

CMS Responses to AHCA Questions on Organization and Individual PII Disclosure Requirements (CMS Response 10/15/2024)

ORGANIZATIONAL DISCLOSURES	855 ATTACHMENT Item	AHCA Clarification Requested (10/11/24)	CMS Response (10/15/24) with AHCA recopied CMS references in RED
Page 55 Item A	Tax Identification Number (TIN)	See our discussion about items on Pages 58-60 below regarding when the organization must submit a TIN or not.	
Page 57 Item C.2	SSN and DOB only required for Chain home office administrator or CEO contact information	We wish to clarify that this is the only item (individual) in the ORGANIZATIONAL DISCLOSURES section of the 855 ATTACHMENT 1 that requires SSN and DOB information.	Correct, because this is the only individual listed in that section.
Pages 58-60	TIN only required on page 55 Item A if any of the below are answered ‘Yes’:	We wish to clarify that the ownership threshold for reporting the requested PII (TIN or SSN and DOB) for organizations only applies with 5% or more interest or ‘managing organization’ control in each of the following 855A ATTACHMENT items.	For owners of the SNF that are organizations, the 5% ownership threshold for reporting TINs applies. Suppose an LLC owns 4% of a SNF. The entity must be reported under Section 1124(c) because all LLC owners of the SNF must be disclosed regardless of the percentage. However, the TIN need not be reported because the 5% threshold applies for that.
	Page 58 Item D.1	None	
	Page 58 Item D.2	Does this only apply if this item is checked ‘Yes’ AND The exact percentage of ownership field = 5% or more? Your new guidance document verbiage states ‘5% or greater’ but this 855 field for LLCs states ‘any’ ownership interest. We presume the 5% or more can be met by applying the AND criteria.	Please see my previous response. While the “under 5%” organizational owner must be reported, its TIN does not. (Page 58 Item D.3) Per Section 1124(a), their TINs need only be reported if the ownership interest is at least 5%.)

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	Page 58 Item D.3	<p>Does this only apply if this item is checked ‘Yes’ AND The exact percentage of ownership field = 5% or more?</p> <p>Your new guidance document verbiage states 5% or greater but this 855 field for direct general partnership/ownership states ‘any’ interest. We presume the 5% or more can be met by applying the AND criteria.</p>	<p>All partners in a general partnership that owns the SNF are currently required under Section 1124(a) to be reported – regardless of their % of partnership/ownership. Their TINs must also be disclosed under Section 1124(a) irrespective of the percentage.</p>

CMS Response (10/15/24)

In a nutshell, therefore:

- + For **Corporations**, the 5% threshold applies to ownership disclosure and TIN disclosure.
- + Per Section 1124(a), all partners in a **general and limited partnership** that owns the SNF must be disclosed – as must their TINs – regardless of their % of partnership/ownership interest. This has been CMS policy for many years.
- + Per Section 1124(c), all **LLC owners** of the SNF must be reported regardless of the % of ownership. However, per Section 1124(a), their TINs need only be reported if the ownership interest is at least 5%.

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	Page 58 Item D.5	None	
	Page 58 Item D. 6	None	
	Page 59 Item D.7	<p>Does this only apply if this item is checked 'Yes' AND The exact percentage of ownership field = 5% or more?</p> <p>Your new guidance document verbiage states 5% or greater but this 855 field for direct general partnership/ownership states 'any' interest. We presume the 5% or more can be met by applying the AND criteria.</p>	<p>Please see my previous responses RE: LLCs(58 D.2) and general / limited partnerships. (Page 58 Item D.3) For LLCs, there is no % threshold for reporting the entity but there is a 5% threshold for reporting its TIN. For partnerships, there is no disclosure % threshold for the entity or its TIN.</p>
	Page 59 Item D.8	None	
	<p>Page 59 Item D.10 (any of below)</p> <p>Operational Managerial Financial</p>	<p>We presume that only some of the functions reported as 'Yes' in Page 60 Item D.11 may raise to the level of 'control' to qualify for being checked as 'Yes' in item D.10. In other words, a 'Yes' response in item D.11 may not automatically qualify for a 'Yes' response in Item D.10.</p>	<p>Correct.</p>

