



Division of Medical Services

Office of Long Term Care

<http://humanservices.arkansas.gov/dms/Pages/oltcHome.aspx>

PO Box 8059, Slot S409, Little Rock, AR 72203-8059
501-682-8430 · Fax: 501-682-1197



MEMORANDUM

LTC-A-2016-06

TO: Nursing Facilities; ICFs/MR 16 Bed & Over; HDCs;
 ICFs/MR Under 16 Beds; ALF Level I; ALF Level II;
 RCFs; Adult Day Cares; Adult Day Health Cares;
 Post-Acute Head Injury Facilities; Interested Parties;
 DHS County Offices

FROM: Carol Shockley, Director, Office of Long Term Care

DATE: August 22, 2016

RE: Advisory Memo - Criminal Background Checks after Employment Clearance Registry Disqualification

The Office of Long Term Care has learned that some facilities are performing a criminal background check on applicants after the facilities have obtained a disqualification status through the Employment Clearance Registry (ECR), and employing the applicants if no disqualifying criminal offenses are found. This has resulted in facilities employing disqualified individuals and receiving deficiencies.

The ECR contains previously conducted criminal record checks on applicants of long term care facilities that resulted in an employment disqualification determination, as well as administrative findings of abuse/neglect/theft and employment restriction information for nursing assistants, various employees and job applicants. Under Section 300 of the Rules and Regulations for Conducting Criminal Record Checks for Employees of Long Term Care Facilities (CRC Regulations), facilities are required to perform an initial check of the ECR on all applicants to whom a facility intends to make an offer of employment.

IF A DISQUALIFYING ENTRY IS FOUND, no further action should be taken. The disqualification means the individual is barred from employment. The facility should **NOT** initiate a criminal background check. Since the ECR contains disqualifications from state criminal offenses, federal criminal offenses (or offenses in other states that are listed in federal databases), and abuse/neglect/exploitation findings, running a criminal background check will not reveal all reasons a person is disqualified. As an example, if just a state criminal background check is performed, it will not list federal criminal convictions or convictions in other states, and will not list disqualifications due to a finding of maltreatment. A facility that employs a person based on that background check, then, will be in violation of the regulations.

Facilities are urged to review the CRC Regulations. Please contact Rose Tabor at 501-320-6500 or Ronica Leonard at 501-320-6261 with any questions.

If you need this material in alternative format such as large print, please contact our Americans with Disabilities Act Coordinator at 501-682-8307 (voice) or 501-682-6789 (TDD).

CS/lp

humanservices.arkansas.gov

Protecting the vulnerable, fostering independence and promoting better health