

3rd CMS National Background Check Program Training

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Kentucky's National Background Check Program

STEPHANIE BRAMMER-BARNES

SHEELA CHANDRACHOOD

ARIAH FAULKNER

 **KARES**

KENTUCKY APPLICANT REGISTRY & EMPLOYMENT SCREENING

Key Partners and Stakeholders

- Long term care facilities
- Abuse registries
- Office of the Inspector General (OIG)
- Kentucky State Police (KSP)
- Cabinet IT professionals
- Regional fingerprinting locations

***Our most important stakeholders are
KY's senior citizens and vulnerable adults.***

Program Basics

- KY's Cabinet for Health and Family Services Office of Inspector General (KY-OIG) received the NBCP grant on May 19, 2011; KY-OIG is the State Survey Agency
- KY-OIG has branded the program as the Kentucky Applicant Registry & Employment Screening (KARES) program
- KY-OIG is collaborating with CNA externally and the KY Office of Administration and Technical Support (KY-OATS) team internally for technical assistance

Current Methods

- Applicants are currently required by State law to submit to name-based State criminal history checks and a check of the State Nurse Aide Abuse Registry
- LTC facilities currently:
 - Submit a written request to the Administrative Office of the Courts (AOC) or KSP for a criminal history check
 - Perform an abuse registry check via the Kentucky Board of Nursing's website and possibly a phone call to the OIG
 - Make their own fitness determinations upon receipt of background check results

KARES Program Goals

- Increased efficiencies within KSP civil background check process
- Efficient three-staff-person process within OIG to maintain KARES operations:
 - Grant and program management
 - Rehabilitation review/appeal process management
 - Fitness determination analysis

KARES Program Design

- System design development will include:
 - Single sign-on user provisioning system
 - Automated check of abuse registries and professional licensure board data
 - Online payment by credit card/debit card or State account number
 - Fingerprinting authorization form, bar-coded for easy LiveScan use
 - Efficient State and Federal criminal history checks
 - Information regarding appeals and rehabilitation reviews

KARES Unique Features

- Automated registry checks designed with two pathways
- Online process with just two paper forms to be printed out by employer
- Provisional employment allowed ONLY after fingerprints are received by KSP
- Fitness determination by OIG based on a time-limited State and Federal rap sheet provided by KSP

KARES Challenges

- Legislative challenges
- Partnership challenges
- Aggressive project timeline for implementation

QUESTIONS?



North Carolina Background Check Program

Jesse Goodman

N.C. Division of Health Service Regulation

<http://www.ncdhhs.gov/dhsr/>

Program Overview – What We Currently Have

- Background checks were put in place for nursing facilities, home care agencies, and adult care homes (a type of assisted living facility) in the late 1990s.
- Current law only requires name-based checks if an applicant has been in the State longer than five years.
- Name-based checks can be performed by a private entity.
- Fingerprint-based checks are required if an applicant has been in the State less than five years.
- Regardless of the type of check done, there are no exclusionary criteria, but only “relevant offenses.”
- If applicant has a “relevant offense” the employer makes the determination whether to hire the individual based on a number of factors (e.g., level and seriousness of offense, how long ago it occurred).

Program Overview – Where We Have Been So Far

- N.C. received its grant award notice in July 2011.
- Consulted with CNA and on-site visits were made in October and November 2011 to assess current system and conduct gap analysis.
- In December 2012, CNA attorney began working on draft statute that will eventually replace current background check statute. We are reviewing the second draft and have shared with stakeholders.
- Gap analysis completed by CNA February 2012 and CNA scheduled another visit for March 2012 to review analysis. State agency/CNA will also consult with stakeholders.

Program Overview – Where We Want To Go

- Continue working with CNA and stakeholders, and begin engaging legislators this year to gain support for revised background check law to be introduced in the 2013 legislative session (long session).
- Assess current LiveScan capacity and purchase additional machines for local law enforcement. Conduct training prior to implementation of new law/process

Program Overview – Where We Want To Go (continued)

- Require fingerprinting of all applicants for all long term health care providers regulated by our agency.
- Require LiveScan for all fingerprinting, and expand capacity of LiveScan technology throughout the State.
- Develop exclusionary criteria based on current model used in our State for child care providers.
- Put agency in charge of making fitness determinations for all applicants.
- Develop database to provide ‘one stop shopping’ for background checks (i.e., criminal history checks, health care registry checks, LEIE checks, etc.).



Comments or Questions?



Utah Direct Access Clearance System (DACCS)

Angela Anderson

Project Manager

Bureau of Health Facility Licensing, Certification
and Resident Assessment

Project Team



Marc E. Babitz, MD, Division Director

Joel Hoffman, Bureau Director

Tracy Freeman, Program Manager

Angela Anderson, Project Manager

Current Process

- Began background check program in 1998
- Facility-based system for screening direct care staff
- Facility required to submit information for name-based check within 10 days of hire
- Subsequent submission of employee data for name-based background check required every two years at health facility's license renewal
- Fingerprint-based search only on individuals who have not lived in Utah for the past five years

Record Search

- Records used for determination
 - Utah criminal history records
 - Juvenile court records
 - Anyone under 28 or
 - Anyone with a conviction
 - Adult Protective Services substantiated abuse findings
 - Child Protective Services substantiated abuse findings

Criminal Statute

Offenses Against the Person

- Felony
- Misdemeanor - A
- Misdemeanor - B
- Misdemeanor - C

Offenses Against Property

- Felony
- Misdemeanor - A

Criminal Statute

Pyramid Scheme Act

- Felony
- Misdemeanor - A

Offenses Against the Administration of Government

- Felony
- Misdemeanor - A

Criminal Statute

Offenses Against Public Order and Decency

- Felony
- Misdemeanor – A

Bestiality

Lewdness – Sexual Battery

Lewdness involving a child

- Felony
- Misdemeanor - A
- Misdemeanor - B
- Misdemeanor - C

Criminal Statute

Offenses Against Public Health, Safety, Welfare, and Morals

- Felony
- Misdemeanor - A

Prostitution

Pornography

Contributing to delinquency of a minor

- Felony
- Misdemeanor - A
- Misdemeanor - B
- Misdemeanor - C

Appeal Process

Three Levels of Appeal

Each request for appeal must be received within 30 days of denial notice or denial action

- Administrative Review
 - Bureau of Criminal Identification Program Manager
- Informal Discussion
 - Division Director
- Formal Hearing
 - Administrative Law Judge

Appeal Findings

- **Uphold the non-clearance**
- **Overturn the non-clearance**
- **Issue a temporary clearance**

Conditions

- Random drug and/or alcohol screening
- Counseling
- Limit the employment to specific health care provider types
- Monthly/quarterly reports from
 - Supervisor
 - Counselor
 - Parole officer

DACS

**DIRECT
ACCESS
CLEARANCE
SYSTEM**

Program Goals

- Protect one of the most vulnerable populations in the State
- Create a stakeholders group
- Develop and introduce legislation that meets grant requirements
- Build and implement an automated fingerprint-based background checks system
- Long term care providers will have access to online tracking of applicant background screenings with automated notifications

Record Search

Records used for determination

- Utah criminal history records
- Juvenile court records
- Adult Protective Services substantiated abuse findings
- Child Protective Services substantiated abuse findings

New data sources added

- Certified Nurse Aide Registry Exclusion List
- Department of Occupational and Professional Licensing data
- National Sex Offender Registry
- HHS Office of Inspector General List of Excluded Individuals/Entities

