



The National
CONSUMER VOICE
for Quality Long-Term Care

March 23, 2026

Dr. Mehmet Oz
Administrator
Centers for Medicare & Medicaid Services
7500 Security Blvd
Baltimore, MD 21244

RE: Request for Information Related to Comprehensive
Regulations to Uncover Suspicious Healthcare
(CMS-6098-NC)

Dear Dr. Oz:

The National Consumer Voice for Quality Long-Term Care (Consumer Voice) submits the following comments in response to the Centers for Medicare & Medicaid Services' (CMS) Request for Information (91 Fed. Reg. 9803 Feb. 27, 2026) seeking stakeholder feedback on regulatory and programmatic changes to more effectively prevent fraud, waste, and abuse, promote payment accuracy, and protect Medicare and Medicaid beneficiaries and taxpayer dollars.

Nationally, nursing homes receive nearly \$70 billion annually in Medicare and Medicaid payments, not including payments from Medicare managed care organizations.¹ Despite this significant investment of taxpayer dollars, nursing home residents continue to experience chronic understaffing, poor quality outcomes, and unmet basic needs. A growing body of evidence raises serious questions about whether public funds are being used for their intended purpose or diverted through complex ownership structures and related-party transactions to owners and operators as profit.

The RFI "Comprehensive Regulations to Uncover Suspicious Healthcare" seeks to directly address the misuse of Medicare and Medicaid funds. Unfortunately, the nursing home industry has come to represent significant public investment and poor healthcare outcomes. Yet CMS has failed to adequately hold nursing homes accountable for how they spend taxpayer dollars. Each year, billions of dollars are funneled through related party companies, while CMS does little to police how these funds are used. While residents suffer, nursing home owners purchase multi-million-dollar mansions in Beverly Hillsⁱ and report huge profits.ⁱⁱ

CMS needs to increase scrutiny of related-party transactions, and of the owners and operators it certifies for Medicare. CMS routinely certifies and recertifies providers that consistently provide care that harms nursing home residents. CMS must conduct a more robust review of providers applying for certification or recertification. Nursing home owners who are unable to provide high-quality care and demonstrate financial stability should not be allowed to operate nursing homes.

Below is a summary of the problem and specific steps CMS can take to CRUSH waste, fraud, and abuse in nursing home spending and finances. These steps will lead to increased accountability for taxpayer dollars, but most importantly, better health outcomes for nursing home residents.

CMS Must Increase Scrutiny of Related Party Transactions, Including Requiring Increased Financial Disclosure, Auditing of Medicare Cost Reports, and Holding Nursing Home Owners Accountable for How They Spend Taxpayer Dollars

In 2003, an articleⁱⁱⁱ published in the Journal of Health Law suggested that nursing homes undergo corporate restructuring to help avoid civil liability for negligent care. By using separate, single-purpose corporations, nursing home owners could insulate assets that would otherwise be subject to civil judgment. The article's chief recommendation was to separate the operational side of the nursing home from the real estate side:

“There is an emphasis on separating the ownership of the real estate from the ownership of the operating entity that holds the license and Medicare and Medicaid provider agreements. This is normally achieved by having the operating entity lease the facility from the real property entity. This can be accomplished even where there is identical ownership and control between and among the real-property entity and the operating entity.”

Owners found an additional benefit: they could use the company that owned the real estate (which they own) to charge rent and lease fees to the nursing home (which they also own). In essence, the owners began charging themselves to rent their own facility. The use of related parties has evolved to include not only real estate but almost every aspect of nursing home operations. It is now common for nursing homes to do business with several related parties, including management, physical therapy, and staffing companies, among many others. A 2023 study^{iv} found that 77% of nursing homes reported related-party transactions in 2019, paying related parties \$11.23 billion, equal to 9.54% of their total operating revenues.

In 2024, a study^v conducted by Drs. Ashvin Gandhi and Andrew Olenski estimated that 75% of nursing homes reported related-party transactions, and that the average nursing home used this practice to hide \$380,000 in profit each year. The study found that rents or lease payments and management fees accounted for roughly 60% of all related-party transactions. The authors estimated that roughly 36% of real estate payments from facilities to related-party companies were hidden profits, and 41.7% of management fees paid to related parties were hidden profits.

