



Health Care Regulation & Quality Improvement

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To: Oregon In-home care agencies

From: Health Care Regulation and Quality Improvement (HCRQI)
In-home care agency (IHCA) program

RE: **In-home care agency Criminal Background Check Inquiries**

The purpose of this memo is to provide clarification related to the criminal records check rules (OAR 333-536-0090). We have received several inquiries related to the requirements for criminal records checks. The IHCA surveyor team, including the Interim Survey Manager, met with our Assistant Attorney General to verify the requirements. We appreciate your understanding as we implement a new process in accordance with the rule, and our Assistant Attorney General's recommendation.

1. LEIE check and other required documentation:

This section is in response to recent inquiries from the industry about the documentation required as evidence of the List of Excluded Individuals and Entities (LEIE) check.

The IHCA OARs at 333-536-0093(9) require that an agency perform and document a query of a subject individual (SI) with the LEIE. An agency may conduct those checks on the Office of Inspector General's (OIG) website: <http://exclusions.oig.hhs.gov/>. Please refer to that website for information and FAQs related to those checks: <http://oig.hhs.gov/faqs/exclusions-faq.asp>.

Some vendors that perform criminal records checks (CRCs) may perform the LEIE check as part of the CRC package(s). However, those vendors may not always provide the agency with documentation of the check and the result for each individual.

In the past, during surveys some agencies have produced a copy of a letter from the CRC vendor that indicated the vendor did the checks as part of the CRC package purchased by the agency. However, after recent consultation with our Assistant Attorney General, HCRQI has determined that whether the LEIE check is done by the agency or done by a CRC vendor, the LEIE check and result must be documented specifically for each individual and maintained in that employee's personnel file. We will no longer accept a letter from the company as documentation.

The same is true of the list of required checks in OAR 333-536-0093(8)(a-g) (including the National Sex Offender Registry: <http://www.nsopw.gov>). The results of each category must be

documented on the record check report. Please contact your vendor to include the required information on the record check report.

2. Criminal Record Checks conducted by the Background Check Unit (BCU)

If the agency is using the BCU for criminal record checks, OAR 333-536-0093(7) require that an agency to complete a separate nationwide check through a qualified vendor. The BCU does not include a nationwide check as part of their process (unless the SI has submitted fingerprints due to living outside of Oregon in the last 5 years). The BCU also do not conduct an LEIE check.

3. Criminal Record Checks conducted before hiring an SI (for employment or as a volunteer)

The IHCA OARs at 333-536-0093(2) require that an agency to conduct a criminal records check before hiring an SI. "Before hiring" means that the check must be conducted before orientation or training is provided to the SI.

4. Criminal Record Checks for Agency Administrators and Owners with direct client contact

Regarding criminal record checks for administrators and owners - we receive a significant number of IHCA renewal and change applications for which the owner/administrator background check form is not submitted. The owner/administrator background check form is on the HCRQI website (www.healthoregon.org/hcrqi) in the section titled "Forms, Applications, and License Information" (scroll down the In Home Care section). **The Background Check Request form found on the HCRQI website is the ONLY form that will be accepted.** Requests are required for administrators and owners; no other staff needs to turn in a form.

In addition, all sections of the form are not always completed. Please ensure that you fill out all sections, include all required information, sign and date the form. We do not accept copies of other background checks run by other vendors (including Department of Human Services (DHS) checks).

During your agency's licensure renewal time make sure you send in a background check request form for every owner and administrator that has direct contact with clients. These requests need to accompany all applications, even if you have turned in a request in the past. Unless specifically requested by this office, an agency only needs to turn in the Background Check Request for the administrator and owner with the relicensure application or change in administrator/owner.

If you have any questions please email the IHC survey team at mailbox.hclc@state.or.us.