

<p>POLICY/PROCEDURE TITLE: Provider Background Check</p> <p>POLICY/PROCEDURE #: 702</p> <p>Section: Provider Network</p> <p>Developed and maintained by: Provider Network Manager</p> <p>Scope: <input checked="" type="checkbox"/> OnPoint Staff <input type="checkbox"/> MH/IDD, <input type="checkbox"/> Housing, <input type="checkbox"/> SUD, <input type="checkbox"/> Integrated Health, <input checked="" type="checkbox"/> OnPoint Contract Providers <input type="checkbox"/> Other _____</p>	<p>Approved By: _____ <small>(Executive Director)</small></p> <p>Approved By: _____ <small>(Medical Director; as applicable)</small></p>	
	DATES	
	First Effective	12/2001
	Revised	03/2023
	Reviewed	03/2023

PURPOSE

To ensure OnPoint’s contracted providers conduct background checks as required by law and as required under contract with the Michigan Department of Health and Human Services (MDHHS) and the Lakeshore Regional Entity (LRE).

POLICY

Providers shall take precautions to protect individuals served within the OnPoint Provider Network by conducting and reviewing background checks prior to hire, contracting and/or service delivery.

Background checks shall include Criminal Background check, Check of Exclusion/Debarment of Medicaid and Medicare services via the Office of Inspector General (OIG), OnPoint Corporate Compliance Check, OnPoint Office of Recipient Rights (ORR) check and driving record check if needed. Outcomes of background checks will be reviewed as indicated within this procedure.

OnPoint shall require all providers who employ staff to have policies outlining the completion of required background checks. Said policies and procedures shall meet personnel selection criteria required by law, and other universal requirements for all staff that deliver services to individuals served within the OnPoint network.

During quality monitoring reviews OnPoint shall verify background checks are completed and maintained by Providers.

PROCEDURES

I) Criminal Background Checks

Providers shall complete and maintain criminal background checks for all employees, potential employees, and contracted staff (independent contractors) that provide direct services to individuals, have access to the records or money of individuals served through the provider network and/or are responsible for billing services within the Provider Network. Criminal background checks shall occur prior to date of hire or contracting.

Adult Foster Care Providers initial criminal background checks shall be in accordance with State of Michigan licensing requirements. Criminal background checks for employees and applicants of adult foster care facilities (AFC) and homes for the aged facilities are conducted in the Michigan Workforce Background Check Program. Notice of new criminal records are provided automatically for those checks conducted in the Michigan Workforce Background Check Program.

All other criminal background checks will be repeated minimally every two years. Minimally, a criminal background check will be completed for records in the State of Michigan. If a potential employee or contractor has lived outside of Michigan within the last 3 years, a national background check shall be conducted by the provider.

Information obtained through criminal background checks will be maintained confidentially to the extent allowed by law, will be used only for the purpose of evaluating the individual's qualifications for employment, and will not be disclosed to any person who is not directly involved in evaluating the individual's qualifications for employment. Records will be retained in a secure location in a separate personnel file and when disposed of will be destroyed in a manner that maintains confidentiality.

A) Determination of Outcome of Criminal Background

The information obtained from criminal background checks will be used to evaluate a person's qualifications to provide approved services for individuals. If a conviction appears on the criminal background check, it may mean that the prospective or current staff member is precluded from performing the essential functions of the services purchased by OnPoint.

Providers may employ, independently contract with, or grant clinical privileges to an individual who has been convicted of a felony or misdemeanor if: (a) the individual is not prohibited by law from having direct access to or performing direct services for clients due to the criminal conviction, and (b) OnPoint or the contracted provider has determined that the criminal record is not substantially related to the position. Providers shall document the review and determination which may be requested during quality monitoring reviews.

The following precludes the provider staff from providing services to individuals served by OnPoint:

1) Has been convicted of any of the following felonies:

- (a) Medicaid/Medicare fraud
- (b) Convicted of any of the following felonies, attempt or conspiracy to commit the following felonies – unless 15 years have lapsed since all the terms and conditions of sentencing, parole and probation are completed:
 - Intent to cause death or serious impairment of a body function, that results in death or serious impairment of body function, involves use of force or violence, or involves the threat of the use of force or violence.
 - Cruelty or torture
 - Felonies under MCL 750.145m to 750.145r (definitions of adult foster care and vulnerable adults)
 - Criminal sexual conduct
 - Abuse or neglect