Legislative Changes

Requires fingerprint-based background checks for all direct **access** staff

- Nursing assistants
- Personal care aides
- Licensed nurses
- Executives
- Administrative staff
- Dietary staff
- Housekeeping staff
- Maintenance staff
- Providers of medical, therapeutic or social services
- Providers of laboratory and radiology services

Legislative Changes

- Allows for background check results to be shared between long term care providers
- Modifies the time period in which facilities must submit applicant data for screening
- Adds authority to access information from other state agencies, such as Nurse Aide Registry and Department of Occupational and Professional Licensing
- Requires Department of Public Safety to store fingerprints thus allowing a rap back process

Current Status

- The Departments of Health and Public Safety are collaborating on an automated fingerprint process with rap back screening capabilities
- Initial draft legislation language began the end of January 2012
- Legislation passed by both the State House of Representatives (71 - 0) and Senate (26 - 0)
- Automated system scheduled for pilot implementation in June 2012



State of Maine

Background Check Program



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Overview



- **Maine's Current Background Check Program**
- **Implementing Maine's Program Under the NBCP Grant**
- **Next Steps in Establishing the Program**

Maine's Current Background Check Program



- State (only) name-based check for certified nurse aides and long term care staff with direct patient or resident contact
- Employers use multiple Web portals to conduct background checks and make fitness determinations
- Currently no fingerprinting or Federal background checks
- Not highly automated

Implementing Maine's Program Under the NBCP Grant



- **Goal: Create one background checking system**
 - Include all pertinent registries
 - Allow for future rap back capability
 - Add electronic fingerprinting and FBI checks
 - Streamline and automate the overall process
- **Challenges**
 - Obtaining legislative authority
 - Managing staffing and personnel changes
 - Developing an integrated electronic background checking system to include electronic fingerprinting and Federal criminal background checks

Next Steps in Establishing the Program



- **Pass enabling legislation**
- **Hiring staff and/or vendor services to support the program**

State of Nevada Criminal Background Check Program

Presented by:
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Overview

- Overall Goals
- Challenges
- Lessons Learned
- Program Status

Overall Goals

1. Develop and pass necessary legislation and regulations to create the NV Background Check System Website.
2. Gain statutory authority to implement a RAP back system.



Overall Goals (continued)

- 3. Develop and pilot a website that allows:**
 - Providers to query a State registry to see if an individual is disqualified from employment.
 - Providers to query abuse registries on a statewide and nationwide basis.
 - Providers to determine whether an individual had a criminal history background check (within the last 6 months) and see the results of the check.
 - Providers to receive determination-result alerts immediately after these are entered in the system.



Challenges

- Accounting for a large rural area and smaller facility types that might not have Internet access.
- Passing legislation within the timeframe of the next legislative session without having worked out all of the system requirements.
- Establishing a registry of disqualified individuals and overcoming the barriers associated with the use of such a registry.
- Establishing RAP back systems.



Lessons Learned

- 1. Define the system requirements early in the process to be able to identify the legislative amendments necessary to carry out the coordination of the program.**
- 2. Identify the workload increase as a result of new processes.**
- 3. Identify the system maintenance costs and how those will be supported after the grant.**



Lessons Learned (continued)

4. Gain stakeholders' support. Show them how any new fees associated with the use of the website may be offset by increased efficiencies and reduction of other fees.



Program Status

- Started development of bill draft request.
- Hired background check staff – management analyst and project manager.
- Developed in-match tracking and grant reconciliation systems.
- Started Technology Improvement Request.
- Created stakeholder workgroup and held first meeting; brought together key partners.
- Developed an operational plan.



Questions



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West Virginia Background Check Program

Marcus Canaday,
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Resources (DHHR)

BACKGROUND

- In West Virginia (WV), Medicaid policies regarding background checks for employees in the LTC system vary.
- Current policies vary from requiring a fingerprint-based criminal history check to requiring a name-based background check through the Internet.
- In addition, background check requirements in WV include checking a variety of registries and exclusion lists prior to employment.
- DHHR is currently revising background check policies to ensure consistency among all LTC facilities and providers.

BACKGROUND (continued)

- The WV State Police is charged, by State code, with maintaining a Central Abuse Registry to cover any business, agency, or organization that provides care, treatment, education, training, instruction, supervision, or recreation for children, the elderly, or individuals with disabilities and is a public, private, or not-for-profit entity within WV.
- The WV State Police decided that the way to best meet this mandate was to require a fingerprint-based criminal history background check.

BACKGROUND (continued)

- One issue that has consistently been raised by LTC facilities and providers, as well as prospective employees, is the length of time it has taken to check all of the necessary registries and exclusion lists and for the return of the fingerprint results.
- In January, the State Police implemented a statewide LiveScan fingerprinting initiative. It has contracted with MorphoTrust to process all fingerprinting requests.

PROGRAM OVERVIEW

The goal of the WV program is to develop and implement an integrated, statewide background check process for LTC direct access employees that:

- Applies consistent background check policies across LTC facilities and providers;
- Uses LiveScan technology for fingerprinting;
- Automates the processing of necessary background checks, including list and registry checks and fingerprint-based criminal history checks, and LTC facility and provider notification of results; and
- Includes a “rap back” component to monitor and update the employability status of current LTC employees.

PROGRAM OVERVIEW

(continued)

Grant funds will be used to develop and implement:

- An automated system necessary for an integrated background check program, to include a secure pre-registration process and a centralized database to store prospective and current employee records and background check results;
- The infrastructure to allow the secure transmission of criminal history results from the State Police to the centralized DHHR database;

PROGRAM OVERVIEW

(continued)

- A centralized system for evaluating and processing fingerprint check results;
- An automated process to notify providers of background check results; and
- A rap back system to keep DHHR and providers informed of any criminal activity that would disqualify current employees in the WV LTC system.

Grant funds will also be used to support the Advisory Committee, test the automated system with select provider groups, and train providers in the use of the system prior to full implementation.

STAKEHOLDERS AND STAFFING

The WV program is a collaborative effort by:

- The West Virginia Bureau for Medical Services
 - The West Virginia Bureau for Children and Families, and
 - The West Virginia State Police.
-
- An advisory committee comprised of representatives of these State agencies and principle stakeholders will be convened.
 - Principal partners/stakeholders will include LTC advocates and providers, and other interested parties who are committed to ensuring quality care.
 - In addition to the Grant Director, three staff will be hired to review criminal history check results and make employment fitness determinations.

Alaska Rate-Setting Tool

Teresa Narvaez

May 8, 2012

NBCP Training Meeting

Alaska Background Check Rates

- Rates include application fee to the Background Check Program (BCP) as well as fingerprint-processing fees to the AK Department of Public Safety:
 - Application fee – \$25.00
 - Fingerprint-processing fee – \$51.50 (effective 3/19/12)
 - State fee – \$35.00
 - FBI fee – \$16.50 (effective 3/19/12)
- Fees paid to the BCP do not include the cost of capturing fingerprints. This fee varies; average \$15 - \$30.
- No difference in processing costs for hard cards or electronically submitted fingerprints.

Alaska Background Check Rates (Continued)

- Are defined in regulation.*
- Fingerprint-processing fees are set by the AK Department of Public Safety.**
- Were originally set in 2007.
- There was no precedent set by other States.
- No application fee is charged for volunteers.

