

POLICY NUMBER: 8133-98

SUBJECT: Criminal History Records Check of Applicants and Employees

CONTENT: Procedures for obtaining criminal background checks of employees and contract staff who have supervisory or disciplinary authority over children and staff who have access to Electronic Protected Health Information (e-PHI) on a daily basis.

EFFECTIVE DATE: Issued: August 31, 1998
Revised: September 8, 2010

INQUIRIES TO: Bureau of Health Services Financing
Medicaid Management Information System
628 North 4th Street
P.O. Box 91030
Baton Rouge, LA 70821-9030
(225)342-3855; FAX: (225)342-2703

Office of Management and Finance
Division of Human Resources, Training & Staff Development
628 North 4th Street
P. O. Box 4818
Baton Rouge, LA 70821-4818
(225)342-6477; FAX: (225)342-6892

CRIMINAL RECORDS CHECKS

I. POLICY STATEMENT

The intent of this policy is to require criminal records checks on Department of Health and Hospitals (DHH) employees, contractors and volunteers who (1) have supervisory or disciplinary authority over children, and/or (2) have access to Medicaid recipients' and applicants' Electronic Protected Health Information (e-PHI) in order to accomplish their assigned job duties. Appointing authorities may choose to conduct criminal records checks on other employees based on programmatic need. Each DHH office affected by this policy must develop and implement a procedure to assure compliance.

II. APPLICABILITY

This policy is applicable to all DHH employees, volunteers and contractors who meet the criteria set forth in this policy.

III. EFFECTIVE DATE

The effective date of this revised policy is September 8, 2010.

IV. POLICY PROVISIONS

Note: Section IV. A. applies only to individuals who have supervisory or disciplinary authority over children. Section IV. B. applies only to individuals who have access to Electronic Protected Health Information.

A. SUPERVISORY OR DISCIPLINARY AUTHORITY OVER CHILDREN

In accordance with the Louisiana Child Protection Act, R. S. 15:587.1, all employees who were hired after September 1987 and all new hires having responsibility for the care, control, supervision and/or discipline of individuals up to age 18 must have criminal history inquiries made to ascertain that the persons have/have not been arrested for, convicted of or pled "nolo contendere" to any one or more of the crimes that are listed in R. S. 15:587.1 as of the effective date of this policy and including any amendments made to R. S. 15:587.1 hereafter. Background checks must also include inquiries regarding arrest or conviction for attempt or conspiracy to commit any of those offenses. (See Part IV. A.1 of this policy for statutory citations enumerated in R. S. 15:587.1 as of the effective date of this policy).

1. Statutory citations enumerated in R. S. 15:587.1 as of the effective date of this policy are as follows:

R. S. 14:30

R. S. 14:30.1
R. S. 14:31
R. S. 14:41 through R. S. 14:45
R. S. 14:74
R. S. 14:78
R. S. 14:79.1
R. S. 14:80 through R. S. 14:86
R. S. 14:89
R. S. 14:89.1
R. S. 14:92
R. S. 14:93
R. S. 14:93.2.1
R. S. 14:93.3
Crimes of violence as defined in R. S. 14:2(B)
Sex offenses as defined in R. S. 15:541
R. S. 14:106
R. S. 14:282
R. S. 14:283.1
R. S. 14:284
R. S. 14:286
R. S. 40:966 (A)
R. S. 40:967 (A)
R. S. 40:968 (A)
R. S. 40:969 (A)
R. S. 40:970 (A)

2. According to the Louisiana Child Protection Act (R. S. 15:587.1) any person being considered for a position having supervisory or disciplinary authority over children and who has been convicted of or has pled “nolo contendere” to one or more of the crimes cited in R. S. 15:587.1, or has been convicted of attempt or conspiracy to commit any of these offenses, shall not be hired in that position. If an offer has already been extended or employment has commenced, the offer shall be rescinded or the appointment terminated. Before taking such action the appointing authority shall consult with legal and human resources staffs to assure compliance with all applicable rules and regulations. All appointments shall be on a probationary status until the criminal background check is complete.

