

Informational Memorandum

Date: January 24, 2017
To: HCBS Waiver Providers
From: Brandt Haehn, Commissioner
RE: Background Check Requirements

As provided in Section 6201(a) of the Affordable Care Act – Pub. L. 111-148, long-term care facilities or providers (or the designated agent of the long-term care facility or provider) are required to obtain State and national criminal history background checks on prospective employees.

Furthermore, the CMS approved HCBS waivers all require providers of HCBS services to maintain a clear background as evidenced through background checks of; Kansas Bureau of Investigation, Adult Protective Services, Child Protective Services, Nurse Aid Registry, and Motor Vehicle screen.

K.S.A. 39-2009 (i) states “the licensee operating a center, facility, hospital or a provider of services shall request from the Kansas department for aging and disability services information regarding any criminal history information relating to a person who works in the center, facility, hospital or for a provider of services, or who is being considered for employment or volunteer work in the facility, center, hospital or with the service provider, for the purpose of determining whether such person is subject to the provisions of this section”.

To be a qualified HCBS provider of services that involve, or may involve one-on-one contact with the HCBS service recipient, individuals and entities shall meet the provider qualifications, including passing a background check. The background check is requirements have been standardized for all HCBS programs to ensure consistency, efficiency and effectiveness of background checks for individuals receiving long-term services and supports through HCBS programs.

Implementation shall occur in the following stages:

1. As of the effective date of this memorandum, background checks shall be conducted on all prospective employees. In addition to prospective employees, background checks shall be required on all current employees with a period of employment of three (3) years or more. Background checks on current employees with a period of employment of three (3) years or more shall be conducted during the anniversary month of their date of employment. Subsequent checks of this group shall be required every two years.

2. Beginning twelve (12) months after the date of this memorandum, background checks shall be conducted on all prospective employees and current employees with a period of employment of less than three (3) years. Background checks on current employees with a period of employment of less than three (3) years shall be conducted during the anniversary month of their date of employment. Subsequent checks of this group shall be required every two years.
3. Criminal background checks shall be submitted through KDADS Health Occupations Credentialing, the Kansas Bureau of Investigation or any other entity with access to criminal history information, including adjudications of a juvenile offender which if committed by an adult would have been a felony which is a crime against persons (K.S.A. 39-2009 (2)).
4. Motor Vehicle (Driver's License) checks do not prohibit employment, but are designed to ensure the employer is aware of the individual worker's driving record.