* 7 AAC 10.910 ** AS 47.05.310 and AS 12.62.160

Rate Review

- The BCP utilized the services of the Department of Health and Social Services' rate review team to review fees.
- The rate review team considered the following expenses for the BCP:
 - Personal services (personnel costs)
 - Travel
 - Services (contracts)
 - Commodities (supplies)
 - Building costs
 - Overhead expenses

Rate Review (Continued)

- The team found:
 - There was limited information from other States regarding similar fee structures.
 - The information from other States indicated that both the fingerprint-processing and application fees, if any were charged, varied dramatically.

The Results

- Findings included:
 - The current application fee (\$25.00 to the BCP) does not financially support the program adequately.
 - The application fee would need to be increased to fully cover the cost of running the Alaska BCP.
 - The State of Alaska will be considering this information for a possible rate increase during its regulation revisions.

The Formula

- The rate review team used the following formula:
 - Determine number of applications per year to be used as the denominator.
 - Determine agencies' direct expenses (personnel, travel, commodities, etc.).
 - Determine building expenses.
 - Determine overhead (11.3% of Department of Health and Social Services staff costs were used for the AK BCP).

The Formula (Continued)

1. Direct Expenses \div Annual Number of Applications.
2. Building Expenses \div Annual Number of Applications.
3. Overhead Expenses \div Annual Number of Applications.
4. Total the sums of the above calculations.

Example Formula

- Direct Expenses:
 - $\$1,500,000 \div 30,000 = \50.00
- Building Expenses:
 - $\$250,000 \div 30,000 = \8.33
- Overhead Costs:
 - $\$150,000 \div 30,000 = \5.00
- Total Cost:
 - $\$50.00 + \$8.33 + \$5.00 = \63.33



Questions and Discussion

National Background Check Program

CMS Long Term Care Criminal Convictions Work Group

Karen Schoeneman, Centers for Medicare & Medicaid Services,
Division of Nursing Homes, Technical Advisor

Third Training Meeting
May 8, 2012



Background

- **March 2011 HHS Office of the Inspector General (OIG) released a report on individuals with criminal convictions working in nursing homes**
- **Of the 260 nursing homes studied, 92% employed at least one individual with at least one criminal conviction**
- **OIG study was only on nursing homes**
 - **OIG mission was not connected to the CMS' National Background Check Program**

OIG Recommendations

- **The OIG recommended that CMS consider:**
 - **Defining who are “direct patient access employees” in nursing homes and**
 - **Developing a list of State convictions that disqualify an individual from employment, and periods for which each conviction bars the individual from employment**

Work Group Formation

- **CMS accepted the OIG's recommendations but broadened the effort to cover all the long term care facilities and providers in the Affordable Care Act's National Background Check Program**
- **CMS announced the effort at the March 2011 National Background Check Program Conference and asked for volunteers among the States**

Work Group Formation (continued)

- **10 States volunteered (11th State joined later)**
- **2 CMS Regional Office staff also volunteered and were added to the Work Group**

State Work Group Members

- **Alaska Department of Health and Social Services**
- **Arkansas Department of Human Services**
- **California Department of Public Health**
- **Colorado Department of Public Health and Environment**
- **Connecticut Department of Public Health**
- **Florida Agency for Health Care Administration**
- **Georgia Department of Community Health
(joined in January 2012)**

State Work Group Members (continued)

- Illinois Department of Public Health
- Kansas Department of Health and Environment
- Maryland Department of Health and Mental Hygiene
- Michigan Department of Licensing and Regulatory Affairs

Contractors

- **CMS modified its technical assistance contract with CNA so that CNA could assist the Work Group**
- **CNA is the technical assistance contractor for the National Background Check Program**
- **The University of Colorado is a subcontractor to CNA that supports the Work Group**
- **CNA conducted a review and analysis of State statutes and literature, and held discussions with subject matter experts**
- **CNA facilitated the Work Group meetings**

Work Group Meetings

- **1st Meeting (July 2011)**
 - Introductions and project overview
- **2nd Meeting (September 2011)**
 - Discussions of definitions of direct access employee
- **3rd Meeting (January 2012)**
 - Discussions of disqualifying convictions and rehabilitation factors
- **4th Meeting (March 2012)**
 - Discussions and development of final recommended options to provide to CMS

Work Group Considerations

- **As the Work Group formulated its recommended options, it balanced:**
 - **The need to protect the safety and well-being of residents and beneficiaries of LTC services with**
 - **The need to employ and manage a high-quality workforce**

Work Group Considerations (continued)

- It also considered the possible impacts on the stakeholders:
 - Employees, contractors, volunteers, and students
 - Residents and beneficiaries
 - LTC facilities and providers
 - State oversight agencies

Work Group Goal Statement

- **To build on existing regulations to address the special concerns of residents and beneficiaries**
 - **And protect their health, safety, and welfare**
 - **While maintaining a quality workforce for LTC**

Definition of Direct Access Employee

- **The Work Group chose to recommend an outcome-based definition of “direct access employee”**
 - **OIG used the term “direct patient access employee”**
 - **This term does not fit all LTC settings**
 - **Instead of “patient,” will use “resident or beneficiary”**
- **The definition would apply to all LTC facility and provider types listed in the Affordable Care Act**

Definition of Direct Access Employee (continued)

- An individual who has direct access to a resident or beneficiary through ownership of, or employment, or a contract with a LTC facility or provider
- This does *not* include:
 - Volunteers or students, unless they perform regular and/or unsupervised equivalent functions as direct access employees
 - Contractors performing repairs, deliveries, installations, or similar services for the facility or provider

Definition of Direct Access Employee (continued)

- **Direct access is having, or expecting to have, duties that involve one-on-one contact with a resident or beneficiary, or access to the resident/beneficiary's property, personal identifying information, or financial information**

Disqualifying Convictions and Rehabilitation Factors

- **The Work Group chose to:**
 - Use a list of categories of convictions
 - Incorporate minimum disqualification time periods
 - Identify factors that States could use to determine evidence of rehabilitation

Disqualifying Convictions and Rehabilitation Factors (continued)

- **The Work Group chose to recommend that CMS:**
 - **Set a national minimum and allow the States to enact stricter parameters, if desired**
 - **Apply the recommended options to all LTC facility and provider types listed in the Affordable Care Act**

Disqualifying Convictions and Rehabilitation Factors (continued)

- **Recommended categories of disqualifying convictions**
 - **Crimes against care-dependent or vulnerable individuals (felony and misdemeanor)**
 - **Crimes against the person (felony)**
 - **Crimes against property (felony)**
 - **Crimes related to the unlawful manufacture, distribution, prescription, or dispensing of a controlled substance (felony)**

Disqualifying Convictions and Rehabilitation Factors (continued)

- **Recommended disqualification time periods**
 - **Crimes against care-dependent or vulnerable individuals**
 - **Felony = 10 years**
 - **Misdemeanor = less than 10 years**
 - **Crimes against the person**
 - **Felony, violent = 10 years**
 - **Felony, non-violent = 5 years**

Disqualifying Convictions and Rehabilitation Factors (continued)

- **Recommended disqualification time periods (continued)**
 - **Crimes against property**
 - **Felony = 5 years**
 - **Crimes related to the unlawful manufacture, distribution, prescription, or dispensing of a controlled substance**
 - **Felony = 5 years**

Disqualifying Convictions and Rehabilitation Factors (continued)

- **Other recommended options**
 - **Start date of disqualification time period is date of conviction or date of release from imprisonment, whichever is later**
 - **Individuals can apply for a variance, including during the disqualification period**
 - **At the end of the disqualification period, that conviction is no longer considered a reason for an automatic negative fitness determination**

Disqualifying Convictions and Rehabilitation Factors (continued)

- **Other recommended options (continued)**
 - **Rehabilitation factors to be considered in the variance process**
 - **Passage of time**
 - **Extenuating circumstances**
 - **Demonstration of rehabilitation**
 - **Relevancy of the particular disqualifying information with respect to the current employment of the individual**

Next Steps

- **CMS will review the Work Group's recommended options this summer**
- **CMS will use this information to finalize a report to the CMS Administrator**

Questions and Discussion

National Background Check Program

Panel Discussion: Legislative Lessons Learned

Moderated by: Elizabeth Williams

Third Training Meeting

May 8, 2012



Overview

- Panelists
- Discussion Topics
- Questions and Discussion

Purpose of the panel discussion: to identify and discuss legislative lessons learned from three NBCP grantee States.

