



## Arkansas Department Human Services Division of Medical Services

Office of Long Term Care Mail Slot S409

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<http://www.medicaid.state.ar.us/internetsolution/general/units/oltc/index.aspx>

### Memorandum

LTC-R-2009-16

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

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

**DATE:** September 18, 2009

**SUBJECT:** Criminal Record Check Program – Revised Regulations Effective  
September 1, 2009

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Pursuant to Act 762 of 2009, the Office of Long Term Care (OLTC) has revised the Rules and Regulations for Conducting Criminal Record Checks for Employees of Long Term Care Facilities. The effective date of the new regulations is September 1, 2009. The new revised regulations can be found at our website:

<https://www.medicaid.state.ar.us/InternetSolution/General/units/oltc/regs/allregs.aspx>

The Act amended Arkansas Code Title 20 to add a new chapter to read as Chapter 38 to consolidate various processes for conducting criminal record checks for diverse service providers within the many Divisions of the Department of Human Services. Therefore, the Arkansas Code providing authority for the regulations will be ACA §20-38-101, rather than the previous ACA §20-33-201.

Please make note of the following changes in the revised regulations:

#### Section 100 – Definitions

- The definition of “employee” has been revised to clarify that employees (including contracted personnel) that have “unsupervised access” to residents are subject to the regulations. Also, the exemption for “administrative capacity” has been clarified to only apply to employees who do not have direct access to residents.
- The definition of “qualified entity” has been changed to “service provider”.

Section 200 – Implementation

- The most significant change is the addition/expansion to the list of disqualifying convictions from the previous 37 to 61 types of convictions as found in Subsection 201.
- Subsection 201.1 was revised to allow earlier disregard (sunset) of misdemeanor convictions (five years) but felonies remain the same (ten years). Also, individuals seeking such disregards (sunsets) must now provide proof to the OLTC that they are not confined, on probation or on parole related to the disqualifying conviction(s).
- Subsection 205 was revised to only allow an FBI exemption if the individual has lived continuously in the State for the past five years. This revision removed the prior exemption related to an individual being employed in healthcare in Arkansas within the past 60 days.

The above covers the major changes made to the regulations but please read the entire set as other minor changes were made according to the law or to provide clarification to prior language.

Results of a criminal record check obtained prior to September 1, 2009 shall remain valid for all persons employed by a service provider provided there is no break in their employment status with the initiating service provider. When the person next undergoes a periodic criminal record check or seeks new employment at another service provider, their continued employment or eligibility for new employment will be contingent on the results of the new criminal record check.

If you have questions or need additional information, please contact Rhonda Hetland at 501-682-6285 or Tommy Wingard at 501-682-6117.

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