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INDIVIDUALS DISCLOSURES	855 ATTACHMENT Item	AHCA Clarification Requested	CMS Response
Page 65 Item A	Location of SSN or TIN and DOB of reportable INDIVIDUALS	This appears to be the only item in the INDIVIDUALS DISCLOSURES section of the 855 ATTACHMENT 1 that requires SSN or TIN and DOB information.	Correct. It is the only place in the Individuals section where the SSN/DOB must be disclosed.
Page 65 Item A	SSN or TIN and DOB only required if any of the below are answered ‘Yes’:	We wish to clarify that the ownership threshold for reporting the requested PII (TIN or SSN and DOB) for <u>individuals</u> only applies with 5% or more interest or ‘managing employee’ control in each of the following 855A ATTACHMENT items.	Yes, except for persons with a general or limited partnership interest in the SNF. They must report their SSNs and DOBs regardless of the partnership/ownership percentage.
	Page 65 Item B.1	None	
	Page 65 Item B.2	<p>Does this only apply if this item is checked ‘Yes’ AND The exact percentage of ownership field = 5% or more?</p> <p>Your new guidance document verbiage states ‘5% or greater’ but this 855 field for LLCs states ‘any’ ownership interest. We presume the 5% or more can be met by applying the AND criteria.</p>	<p>Right. Please see my response to the same question above RE: organizations. (Page 58 Item D.2)</p> <p>While the “under 5%” organizational owner must be reported, its TIN does not.</p>
	Page 65 Item B.3	<p>Does this only apply if this item is checked ‘Yes’ AND The exact percentage of ownership field = 5% or more?</p> <p>Your new guidance document verbiage states 5% or greater but this 855 field for direct general partnership/ownership states ‘any’ interest. We presume the 5% or more can be met by applying the AND criteria.</p>	<p>Please see my response to the same question above RE: organizations. (Page 58 Item D.3.)</p> <p>All partners in a general partnership that owns the SNF are currently required under Section 1124(a) to be reported – regardless of their % of partnership/ownership. Their TINs must also be disclosed under Section 1124(a) irrespective of the percentage.</p>

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INDIVIDUALS DISCLOSURES	855 ATTACHMENT Item	AHCA Clarification Requested	CMS Response
	Page 65 Item B.4	<p>Does this only apply if this item is checked ‘Yes’ AND The exact percentage of ownership field = 5% or more?</p> <p>Your new guidance document verbiage states 5% or greater but this 855 field for direct general partnership/ownership states ‘any’ interest. We presume the 5% or more can be met by applying the AND criteria.</p>	<p>Please see my response to same question above RE: organizations. (Page 58 Item D.3.)</p> <p>All partners in a general partnership that owns the SNF are currently required under Section 1124(a) to be reported – regardless of their % of partnership/ownership. Their TINs must also be disclosed under Section 1124(a) irrespective of the percentage.</p>
	Page 66 Item B.5	None	
	Page 66 Item B. 6	None	
	Page 66 Item B.7	<p>Does this only apply if this item is checked ‘Yes’ AND The exact percentage of ownership field = 5% or more?</p> <p>Your new guidance document verbiage states 5% or greater but this 855 field for direct general partnership/ownership states ‘any’ interest. We presume the 5% or more can be met by applying the AND criteria.</p>	<p>Please see my response to same question above RE: organizations (Page 59 Item D.7)</p> <p>For LLCs, there is no % threshold for reporting the entity but there is a 5% threshold for reporting its TIN. For partnerships, there is no disclosure % threshold for the entity or its TIN.</p>
	Page 66 Item B.8	None	
	Page 66 Item B.10	None	
	Page 67 Item b.12 (any of below) Operational Managerial Financial	We presume that only some of the functions reported as ‘Yes’ in Page 67 Item B.13 may raise to the level of ‘control’ to qualify for being checked as ‘Yes’ in item B.12. In other words, a ‘Yes’ response in item B.13 may not automatically qualify for a ‘Yes’ response in Item B.12.	(Page 59 D.10). Correct

CMS Response (10/15/24)

In a nutshell, therefore:

+ Per Section 1124(a), **all partners in a general and limited partnership that owns the SNF must be disclosed – as must their TINs – regardless of their % of partnership/ownership interest. This has been CMS policy for many years.**

+ Per Section 1124(c), all LLC owners of the SNF must be reported regardless of the % of ownership. However, per Section 1124(a), **their TINs need only be reported if the ownership interest is at least 5%.**

+ **For corporations, the 5% threshold applies to ownership disclosure and TIN disclosure.**