Panelists

- Connecticut
 - Matthew Antonetti, Principal Attorney, Legal Office, Department of Public Health
- Kentucky
 - Stephanie Brammer-Barnes, Internal Policy Analyst, Office of the Inspector General, KY Cabinet for Health and Family Services
- Rhode Island
 - Jim Dube, Assistant Attorney General (AG); Director, Medicaid Fraud Control and Patient Abuse Unit, RI AG

Discussion Topics

- Before the legislative session begins
 - Planning and preparing
 - Building consensus and alliances
 - Anticipating and addressing challenges

Discussion Topics (continued)

- During the legislative session
 - Coordinating with key legislators
 - Being available to respond to questions
 - Compromising if the bill is defeated

Discussion Topics (continued)

- After the legislation is passed
 - Compliance and reporting
 - Communicating with key constituents

Discussion Topics (continued)

- If the bill is defeated
 - Identifying and addressing issues that led to defeat
 - Strategizing for next session
 - Maintaining current and building new alliances

Questions and Discussion

National Background Check Program

Quarterly Report Review

Alan J. White

Third Training Meeting

May 8, 2012



Overview

- Purpose of Quarterly Reports
- Reporting Requirements
- Reporting Process
- Grant Expenditures
- Background Check Program Measures
- Next Steps
- Questions and Discussion

Purpose of Quarterly Reports

- Track program progress
 - Expenditures
 - Background check measures
- Support OIG evaluation
- Support CNA analysis
 - Program expenditures relative to plan
 - Background check program measures

Reporting Requirements

- Four standardized files
 - Project narrative
 - Cost data: Federal Financial Report (FFR/SF-425)
 - Cost data: Grantee Expenditures Worksheet
 - Background check data elements
- Submit background check data elements only after State begins to collect applicant fingerprints
- Reports due within 30 days of the end of calendar quarter

Project Narrative

- Discussion of progress toward goals and objectives of approved grant
 - Project timeline
 - Technical assistance activities
 - Materials developed
 - Other important aspects of the project
- Address staffing and/or budgetary changes made or anticipated

Cost Data

- States must start submitting cost data at the end of the first calendar quarter after receiving the CMS grant award notification
- States are required to report use of:
 - Federal funds (e.g., NBCP grant)
 - State funds (e.g., State match)
 - Other funds (e.g., money obtained from applicants or facilities/providers)

Cost Data (continued)

- Cost data are reported by cost category:
 - Personnel salaries
 - Fringe benefits
 - In-State travel
 - Out-of-State travel
 - Equipment and software
 - Supplies
 - Contractual
 - Indirect costs
 - Other

Cost Data (continued)

- Cost data are reported separately by stage:
 - Developmental costs: expenses associated with developing a program or system, generally one-time or set-up costs
 - Operational costs: ongoing expenses necessary to operate the NBCP (e.g., staff, maintenance)
 - Incremental costs: recurring expenses to process background checks

Background Check Data Elements

- Submission start dates for the background check data elements will vary by State
- States provide standardized data for every applicant entering the background check process

Background Check Data Elements (continued)

- Unique record identification number
- Provider or facility type
- Employee type (e.g., occupation category)
- Date entered into the background check process
- Registry database search dates and results
- Fingerprint collection information:
 - Date fingerprints taken
 - Fingerprint type (e.g., scanned, rolled)

Background Check Data Elements (continued)

- Criminal history record search dates and results
- Missing disposition(s)
- Voluntary withdrawal date (if applicable)
- Fitness determination dates and outcomes
- Appeal process dates, type, and outcome (if applicable)
- Hire date (non-provisional)

Reporting Process

- States electronically submit quarterly data in Excel or text delimited format
- Each report includes quarterly data and cumulative data from the start of the program

Reporting Process (continued)

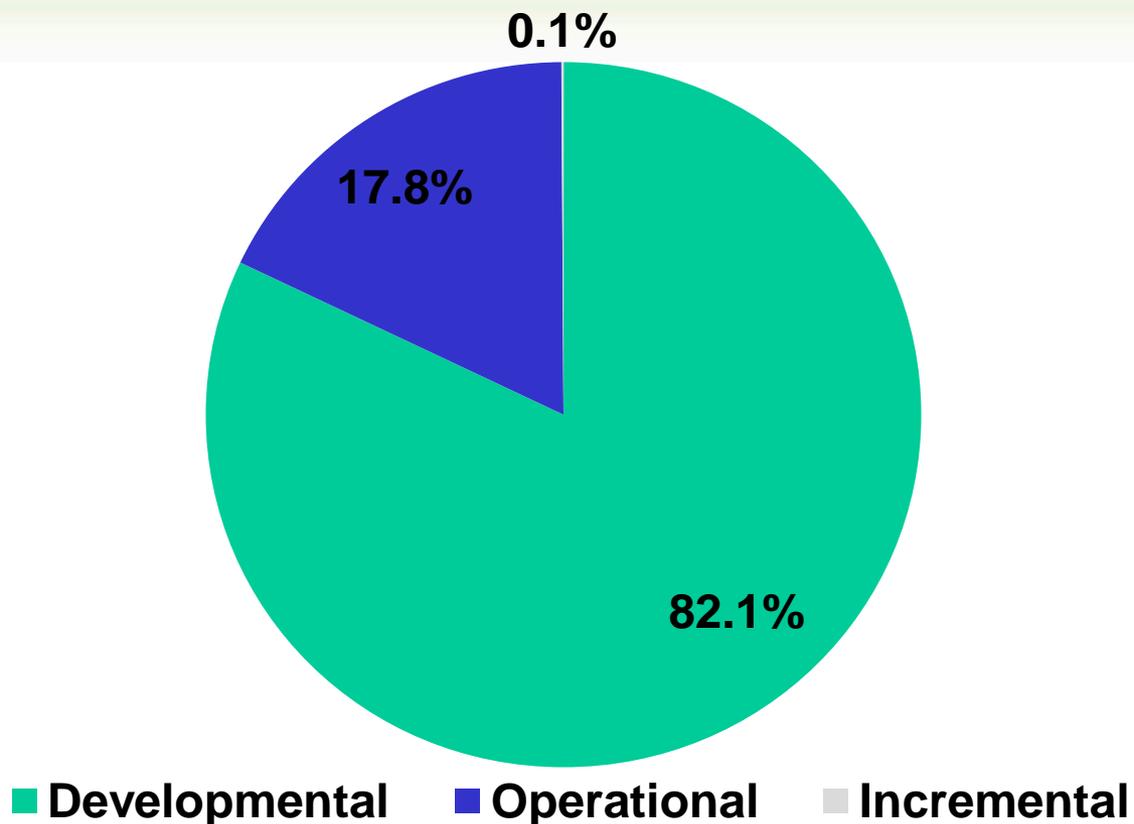
- States submit quarterly report to CMS through CMS Project Officers and CMS Grants Officer
 - CMS validates data and requests resubmissions if problems are found
 - CMS verifies that no personally identifiable information is included
- CMS sends data to CNA and HHS OIG
- Direct questions on data to CNA State Liaison and CMS Project Officer

