

Evaluating Screening for a Quality Workforce

CMS Background Check Pilot Program General Requirements – updated January 2009

Background Check Pilot Program Requirements

Each state established their background check requirements. However, the state programs included, at a minimum, the following requirements as set forth in Section 307 of the Medicare Prescription Drug, Improvement, and Modernization Act (MMA):

- Long-term care facilities and providers must conduct background checks for all direct patient access employees prior to the applicant's employment. Long-term care facilities subject to these requirement include:
 - Skilled nursing facilities/nursing facilities
 - Long-term care hospitals/hospitals with swing beds
 - Intermediate care facilities for persons with mental retardation (ICFs/MR)
 - Home health agencies
 - Home-and-community-based service (HBCS) group homes over 8 beds
 - Personal care agencies – Medicaid State Plan

Note: States may have expanded the list of facility or provider categories.

- The applicant must provide a written statement disclosing any disqualifying information and authorize the facility to conduct a national and state criminal record check. The applicant must also provide a set of 10 rolled fingerprints.
- The background check must include a search of any available registry (including state nurse aide registries) that would likely contain disqualifying information about the applicant and a search of state and national criminal history records through a 10 rolled fingerprint check, utilizing state criminal records and the Integrated Automated Fingerprint Identification system of the Federal Bureau of Investigation (FBI).
- The background check may be terminated at any stage once disqualifying information regarding the applicant has been obtained.
- The background check results must only be used for the purpose of determining suitability of employment.
- Long-term care facilities may not knowingly employ any direct patient access applicant who has any disqualifying information.
- States must establish procedures to permit applicants to appeal or dispute the accuracy of the background check results.
- States must ensure that long-term care facilities are provided immunity from any action brought by the applicant who was denied employment based on the background check information.
- States must establish a method to monitor compliance with the background check requirements.

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Other Provisions

Pilot states elected to include other background check provisions, including:

- Long-term care facilities may allow a period of provisional employment for direct patient access employees, pending completion of the background check. Supervision of the employee is required during this period, as determined by the state.
- Procedures for conducting background checks on direct access patient applicants who are employed by employment agencies (including temporary employment or staffing agencies).

The seven pilot states fully implemented their program operations during the pilot period. For more information about state-specific background check program requirements, please contact the following persons:

Alaska	Department of Health & Social Services Division of Public Health Certification & Licensing 618 Ship Creek, Suite 232 Juneau, AK 99501-1667	Jane Urbanovsky Chief Phone: 907-269-4526 E-mail: jane.urbanovsky@alaska.gov
Idaho	Department of Health & Welfare Bureau of Audits & Investigations 450 W. State Street, 9th Floor P.O. Box 0036 Boise, ID 83720-0036	Sue Altman Supervisor Phone: 208-332-7997 E-mail: AltmanS@dhw.idaho.gov
Illinois	Department of Public Health Division of Administrative Rules & Procedures Office of Healthcare Regulation 525 W. Jefferson Street, 5th Floor Springfield, IL 62761-0001	Jonna Veach Division Chief Phone: 217-785-9165 E-mail: JONNA.VEACH@illinois.gov
Michigan	Department of Community Health Legislative & Statutory Compliance Office Capitol View Building, 7th Floor 201 Townsend Street Lansing, MI 48913	Orlean Christie Director Phone: 517-373-6440 E-mail: ChristieO@michigan.gov
Nevada	State Health Division Bureau of Licensure and Certification 505 E. King Street, Room 201 Carson City, NV 89701	Jennifer Dunaway Bureau Chief Phone: 775-687-4475 X 251 E-mail: jdunaway@health.nv.gov
New Mexico	Department of Health Caregivers Criminal History Screening Program Division of Health Improvement P.O. Box 26110 Santa Fe, NM 87502-6110	Sharon Alexander Program Manager Phone: 505-476-0801 E-mail: sharon.alexander@state.nm.us

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State Background Check Pilot Contacts		
State	Agency	Primary Contact
Wisconsin	Department of Health Services Office of Caregiver Quality Division of Quality Assurance 1 West Wilson Street, Room 1051 Madison, WI 53702	Shari Busse Supervisor Phone: 608-264-9876 E-mail: Shari.Busse@dhfs.wisconsin.gov

Evaluation

CMS contracted with Abt Associates to conduct an independent evaluation of the Background Check Pilot Program. Congress required the evaluator to:

- Review the various background check procedures implemented by the pilot states to identify the most efficient, effective, and economical procedures for conducting such background checks;
- Assess the costs of conducting such background checks (including start-up and administrative costs);
- Consider the benefits and problems associated with requiring employees or facilities and providers to pay the costs of conducting such background checks, and whether the costs should be allocated between the Medicare and Medicaid programs;
- Determine if conducting background checks leads to any unintended consequences, including a reduction in the available long-term care workforce;
- Review forms used by participating states, in order to develop a model form for such background checks;
- Determine whether conducting background checks by employment agencies is effective;
- Compile "lessons learned" from the pilot states to guide further decisions about the appropriate procedures and payment mechanisms for implementing a national criminal background check program for providers and facilities.

Abt Associates' final report and appendix, entitled, *Evaluation of the Background Check Pilot Program*, is posted on the CMS Office of Research and Development and Information (ORDI) Website, and can be accessed at:

<http://www.cms.hhs.gov/Reports/Reports/ItemDetail.asp?ItemID=CMS1215663>

General Questions

If you have general questions regarding the pilot, please send them via e-mail to: BackgroundChecks@cms.hhs.gov.