subsidiary that is a 50 percent owner of the entity in issue.)
- D. **Member of household** means, with respect to a person, any individual with whom they are sharing a common abode as part of a single family unit, including domestic employees and others who live together as a family unit. A roomer or boarder is not considered a member of household.
- E. **Ownership interest** means an interest in:
- (a) The capital, the stock or the profits of the entity, or
  - (b) Any mortgage, deed, trust or note, or other obligation secured in whole or in part by the property or assets of the entity.

### **Determination of Ownership or Control Percentages**

Instructions for determining ownership or control percentages are reproduced here for your convenience. This information may be found in 42 CFR § 455.102, which should be consulted for any amendments.

- A. Indirect ownership interest. The amount of indirect ownership interest is determined by multiplying the percentages of ownership in each entity. For example, if A owns 10 percent of the stock in a corporation, which owns 80 percent of the stock of the disclosing entity, A's interest equates to an 8 percent indirect ownership interest in the disclosing entity and must be reported. Conversely, if B owns 80 percent of the stock of a corporation which owns 5 percent of the stock of the disclosing entity, B's interest equates to a 4 percent indirect ownership interest in the disclosing entity and need not be reported.
- B. Person with an ownership or control interest. In order to determine percentage of ownership, mortgage, deed of trust, note, or other obligation, the percentage of interest owned in the obligation is multiplied by the percentage of the disclosing entity's assets used to secure the obligation. For example, if A owns 10 percent of a note secured by 60 percent of the provider's assets, A's interest in the provider's assets equates to 6 percent and must be reported. Conversely, if B owns 40 percent of a note secured by 10 percent of the provider's assets, B's interest in the provider's assets equates to 4 percent and need not be reported.