Consumer Voice has issued several reports^{vi} documenting the use of related-party transactions, how they potentially hide profits and make nursing homes look less profitable, and calling on CMS to increase its scrutiny of these transactions. These reports documented how nursing homes routinely paid related-party companies in excess of Medicare allowable costs and how these payments diverted Medicare and Medicaid dollars to rents, management fees, and other costs. Critically, these reports document that the quality of care is poorer in these facilities than in non-profit companies.

To illustrate how related party companies potentially hide profits and make nursing homes look less profitable, Consumer Voice documented one home in New Jersey that reported a loss of \$60,400 over three years, while at the same time, that home paid to its owners \$8.1 million through related party transactions, potentially disguising millions in profits.

In 2024, the Department of Health and Human Services Office of Inspector General (OIG) found fault with how CMS monitored related-party transactions, identifying issues in a majority of the cost reports it reviewed. Despite these findings, CMS disagreed with increasing the review or audit process for these transactions, thereby allowing the process to continue with little oversight.

Until CMS requires greater transparency and holds nursing homes accountable for how they spend taxpayer dollars, nursing home care will not improve. Billions of dollars intended for the care of our country's most vulnerable citizens will continue to be diverted away into an opaque ownership and operational structure, potentially hiding profits, while residents suffer and die. CMS already possesses broad statutory and regulatory authority to ensure the effective and efficient use of Medicare and Medicaid funds. Federal regulations require nursing homes to report transactions with related organizations and limit reimbursement to costs that are reasonable and comparable to what would be paid in the open market.^{vii} Yet available evidence indicates that CMS rarely enforces these standards in practice.

As noted previously, in 2024, the OIG found significant fault in how CMS reviewed related-party transactions. In response to OIG’s report, CMS displayed a fundamental misunderstanding of why related party transactions must be reviewed more closely. CMS focused not on how facilities must be held accountable for their use of Medicare and Medicaid dollars. Instead, CMS emphasized that Medicare cost reports are not used to set Medicare payment rates. This position ignores the fact that, regardless of whether cost reports are used to set payment rates, they demonstrate that Medicare and Medicaid dollars are being funneled to companies with little to no accountability.

The Nursing Home Reform Act of 1987 states:

It is the duty and responsibility of the Secretary of Health and Human Services to assure that requirements which govern the provision of care in skilled nursing facilities under this subchapter, and the enforcement of such requirements, are adequate to protect the health, safety, welfare, and rights of residents and **to promote the effective and efficient use of public moneys.**” (42 U.S.C. § 1395i-3(f)(1)). (Emphasis added).

The statute provides CMS with broad authority to examine how nursing home owners use taxpayer dollars. CMS could more effectively use its existing authority by treating excessive or unexplained related-party payments as a significant risk to program integrity. Medicare cost reports already contain sufficient information to identify instances in which payments to related entities exceed allowable costs or market norms. Yet CMS does not consistently audit or require justification for these excess payments.

Although CMS and its contractors collect extensive financial and operational information, current processes limit the agency’s ability to use that data effectively and expeditiously. Cost reports frequently contain missing, inconsistent, or outdated information, and there is little evidence of routine auditing or reconciliation.

In some cases, nursing home payments to related parties exceeded allowable Medicare costs by more than 100 percent^{viii}. Yet CMS does not require that facilities document what services were received, how costs were determined, or why payments exceeded allowable amounts. It does not matter whether CMS reimburses for these amounts when the cost reports clearly show that Medicare and Medicaid dollars are being used to pay them. The reports document that money intended for resident care, reimbursable costs, is being diverted away to pay high rents, management fees, and other costs to companies owned by the nursing home owners themselves. CMS does not routinely require access to related-party company finances and records, despite having the authority to do so. ⁵

CMS could implement several policies that would help deter the diversion of taxpayer dollars from resident care by:

- Requiring cost reports to be audited by certified public accountants before they are submitted.
- Require enhanced disclosure of all related party transactions, including the cost to the related party company, the services provided, the profit to the related party company, and proof that the transactions were reasonable when compared to market rates.
- Routinely auditing of cost reports, including automated systems that identify excessive spending on related party transactions and missing or incomplete information.
- Taking regulatory action against providers who use related party transactions to hide profits and divert money away from resident care, including payment suspension, bans on admission, and reimbursement of high costs.

