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August 28, 2018

MEMORANDUM FOR HOME AND COMMUNITY BASED SERVICES PROVIDERS

From: Venice Wood, Chief *Venice Wood*
Bureau of Long Term Services and Supports
Division of Senior and Disability Services

Subject: Missouri House of Representatives Bill 1350 – Criminal History Records

Effective August 28, 2018 Missouri House Bill 1350 establishes modified provisions relating to criminal history records.

This bill provides that any in-home services provider agency or home health agency shall be guilty of a class A misdemeanor if the provider knowingly hires or retains a person to have contact with patients or residents and the person has been found guilty in this state or any other state or has been found guilty of a crime, which if committed in Missouri would be a class A or B felony violation of chapter [565](#), [566](#) or [569](#), or any violation of subsection 3 of section [198.070](#) or section [568.020](#).

Any in-home services provider agency or home health agency shall be guilty of a class A misdemeanor if such agency knowingly employs a person to provide in-home services or home health services to any in-home services client or home health patient and such person either refuses to register with the family care safety registry or if such person:

- (1) Has been found guilty of or pleaded guilty or nolo contendere to any felony offense under chapters [195](#) or [579](#);
- (2) Has been found guilty of or pleaded guilty or nolo contendere to any felony offense under section [568.045](#), [568.050](#), [568.060](#), [568.175](#), [570.023](#), [570.025](#), [570.030](#), 570.040 as it existed prior to January 1, 2017, [570.090](#), [570.145](#), [570.223](#), [575.230](#), or [576.080](#);
- (3) Has been found guilty of or pleaded guilty or nolo contendere to a violation of section [577.010](#) or [577.012](#) and who is alleged and found by the court to be an aggravated chronic offender under section [577.023](#);
- (4) Has been found guilty of or pleaded guilty or nolo contendere to any offense requiring registration under section [589.400](#);
- (5) Is listed on the Department of Health and Senior Services Employee Disqualification List under section [192.2490](#);
- (6) Is Listed on the Department of Mental Health Employee Disqualification Registry under section [630.170](#); or
- (7) Has a finding on the Child Abuse and Neglect Registry under sections [210.109](#) and [210.183](#)

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This differs from current practice in that background screening disqualifiers for Home Health, In-Home, and Consumer Directed Services workers will change from *any* Family Care Safety Registry (FCSR) finding to the above list of findings.

The entirety of House Bill 1350 is available for review at:
<https://house.mo.gov/billtracking/bills181/hlrbillspdf/4530H.08T.pdf>

Please see below for clarification regarding when and how often Home and Community Based Services (HCBS) providers are required to check the Employee Disqualification List (EDL) and FCSR.

In-Home Services (IHS)

IHS providers shall check the FCSR prior to participant contact for employees, and must obtain a Good Cause Waiver when appropriate. As a reminder, conditional employment once the Good Cause Waiver has been submitted is allowable in the IHS program. Although the state regulations do not specify how often a provider is to check the EDL or FCSR once an employee is hired, DHSS recommends the providers verify each employee with the FCSR annually. IHS providers are not required to check the FCSR quarterly.

Consumer Directed Services (CDS)

CDS vendors shall check the FCSR prior to employment for prospective attendants, and must obtain a Good Cause Waiver when appropriate. As a reminder, conditional employment is not allowable in the CDS program. The CDS attendant may not work until the good Cause Waiver has been obtained. Although the state regulations do not specify how often a vendor is to check the EDL or FCSR once an attendant is hired, DHSS recommends the vendor verify each attendant with the FCSR annually. CDS vendors are not required to check the FCSR quarterly.

Residential Care Facility I/II (RCF) Personal Care (PC) and Assisted Living Facility (ALF) PC

RCF/ALF – PC providers shall check the FCSR prior to participant contact for employees, and must obtain a Good Cause Waiver when appropriate. As a reminder, conditional employment is not allowable in an RCF/ALF. Although the state regulations do not specify how often a facility is to check the EDL or FCSR once an employee is hired, DHSS recommends the providers verify each employee with the FCSR annually to ensure they are not on the EDL. RCF/ALF - PC providers are not required to check the FCSR quarterly.

Adult Day Care (ADC)

ADC providers shall check the FCSR prior to participant contact for employees, and must obtain a Good Cause Waiver when appropriate. As a reminder, conditional employment is not allowable in an ADC. The ADC provider shall, in accordance with 19 CSR 30-90.040 (10), check the FCSR at least every ninety (90) days to ensure current employees, contractors or volunteers are not on the EDL.

Any questions regarding this memorandum should be directed to the Bureau of Long Term Services and Supports at LTSS@health.mo.gov or 573-526-8557

VW/tw
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