



# KDADS STANDARD POLICY

<b>Policy Name:</b>	HCBS Background Check Policy	<b>Policy Number:</b>	E2019-010
<b>Commission:</b>	Community Services and Programs Commission	<b>Date Established:</b>	1/14/2019
<b>Applicability:</b>	All HCBS Waivers	<b>Date Last Revised:</b>	
<b>Contact:</b>	Applicable HCBS Program Manager	<b>Date Effective:</b>	1/14/2019
<b>Policy Location:</b>	<a href="http://www.kdads.ks.gov/commissions/home-community-based-services-(hcbs)/hcbs-policies">http://www.kdads.ks.gov/commissions/home-community-based-services-(hcbs)/hcbs-policies</a>	<b>Date Posted:</b>	1/14/2019
<b>Status/Date:</b>	Final/1.14.2019	<b>Number of Pages:</b>	5
<i>Revision History</i>			

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## Purpose

The purpose of this policy is to establish the process for Home and Community Based Services (HCBS) Background Checks.

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## Summary

This policy establishes process and procedures for conducting HCBS background checks. This policy also establishes the process and procedures for provisional employment for HCBS providers.

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## Entities/Individuals Impacted

**Department of Children and Families (DCF)**

**Home and Community Based Service (HCBS) providers**

**Kansas Department for Aging and Disability Services (KDADS)**

**Kansas Department of Health and Environment (KDHE)**

**Targeted Case Managers**

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## I. Policy

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- A. An applicant shall not provide services to an HCBS waiver participant prior to receiving a clear background check.
- B. Each criminal record check shall be submitted through KDADS Health Occupations Credentialing (HOC) pursuant to K.S.A. 39-2009.
- C. Motor Vehicle checks shall be used to verify an applicant’s ability to operate a vehicle during the course of employment.
- D. An applicant may be hired for provisional employment pursuant to K.S.A. 39-2009.
- E. No Medicaid funds shall be used to pay a person prior to confirmation of a clear background check in accordance with the approved 1915 (c) HCBS waivers.
- F. An applicant may complete training and may observe a provider during the provisional employment period.
- G. No employer of HCBS services shall employ, paid or unpaid, a person who has adverse findings and/or a prohibited offense on their background check pursuant to K.S.A. 39-2009.
- H. After hire, any employee, paid or unpaid, shall immediately disclose any and all arrests to the employer.
  - a. The employee, paid or unpaid, shall immediately disclose any and all outcomes of criminal or civil charges (adjudication, conviction, etc.) to the employer.
  - b. In the event of a conviction or adjudication, the employer may contact HOC and conduct another criminal background check.
- I. The employee, paid or unpaid, shall immediately disclose any and all adverse actions to the license, certification or registration taken by the credentialing entity.

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## II. Procedures

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- A. Background Checks

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1. All HCBS providers shall receive a background check every two years after the commencement of paid or unpaid employment.
2. For a criminal record check, the employer shall submit applicant information through KDADS HOC. The process for requesting a criminal record check can be accessed at: [www.kdads.ks.gov/hoc](http://www.kdads.ks.gov/hoc)
3. The employer shall complete the Kansas Nurse Aid Registry (KNAR) check, an online check for abuse, neglect and exploitation (ANE). The process for requesting an ANE check can be accessed at: [www.ksnurseaidregistry.org](http://www.ksnurseaidregistry.org)
4. The employer shall submit Driver's License Records requests through KDOR. The process for requesting a Driver's License request can be accessed at: <https://www.kdor.ks.gov/Apps/DLStatus/login.aspx?ReturnUrl=/Apps/DLStatus/Secure/Default.aspx>
  - a. The employer may perform a Motor Vehicle Registry (MVR) check at the expense of the employer.
  - b. The process for requesting a MVR check can be accessed at: <https://www.mvronline.com/>
  - c. The employer may be liable for acts of the employee while the employee is operating a motor vehicle.
  - d. If the employee lives out-of-state the employer shall conduct a driver's license check for the state from which the license was issued.
5. The employer shall submit a check for Adult ANE through DCF. The application for requesting an ANE check through DCF can be accessed at: [http://www.dcf.ks.gov/services/PPS/Documents/PPM\\_Forms/Section\\_10000\\_Forms/PPS10400.pdf](http://www.dcf.ks.gov/services/PPS/Documents/PPM_Forms/Section_10000_Forms/PPS10400.pdf)
6. The employer shall submit a check for Child ANE through DCF. The application for requesting an ANE check through DCF can be accessed at: [http://www.dcf.ks.gov/services/PPS/Documents/OBI\\_1011\\_CAN-ROI.pdf](http://www.dcf.ks.gov/services/PPS/Documents/OBI_1011_CAN-ROI.pdf)
7. The employer shall submit a license, certification or registration verification status check to the applicable credentialing entity.
8. The employer shall complete an online database check of the Office of the Inspector General's (OIG) for excluded entities and individuals. The database can be accessed at: <https://exclusions.oig.hhs.gov/>
9. Documentation of the outcome of the background check must be retained in the paid or unpaid employee's file prior to providing HCBS services to a HCBS waiver participant.

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## B. Provisional Employment

1. The employer shall complete the following requirements prior to the start of provisional employment:
  - a) Request a criminal record check through HOC; and
  - b) Request a Child ANE and Adult ANE check through DCF; and
  - c) Complete a license verification status check to the applicable credentialing entity; and
  - d) Complete a Driver's License check through Kansas Department of Revenue (KDOR) or MVR; and
  - e) Complete an online database search for excluded individuals through the OIG; and
  - f) The employer shall retain documentation showing that the background check has been requested or completed in the paid or unpaid employee's file before provisional employment can begin.
  
2. All employers who have provisional employees shall submit a report to KDADS monthly.
  - a) The report shall be sent to KDADS Program Integrity Manager and the KDADS Quality Manager.
  - b) The report shall include the following:
    - i. Name of provisional employee
    - ii. Date the provisional employment began
    - iii. Date background check was submitted
    - iv. Date employer receives background check for each provisional employee
    - v. Result of background check
    - vi. Date provisional employment was terminated when applicable
  
3. In the event an individual has a prohibited offense and/or an adverse finding, provisional employment to provide HCBS services shall terminate immediately.

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## III. Documentation

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- A. Documentation of the outcome of the applicable background checks listed in I.A. must be retained in the paid or unpaid employee's file prior to providing HCBS services to a HCBS waiver participant.
- B. All employers who have provisional employees shall submit a report to KDADS monthly as described in II.B.2.b.

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### III. Definitions

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**Applicant:** an individual who applies for paid or unpaid employment with a center, facility, hospital or provider of HCBS services or applies to work for an employment agency or as an independent contractor that provides staff to a center, facility, hospital or a provider of HCBS services.

**Background Check:** includes the criminal record check, license verification check, state and national registries.

**Prohibited Offense:** any conviction listed in K.S.A 39-2009

**Provisional Employment:** a one-time basis of 60 calendar days prior to the licensee obtaining background check results for the employee/volunteer from KDADS.

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### Authority

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#### Federal Authority

1915 (c) HCBS Waivers

KS.0476 (AU)

KS.0303 (FE)

KS.0224 (IDD)

KS.0304 (PD)

KS.4165 (TA)

KS.4164 (TBI)

KS.0320 (SED)

§6201 (a) Affordable Care Act- Pub. L. 111-148

#### State Authority

K.S.A. 39-2009

K.S.A. 65-6205

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### Related Information

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