Grant Expenditures

Cumulative expenditures through the quarter ending September 30, 2011

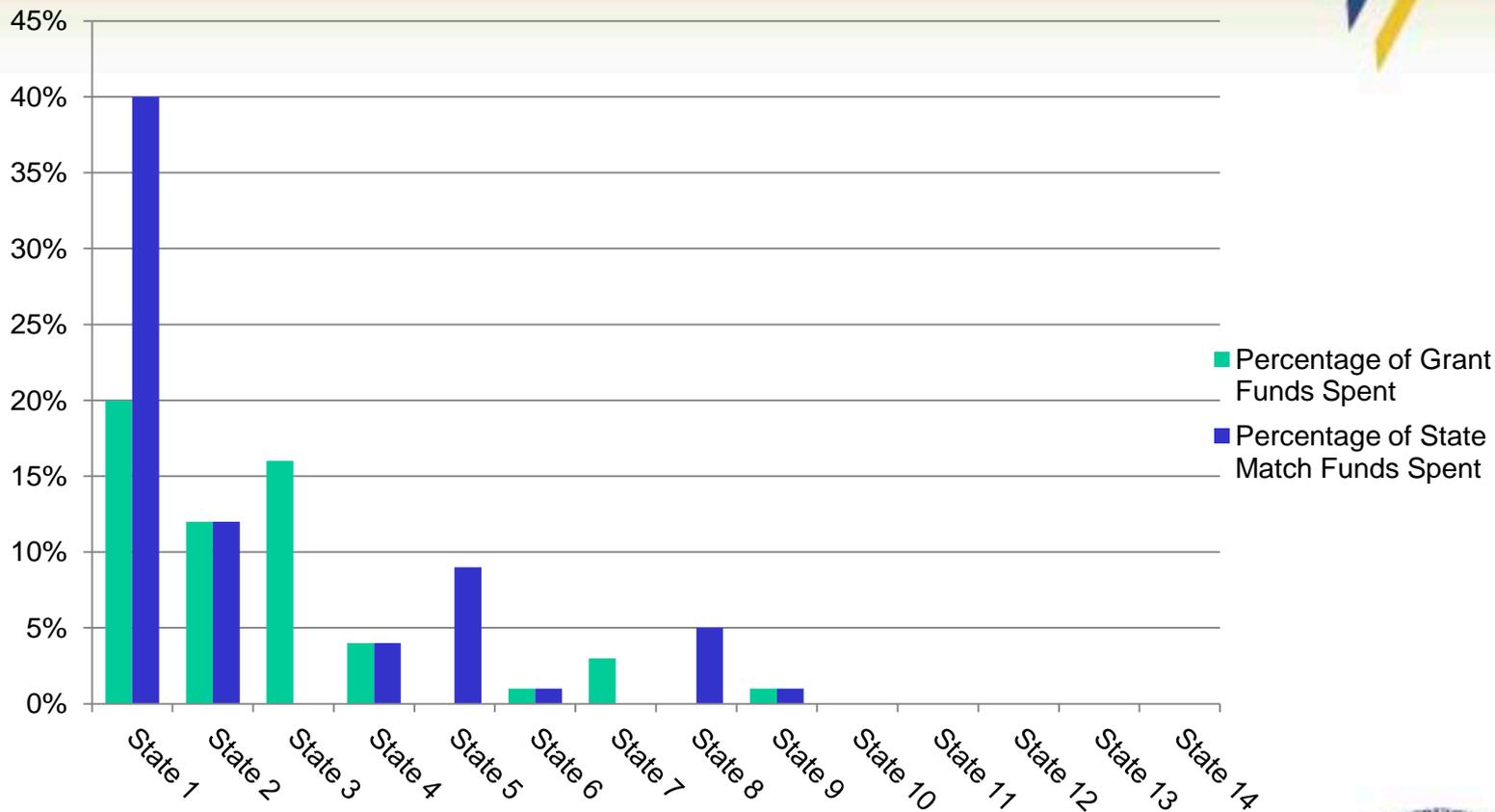
- Total Federal spending \$1,474,530 (out of \$33,341,637)
 - Less than 6% of total Federal award amounts
 - Only 3 of the 14 States reporting costs by September 2011 (Alaska, Delaware, and Missouri) have spent more than 10% of their Federal award amounts
- Total State spending \$679,629 (out of \$11,399,581)

Cumulative Expenditures by Type



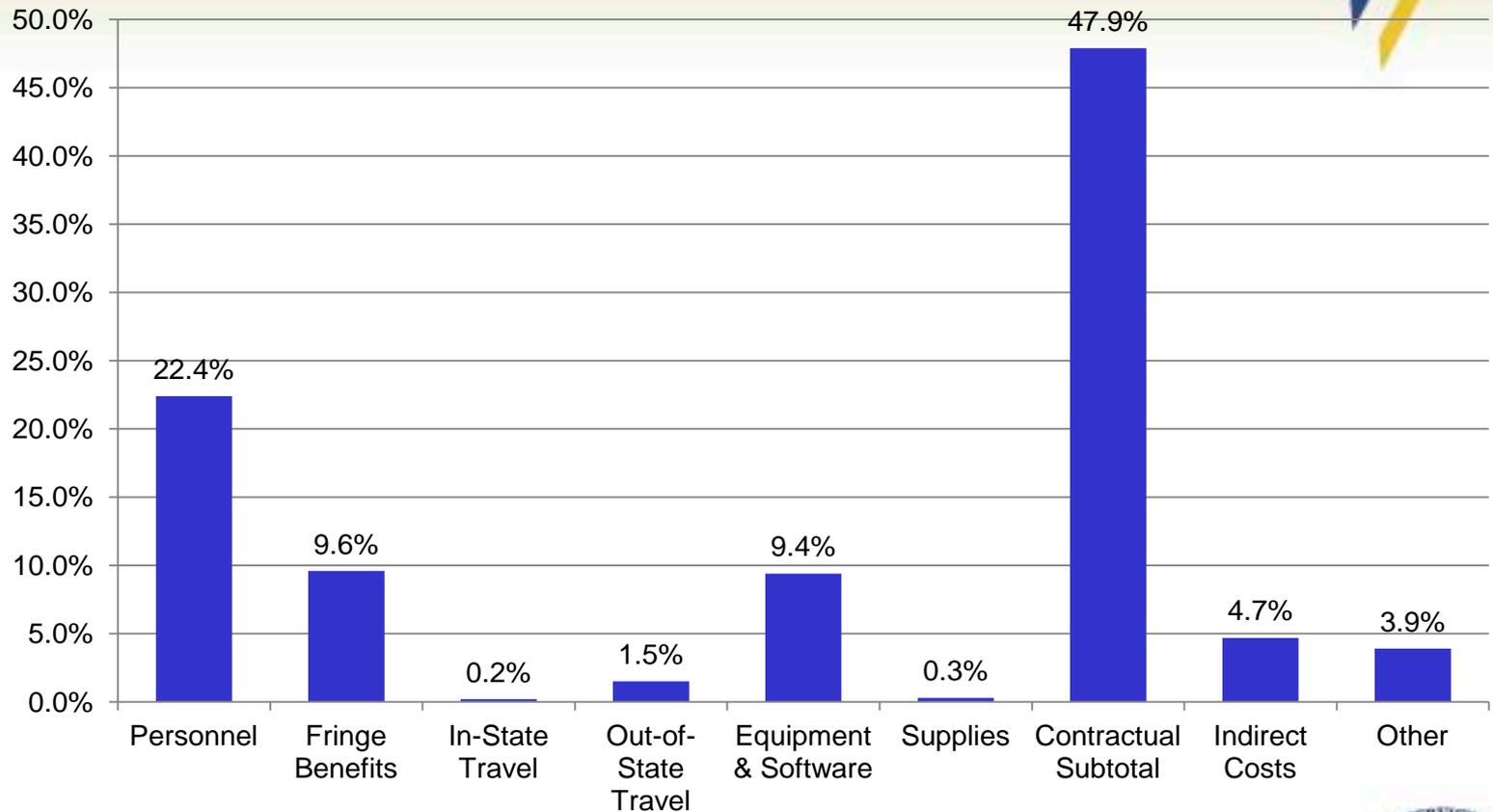
Source: Grantee Expenditures Worksheet submitted by grantee States