CMS Should Stop Certifying Owners and Operators Who Have a History of Providing Poor Care

CMS currently sits atop a wealth of quality measures and outcomes for nursing home care. Recently, CMS has begun tracking and publishing quality data related to chain performance. This data, called affiliated entity data, tracks quality across nursing home chains, acknowledging that providers generally provide the same quality of care across all of the nursing homes they own. Yet despite this tracking, when certifying nursing homes, CMS does not consider the past performance of an owner's other nursing homes, but only the individual home. As a result, CMS routinely certifies or recertifies nursing homes owned by individuals or organizations with a documented history of poor care.

To help protect nursing home residents, CMS, when considering whether to certify a nursing home, should:

- Evaluate the owner or operator's history of providing care, including quality metrics, staffing, fines, violations, and other data relevant to the fitness of nursing home care provision.
- Look at the financial fitness of a nursing home owner, including how much money is spent on direct care compared to other costs such as rent, management fees, and other common related party spending.

- Provisionally certifying nursing homes with heightened survey scrutiny of homes owned and operated by individuals or organizations with a history of providing poor care.

CMS has the authority, opportunity, and duty to CRUSH waste, fraud, and abuse in nursing home finances and ownership. CMS must fulfill its statutory and regulatory duty of holding nursing homes accountable for providing poor care that harms nursing home residents. Currently, CMS places so little scrutiny on nursing home finances that any investment will reap dividends for residents and taxpayers. We appreciate the opportunity to comment on this important issue.

Sincerely,

Lori Smetanka
Executive Director

Sam Brooks
Director of Public Policy

ⁱ Miller, M. (2025, June 6). How much money do nursing homes really make? New report claims operators hide profits, *Mlive*. <https://www.mlive.com/public-interest/2025/06/how-much-money-do-nursing-homes-really-make-new-report-claims-operators-hide-profits.html>

ⁱⁱ Ensign's Earnings Call Highlights Record Growth and Strength, *The Globe and Mail*, (2026, February 9). <https://www.theglobeandmail.com/investing/markets/stocks/ENSG/pressreleases/118147/ensigns-earnings-call-highlights-record-growth-and-strength/>

ⁱⁱⁱ Casson JE, McMillen J. Protecting nursing home companies: limiting liability through corporate restructuring. *J Health Law*. 2003 Fall;36(4):577-613. PMID: 15068276

^{iv} Harrington, Charlene Mollot, Richard, et al., "United States Nursing Home Finances: Spending, Profitability and Capital Structure," *International Journal of Social Determinants of Health and Health Services*, 1-12, December 19, 2023, <https://pubmed.ncbi.nlm.nih.gov/38115716/>.

^v Gandhi, Ashvin and Olenski, Andrew, Tunneling and Hidden Profits in Health Care (March 2024). NBER Working Paper No. w32258, Available at SSRN: <https://ssrn.com/abstract=4762965>

^{vi} Where Do the Billions of Dollars Go? A Look at Nursing Home Related Party Transactions, *Consumer Voice*, 2023. <https://theconsumervoice.org/wp-content/uploads/2024/05/2023-Related-Party-Report.pdf>; Public Funds into Private Pockets: How Nursing Homes May Be Hiding Profits and Depriving Residents of Care and Quality, *Consumer Voice*, 2025. <https://theconsumervoice.org/wp-content/uploads/2025/06/Public-Funds-Into-Private-Pockets.pdf>; Where Does All the Money Go? Exploring How New Jersey Nursing Homes Use

Public Money, Consumer Voice, 2025. https://theconsumervoice.org/wp-content/uploads/2025/10/NJ-Report_Consumer-Voice_Where-Does-All-the-Money-Go.pdf

^{vii} 42 C.F.R. § 413.17; Ctrs. for Medicare & Medicaid Servs, U.S. Dept. of Health & Hum. Servs., Program Manuals §2102.3 (Rev. 454)

^{viii} Where Do the Billions of Dollars Go? A Look at Nursing Home Related Party Transactions, Consumer Voice, 2023. <https://theconsumervoice.org/wp-content/uploads/2024/05/2023-Related-Party-Report.pdf>