B. ACCESS TO MEDICAID RECIPIENTS’ ELECTRONIC PROTECTED HEALTH INFORMATION (E-PHI)

All new hires and current DHH employees whose duties require access to e-PHI must have criminal background checks to safeguard the privacy of Medicaid recipients’ and applicants’ e-PHI.

1. If an individual currently in an affected position or being considered for an affected position (by original appointment, promotion, transfer, detail, demotion, reassignment or other personnel action) has been convicted of or has pled “nolo contendere” to any felony in Louisiana or any crime of a jurisdiction other than Louisiana which would constitute a misdemeanor or felony under Louisiana law, the appointing authority shall determine the action to be taken. The appointing authority shall consult with human resources and legal staffs in making these determinations. All appointments shall be on a probationary status until the criminal background check is complete.
2. Each employee whose job duties require access to e-PHI shall have a criminal background check conducted on him five years from the date of the original criminal background check and every five years thereafter.

V. RECOMMENDED PROCEDURE

A. Procedure for Acquiring Criminal History Background Checks

The following procedure is recommended in acquiring criminal history background checks:

1. The agency completes the Authorization to Disclose Criminal History Records Information form (See Appendix A) on each employee/applicant requiring a criminal background check. If any assistance is required in completing the form, the Bureau of Criminal Identification may be contacted at the address below:

Louisiana State Police
Bureau of Criminal Identification
P. O. Box 66614
Baton Rouge, Louisiana 70896-6614
Telephone: (225) 925-1886

2. Completed forms are sent to the Bureau of Criminal Identification along with an interagency billing form PV2 (Attachment B) that includes the following information:
 - a. agency name and number;
 - b. agency GFS number; and,
 - c. object number.

Employees are not to be charged for the cost of the records check.

3. The Bureau of Criminal Identification will conduct a search against existing criminal records on each employee/applicant and a report will be submitted to the agency on each employee/applicant. The report will indicate if no record is found or if a record of felony conviction is found.

Initially, the background check consists of a name check only. If further clarification of identity is needed, the Bureau of Criminal Identification will contact the agency for the employee/applicant's fingerprints.

4. All information received from the Bureau of Criminal Identification should be:
 - a. filed in a secure place;
 - b. maintained as evidence of termination for cause;
 - c. not released to any source other than upon court or Civil Service Commission order; and,
 - d. destroyed three years after an employee leaves the agency.
5. Access to the reports of an applicable employee shall be limited to the agency's appointing authority and the Human Resources and Legal offices.

TO: Louisiana State Police
Bureau of Criminal Identification
P. O. Box 66614
Baton Rouge, Louisiana 70896

FROM: _____
REQUESTING NAME OF FACILITY/AGENCY/ETC. (PLEASE PRINT)

MAILING ADDRESS, CITY, STATE, ZIP

FACILITY ADMINISTRATOR FACILITY PHONE #

RE: Authorization to Disclose Criminal History Records
Information

As an employee of the above-listed facility or agency, I understand a thorough investigation of any record of past criminal activities will be conducted by the Louisiana Department of Public Safety and Corrections, Office of State Police.

By my signature below, I hereby authorize such an investigation and further authorize the Louisiana State Police to release all criminal record information maintained in their files which may confirm or deny my eligibility for employment to the facility or agency named above.

FULL NAME (Printed) _____

SIGNATURE: _____

SOCIAL SECURITY # _____ DATE OF BIRTH _____

DRIVER'S LICENSE # _____

RACE/SEX _____

DATE _____ WITNESS _____

PLEASE CHECK ONE:

WORKING WITH CHILDREN _____ HEALTH CARE PROVIDER _____

OTHER _____

PURCHASER: _____

TO: Louisiana State Police
Bureau of Criminal Identification
P.O. Box 66614
Baton Rouge, La. 70896-6614

DESCRIPTION OF GOODS/SERVICES:

PLEASE USE THE FOLLOWING EXPENDITURE CODING TO PROCESS THE INTERAGENCY TRANSACTION (GFSJ4/PV TYPE 2)

AGENCY NAME & NUMBER	GFS NUMBER	OBJECT NUMBER	COST

PREPARER: _____

APPROVED: _____

DATE: _____