Percentages of Available Funds Being Spent – Federal and State



States are ordered by total amount spent, with State 1 spending the largest total amount. Bars indicate the percentages of funds available that were spent.

Cumulative Expenditures by Cost Category



Source: Grantee Expenditures Worksheet submitted by grantee States

Background Check Program Measures

- Background check data elements submitted by 3 States: Alaska, Illinois, and New Mexico
 - These States were all in the Background Check Pilot Program
- Cumulative measures through the quarter ending September 30, 2011
 - New Mexico only for July 1 - September 30, 2011
- Other States' programs being developed and will soon report

Next Steps

- Conducting ongoing analysis of expenditures and background check data elements
- Addressing States' reporting challenges
 - States may request technical assistance from CNA to address data-collection challenges

Questions and Discussion

National Background Check Program

Non-Grantee States: Questions and Answers

Moderated by: Joyce McMahon

Third Training Meeting

May 8, 2012



Overview

- Background Information
- Technical Assistance (TA) Areas
- TA Process for Applicants
- TA Process for Grantee States
- Questions and Discussion

Purpose of the discussion: to cover the technical assistance CNA provides and answer States' questions.

Background Information

- CNA has CMS' TA contract for the NBCP
 - CNA is supporting 17 grantee States, as well as applicant and potential applicant States
- For applicant States, CNA can answer questions
 - However, CNA cannot review grant application language or help write the applications

TA Areas

For grantee States, CNA can provide a wide range of TA:

- Information systems technology
 - Data collection and sharing
 - Database development
- Fingerprinting technology
- Rap back technology information
- Fitness determination policies and procedures

TA Areas (continued)

- Background check processes and program management
- Law enforcement (e.g., expertise on background investigations, fingerprinting services, and related assistance)
- Appeal processes
- Legislative writing
- Nurse aide registry and other background data sources

TA Process for Applicants

- Applicants request TA from CMS
 - CMS may assist directly (e.g., proper use of matching funds)
 - CMS may ask CNA to assist (e.g., how to budget IT costs)
 - CNA TA is free to applicant States
- Applicants can approach either CMS or CNA with additional questions during the application process

TA Process for Grantee States

- For grantee States, more substantive TA can be given
 - A dedicated website houses NBCP information for States
 - Information-sharing events and opportunities are offered
 - Direct TA is provided to any grantee State that requests it (subject to approval)
 - CNA TA is free to States – no use of grant funds

Questions and Discussion

National Background Check Program

Panel Discussion: Background Check Fee Collection

Moderated by: Kristin Schrader

Third Training Meeting

May 8, 2012



Overview

- Panelists
- Discussion Topics
- Questions and Discussion

Purpose of the panel discussion: to describe and discuss experiences and strategies for collecting and processing fees for background check programs

Panelists

- Connecticut
 - Matthew Antonetti, Principal Attorney, Legal Office, Department of Public Health
- Delaware
 - John Glauser, Project Manager, Division of Long Term Care Residents Protection, Department of Health and Social Services

Panelists (continued)

- District of Columbia
 - Alem Ghebrezghi, Program Manager, Criminal Background Check Unit, Health Regulation and Licensing Administration, Department of Health
- North Carolina
 - Jeff Horton, Chief Operating Officer, Division of Health Service Regulation, Department of Health and Human Services

Discussion Topics

- Who is responsible for paying fees
 - Fingerprinting fees
 - State and Federal fingerprint-processing fees

Discussion Topics (continued)

- Other types of fees
 - Application fees
 - Rap back fees

Discussion Topics (continued)

- Grant and post-grant payments
 - Fees may be paid using the State's grant money, if budgeted
 - After the grant expires, who absorbs the costs?

Discussion Topics (continued)

- Who is responsible for collecting fees?
 - Grantee State agency
 - Fingerprint collection vendor(s)
 - State identification bureau

Discussion Topics (continued)

- How are fees processed and reconciled?
 - Payments from providers and applicants
 - Grantee State agency to State identification bureau reconciliation
 - Live scan agency or vendor reconciliation

Questions and Discussion

National Background Check Program

Panel Discussion: Developing Background Check Systems

Moderated by: Ernest Baumann

Third Training Meeting

May 8, 2012



Overview

- Panelists
- Discussion Topics
- Questions and Discussion

Purpose of the panel discussion: to describe and discuss strategies and considerations regarding the implementation of background check management systems

Panelists

- Florida
 - CaraLee Starnes, Senior Management Analyst Supervisor, Division of Health Quality Assurance, Bureau of Long Term Care Services, Agency for Health Care Administration
- Missouri
 - Beth Thompson, Assistant Chief, Family Care Safety Registry, Division of Regulation and Licensure, Department of Health & Senior Services

Panelists (continued)

- New Mexico
 - Tom Maniscalco, IT Project Manager, Background Check Program, Department of Health
- Oklahoma
 - James Joslin, Chief, Health Resources Development Service, Department of Health

Discussion Topics

- Improvements in efficiency and quality
 - Individual data entry improves quality
 - Internal workflow improvements increase productivity
 - Notifications to external users increase user responsiveness
 - Automated processes reduce duplicative screening

Discussion Topics (continued)

- Development strategy
 - Consolidating and replacing separate systems
 - Phasing capabilities
 - Conducting pilot(s) for smaller provider set or user group

Discussion Topics (continued)

- Many non-IT factors to consider
 - Broad scope and organizational cooperation: integrating with State identification bureaus, IT organizations, and providers
 - New process, organizational change, staffing
 - Use of outside resources
 - Rollout activities prior to going live (e.g., testing, training, data migration, production environment)

Discussion Topics (continued)

- Stakeholder involvement
 - Advisory board
 - Nurse aide certification groups
 - Other State background check programs (e.g., teachers*)

*Teachers are not included in the NBCP

Questions and Discussion



National Background Check Program

Introduction to Demonstrations: State Background Check Systems

Ernest Baumann

Third Training Meeting

May 8, 2012



Overview

- Florida Demonstration
- Missouri Demonstration
- Utah Demonstration
- Details About Demonstrations
- Questions

Florida Demonstration

- Florida – Background Check Screening (BGS), presented by CaraLee Starnes, Senior Management Analyst Supervisor, Division of Health Quality Assurance, Bureau of Long Term Care Services, Agency for Health Care Administration
 - BGS Internal: replacement system, developed by Infinity (State IT resource)
 - BGS External: new capability, adapted by CNA from Illinois system (technical assistance task)
 - Implemented statewide February 2012

Florida Demonstration (continued)

- BGS current features:
 - Applicant entry, search, and scheduling of fingerprint collection by employers
 - Automated name-based registry checks
 - Automated fitness determination notifications to providers
 - User and provider management by State staff via State single sign-on capability

Missouri Demonstration

- Missouri – Background Screening Employment Eligibility System (BSEES), presented by Beth Thompson, Assistant Chief, Family Care Safety Registry, Division of Regulation and Licensure, Department of Health & Senior Services
 - BSEES: replacement system, developed by Rose International (State IT resource)
 - Implemented statewide March 2012

Missouri Demonstration (continued)

- BSEES current features:
 - Applicant self-registration
 - Automated name-based State registry and criminal history checks
 - Automated fitness determination notifications to providers
 - User and provider management by State staff

Utah Demonstration

- Utah – Department Applicant Check System/Applicant Background Processing System (DACs/ABPS), presented by Angela Anderson, Health Program Manager, Bureau of Health Facility Licensing, Certification, and Resident Assessment, Department of Health
 - DACs: replacement system, adapted by CNA from other systems (technical assistance task)
 - ABPS: new capability, developed by Utah Department of Public Safety with consulting support from CNA (technical assistance task)

Utah Demonstration (continued)

- DACS to be implemented June 2012
- ABPS to be implemented August 2012
- DACS/ABPS features:
 - Most features of BGS and BSEES
 - Integrated payment processing
 - Online State and FBI criminal history review and eligibility determination
 - Fingerprinting status tracking

Details About Demonstrations

- Will take place concurrently
- Will repeat throughout the hour
- Locations in conference rooms

Questions

- Are there any questions before we move to the demonstrations?

National Background Check Program

Panel Discussion: Sustainability Issues and Approaches

Moderated by: Ann Casey

Third Training Meeting

May 9, 2012



Overview

- Panelists
- Discussion Topics
- Questions and Discussion

Purpose of the panel discussion: to identify and discuss issues that States face in making their programs self-sustaining, and to share ideas for how to support sustainability

Panelists

- Alaska
 - Jane Urbanovsky, Chief, Certification & Licensing, Department of Health and Social Services
- Florida
 - CaraLee Starnes, Senior Management Analyst Supervisor, Division of Health Quality Assurance, Bureau of Long Term Care Services, Agency for Health Care Administration

Panelists (continued)

- Nevada
 - Liza Paulino, Criminal History Repository Manager, Division of Records and Technology, Department of Public Safety
- New Mexico
 - Gil Mendoza, Manager, Caregivers Criminal History Screening Program, Department of Health
- Oklahoma
 - James Joslin, Chief, Health Resources Development Service, Department of Health

Discussion Topics

- Goals of sustainability
 - Identifying long-term sources of funding
 - Anticipating long-term program costs
 - Identifying partners and sponsors

Discussion Topics (continued)

- Challenges to sustainability
 - Political climate in the State
 - Legislative and regulatory changes
 - Facility/provider responses to changes in incremental fees

Discussion Topics (continued)

- Approaches to securing long-term support
 - Use program data to educate and motivate
 - Identify other agencies/programs that could benefit from program's breakthroughs
 - Leverage synergies with associated programs, such as nurse aide training programs

Questions and Discussion

National Background Check Program

Panel Discussion: State Rap Back Progress and Issues

Moderated by: Christina Colosimo

Third Training Meeting

May 9, 2012



Overview

- Panelists
- Discussion Topics
- Questions and Discussion

Purpose of the panel discussion: to identify and discuss strategies for success in implementing a State ramp back capability

Panelists

- Alaska
 - Jane Urbanovsky, Chief, Certification & Licensing, Department of Health and Social Services
- California
 - Juan Chacon, Chief, Criminal Background Section, Licensing and Certification Program, Department of Public Health

Panelists (continued)

- Kentucky
 - Stephanie Brammer-Barnes, Internal Policy Analyst, Office of the Inspector General, KY Cabinet for Health and Family Services
- North Carolina
 - Jeff Horton, Chief Operating Officer, Division of Health Service Regulation, Department of Health and Human Services

Discussion Topics

- Managing the applicants subject to rap back
 - Registering applicants for rap back
 - Removing individuals from rap back

Discussion Topics (continued)

- Interfacing with State identification bureau
 - Dealing with arrests, dispositions, warrants, etc.
 - Detail and format
 - Ensuring security and confidentiality of data
 - Funding
 - Interagency agreement/memorandum of understanding

Discussion Topics (continued)

- Missing dispositions and pending cases
 - Establishing that missing dispositions are a rap back trigger
 - Working with State court systems on tracking pending cases

Discussion Topics (continued)

- Communication to/from providers
 - Updating fitness determinations
 - Employment verification requirements

Questions and Discussion



Centers for Medicare & Medicaid Services Office of Acquisitions and Grants Management

National Background Check Program
May 2012



Applications

- All applications must be submitted through grants.gov
- Applicants can download the application packet via the www.grants.gov website by entering the funding opportunity number listed in the solicitation.

- The Funding Opportunity Announcement includes all the information required to submit the National Background Check Program application.

The 24 hour help desk is available on [grants.gov](https://www.grants.gov).

Solicitation Questions

Debra Swinton-Spears MSN, RN
Centers for Medicare & Medicaid Services
Survey and Certification Group
Phone 410-786-7506

Debra.spears@cms.hhs.gov or
Background_Checks@cms.hhs.gov

Mary Greene, Grants Management Officer
Centers for Medicare & Medicaid Services
Office of Acquisitions and Grants
Management

Phone: 410-786-5239

Mary.greene@cms.hhs.gov or

OAGMGrantsBaltimore@cms.hhs.gov



Questions

National Background Check Program

Panel Discussion: States' Lessons Learned, Part 1

Moderated by: Mark Gritz

Third Training Meeting

May 9, 2012



Overview

- Panelists
- Discussion Topics
- Questions and Discussion

Purpose of the panel discussion: to identify and discuss lessons learned from six of the NBCP grantee States.

Panelists

- Alaska
 - Jane Urbanovsky, Chief, Certification & Licensing, Department of Health and Social Services
- District of Columbia
 - Alem Ghebrezghi, Program Manager, Criminal Background Check Unit, Health Regulation and Licensing Administration, Department of Health
- Florida
 - Taylor Haddock, Project Manager, Agency for Health Care Administration

Panelists (continued)

- Illinois
 - Toni Colón, Deputy Director, Office of Health Care Regulation, Department of Public Health
- New Mexico
 - Gil Mendoza, Manager, Caregivers Criminal History Screening Program, Department of Health
- Oklahoma
 - James Joslin, Chief, Health Resources Development Service, Department of Health

Discussion Topics

- Developing a background check program
 - Staffing and organization
 - Information technology
 - Business processes

Discussion Topics (continued)

- Policy and legislation
 - Balancing Federal requirements with stakeholder concerns
 - Advisory boards

Discussion Topics (continued)

- Fingerprinting
 - Obtaining applicant fingerprints
 - Transmission

Discussion Topics (continued)

- Appeals
 - Processes to request appeal
 - Establishing independence of appeal process
 - Key factors to consider

Questions and Discussion



National Background Check Program

Panel Discussion: States' Lessons Learned, Part 2

Moderated by: Joyce McMahon

Third Training Meeting

May 9, 2012



Overview

- Panelists
- Discussion Topics
- Questions and Discussion

Purpose of the panel discussion: to identify and discuss lessons learned from five of the NBCP grantee States.

Panelists

- California
 - Juan Chacon, Chief, Criminal Background Section, Licensing and Certification Program, Department of Public Health
- Connecticut
 - Matthew Antonetti, Principal Attorney, Legal Office, Department of Public Health
- Delaware
 - John Glauser, Project Manager, Division of Long Term Care Residents Protection, Department of Health and Social Services

Panelists (continued)

- Missouri
 - Melanie Madore, Bureau Chief, Family Care Safety Registry, Division of Regulation and Licensure, Department of Health & Senior Services
- Rhode Island
 - Jim Dube, Assistant Attorney General (AG); Director, Medicaid Fraud Control and Patient Abuse Unit, RI AG

Discussion Topics

- Outreach to stakeholders
 - Planning and preparing
 - Building consensus and alliances
 - Anticipating and addressing challenges

Discussion Topics (continued)

- Collaboration
 - Establishing ties with key legislators
 - Nurturing cross-agency working relationships
 - Developing partnerships

Discussion Topics (continued)

- Disqualification factors
 - State disqualification standards and changes over time
 - Use of criminal history information from other States

Discussion Topics (continued)

- Registries
 - Identification issues
 - Accessing registries from other States
 - Accessing and using Federal registry information

Questions and Discussion

National Background Check Program

Brainstorming Session: State Consortia

Mark Gritz

Third Training Meeting

May 9, 2012



Overview

- Ideas for potential State consortia to use to improve efficiency of background check programs
 - Registry consortium, for example

Questions



National Background Check Program

Panel Discussion: CJIS Systems Officer/ State Identification Bureau Lessons Learned

Moderated by: Ernest Baumann

Third Training Meeting

May 10, 2012



Overview

- Panelists
- Discussion Topics
- Questions and Discussion

Purpose of the panel discussion: to identify and discuss lessons learned from CSO-SIB partner agencies in four NBCP grantee States

Panelists

- Connecticut
 - Cynthia Powell, Office Supervisor, Division of State Police-Reports and Criminal Records, Department of Emergency Services and Public Protection
- Florida
 - Chris Johnson, Operations and Management Consultant Manager, Florida Department of Law Enforcement

Panelists (continued)

- Illinois
 - Darrin Turner, Application Development Manager for Criminal History, Division of Administration, Information Services Bureau, Illinois State Police
- Nevada
 - Liza Paulino, Criminal History Repository Manager, Division of Records and Technology, Department of Public Safety

Discussion Topics

- Required changes to set up applicant programs
 - Automated Fingerprint Identification System (AFIS)
 - Computerized criminal history (CCH)
 - Interface to FBI (originating agency identification (ORI) number, reason-fingerprinted (RFP) code)

Discussion Topics (continued)

- Criminal history report dissemination process and data protection
 - Criminal Justice Information Services (part of the FBI) security policy and audit
 - State criminal history report

Discussion Topics (continued)

- Interface with long term care background check State agency
 - Lead time
 - Scope to be addressed
 - Memorandums of understanding: service levels, reimbursements

Discussion Topics (continued)

- A centralized determination model
 - Applications submitted directly to the Department of Public Safety (DPS)
 - Determinations of eligibility made by DPS
 - Notifications sent to employers from DPS

Questions and Discussion



U.S. DEPARTMENT OF HEALTH & HUMAN SERVICES
OFFICE OF INSPECTOR GENERAL

Mandated OIG Evaluation of National Background Check Program

Tricia Fields and Michala Walker





U.S. DEPARTMENT OF HEALTH & HUMAN SERVICES
OFFICE OF INSPECTOR GENERAL

Office of Evaluation and Inspections

Mission: To protect the integrity of HHS programs, as well as the health and welfare of beneficiaries, by conducting evaluations that provide timely, useful, and reliable information and recommendations to decision makers and the public.





Mandated OIG Evaluation of National Background Check Program

- Section 6201 of Patient Protection and Affordable Care Act
- Evaluation must be complete within 180 days of the completion of the nationwide program
- Five required elements for evaluation





Required Elements of Evaluation

- Review of procedures implemented by participating States
- Review of costs of conducting background checks, including startup and administrative
- Extent to which conducting background checks leads to any unintended consequences, including changes in the available workforce





Required Elements of Evaluation (cont.)

- Assessment of impact on reducing the number of incidents of neglect, abuse, and misappropriation of resident property
- Other aspects of the program as determined by the Secretary





OIG Evaluation Process

- Start Notice
- Pre-Inspection
- Design
- Entrance Conference—April 28, 2011
- **Data Collection/Analysis**
- Report Writing
- Exit Conference
- Agency Comments/Finalization





Data Collection Methods

- Issue Area: Review of procedures and costs
 - Collection and review of quarterly reports
 - Participation in technical assistance calls and national conferences
 - Telephone interviews of State officials





Data Collection Methods

- Issue Area: Unintended consequences
 - Survey of long-term-care administrators (Pre- and Post-Implementation)
 - Telephone interviews with provider associations (Pre- and Post-Implementation)





Data Collection Methods

- Issue Area: Effect on incidence of neglect, abuse, and misappropriation of resident property
 - Survey deficiency data on neglect, abuse, and misappropriation of resident property
 - Medicaid Fraud Control Unit quarterly statistical reports on neglect, abuse, and exploitation of patient funds
 - ASPEN Complaint Tracking System data on neglect, abuse, and misappropriation of resident property





Data Collection Methods

- Issue Area: Effect on incidence of neglect, abuse, and misappropriation of resident property (cont.)
 - State Nurse Aide Registry data representing nurse aides with substantiated findings of abuse, neglect, and/or misappropriation in 2010, 2011, and 2012





U.S. DEPARTMENT OF HEALTH & HUMAN SERVICES
OFFICE OF INSPECTOR GENERAL

Results of Long-Term-Care Provider Administrator Survey

OEI-07-10-00421





Results of LTC Administrator Survey

- Current background check procedures
 - 94% of administrators in the 10 participating States conducted some type of background check on prospective employees
 - Of these administrators, 95% conducted checks for all prospective employees; 5% conducted them only for certain positions





Results of LTC Administrator Survey

- Administrators' experiences with conducting background checks
 - 4% of administrators had encountered prospective employees who were unwilling to undergo a background check
 - Between 1 and 5% of employees were unwilling to undergo a background check; between 1 and 6% withdrew applications after learning of the background check requirement





Results of LTC Administrator Survey

- Administrators' experiences (cont.)
 - 23% of administrators believed their organization's background checks procedures reduced the pool of prospective employees
 - 27% of administrators believed some prospective employees did not apply because of their organization's background check procedures





Results of LTC Administrator Survey

- Workforce Data
 - January 1, 2011 to May 1, 2011

Element	Average	Median
Job Vacancies	11	6
Applications Received	61	24
Job Vacancies Filled	10	4

Source: OIG analysis of administrator responses, 2011.





Results of LTC Administrator Survey

- Availability and quality of long-term-care employees
 - 81% of administrators had a sufficient pool of applicants for job vacancies
 - 45% of administrators had difficulty filling certain positions
 - 9% of administrators reported that they did not receive applications from qualified individuals





U.S. DEPARTMENT OF HEALTH & HUMAN SERVICES
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Questions?



What is a “Lesson Learned”?

- What general advice would you give a new NBCP grantee State?
- What was your biggest challenge and how have you overcome it?
- Looking back, what would have made the creation of your States’ NBCP easier?
- What “impossible” problem are you still facing?