- Use of a firearm or dangerous weapon
 - Diversion or adulteration of a prescription drug or other medications
 - (c) A felony, attempt or conspiracy to commit a felony other than Medicaid/Medicare fraud or a felony listed above – unless 10 years have lapsed since the terms and conditions of sentencing, parole and probation are completed.
- 2) Has been convicted of any of the following misdemeanors:
- (a) Convicted of any misdemeanors involving the following – unless 10 years have lapsed since all the terms and conditions of sentencing, parole and probation are completed:
 - Use of a firearm or dangerous weapon with the intent to injure, the use of a firearm or dangerous weapon that results in a personal injury or a misdemeanor involving the use of force or violence or the threat of the use of force or violence.
 - Misdemeanors under MCL 750.145m to 750.145r (definitions of adult foster care and vulnerable adults)
 - Criminal sexual conduct
 - Cruelty or torture
 - Abuse or neglect
 - (b) Convicted of any misdemeanors involving the following – unless 5 years have lapsed since all the terms and conditions of sentencing, parole and probation are completed:
 - Cruelty if committed by an individual who is less than 16 years old.
 - Home invasion
 - Embezzlement
 - Negligent homicide or a violation of MCL 257.601d of Michigan vehicle code
 - Larceny if committed over age of 16.
 - Retail fraud in second degree if committed over age of 16.
 - Assault, fraud, theft or the possession or delivery of a controlled substance if committed over the age of 16.
 - (c) Convicted of any misdemeanors involving the following – if committed within the last 3 years:
 - Assault if there was no use of a firearm or dangerous weapon and no intent to commit murder or inflict great bodily injury.
 - Retail fraud in third degree if committed over age of 16.
 - Misdemeanors under MCL 333.7401 to 333.7461 (drugs such as controlled substances, narcotics, etc.)
 - (d) Convicted of any misdemeanors involving the following – if committed within the year immediately preceding application for employment or independent contract:
 - Misdemeanors under MCL 333.7401 to 333.7461 (drugs such as controlled substances, narcotics, etc.) if conviction before age of 18
 - Larceny or retail fraud in second or third degree if conviction before age 16
 - (e) Is the subject of an order or disposition under the code of criminal procedure with a finding of “not guilty by reason of insanity.”
 - (f) Had substantiated finding of neglect, abuse, or misappropriation of property by a state or federal agency in a nursing facility or skilled nursing facility.

II) **Medicaid/Medicare Office of Inspector General (OIG) Exclusion Checks**

- A) All Providers shall complete and maintain Medicaid/Medicare Exclusion background checks by conducting an examination of Federal and State databases of excluded parties and litigation checks. Such examination must take place prior to time of hiring of contract with staff and at least monthly thereafter.
- B) Providers must assure that the provider entity, and any individuals with ownership (direct or indirect of five percent or more) or control interests (board of directors), employees or subcontractors, have not been excluded from participating in federal healthcare programs.
- C) OnPoint requires that provider applicants and current providers disclose ownership and control information at the time of provider enrollment and re-enrollment in the OnPoint provider network, or whenever a change takes place. Providers are responsible for notifying OnPoint when any change in ownership, control interests or management occur within organization.
- D) Determination of Outcome of Medicaid/Medicare Exclusion Background
Providers presently excluded from participation in Medicaid/Medicare, or any other Federal health care program may not provide services within the OnPoint Provider Network. The Provider Network Manager must be notified, in writing, of exclusion as soon as it is identified.

III) **Recipient Rights Background Check**

- A) Providers shall complete and maintain recipient rights checks for all employees, potential employees, and contracted staff (independent contractors) that provide direct services to individuals. This is done through the OnPoint Recipient Rights Registry (or equivalency). Recipient Rights checks must be completed at the time of hire or contracting.
- B) Rights checks done through OnPoint are completed by submitting a completed 702.1 Provider Background Release Form and routed as indicated on the form. Results will be returned to provider organizations. Providers are responsible for the maintenance of the record.
- C) Determination of Outcome of Recipient Rights Background
 - 1) Individuals with substantiated Abuse I, Abuse II, Neglect I, or Neglect III violations may not provide services to Individuals served by a provider in the OnPoint Network without a formal review of circumstances and timeframe of the violation, and without the written consent of the OnPoint Executive Director.
 - 2) If an employee of provider agency starts services with a consumer of OnPoint prior to completion of background checks and it is found that the employee has a record with Recipient Rights that prohibits employee from working with an OnPoint consumer, claims submitted will not be paid.

IV) **Corporate Compliance Background Check**

- A) Providers shall complete and maintain corporate compliance checks for all employees, potential employees, and contracted staff (independent providers) that provide direct services to individuals, have access to the records or money of individuals served and/or are responsible for billing services within the OnPoint Provider Network. Corporate Compliance checks must be completed at the time of hire or contracting.
- B) Corporate Compliance checks are completed by submitting a completed 702.1 Provider Background Release Form and routed as indicated on the form. Results will be returned to the provider organization for maintenance of the record.
 - 1) Determination of Outcome of Corporate Compliance Background. Individuals with a substantiated Corporate Compliance violation will be reviewed by the OnPoint Corporate Compliance Officer or designee for approval based on the circumstances and length of time

since the investigation.

- 2) If an employee of provider agency starts services with a consumer of OnPoint prior to completion of background checks and it is found that the employee has a record with Corporate Compliance that prohibits employee from working with an OnPoint consumer, claims submitted will not be paid.

V) Driving Background Check

- A) Providers shall complete and maintain driving background checks for all employees, potential employees, and contracted staff (independent contractors) that may transport Individuals served within the OnPoint Provider Network. Checks must be completed at the time of hire or contracting and annually thereafter.
- B) Determination of Outcome of Driving Background. The information obtained from driving background checks will be used to evaluate an individual provider's qualifications to provide approved transportation for Individuals. If certain offenses appear on the driving background check, it may mean that the prospective or current provider is precluded from transporting Individuals served within the OnPoint Provider Network.
 - 1) One or more of the following offenses in the past three years precludes one from providing transportation:
 - (a) Any alcohol or drug related violation including driving or operating under the influence, driving with an open container, minor in possession of alcohol or any drug crime.
 - (b) Reckless driving
 - (c) Careless driving
 - (d) Speed contest
 - (e) Hit and run.
 - (f) Permitting an unlicensed person to drive
 - (g) Aggravated assault with a motor vehicle
 - (h) Driving while license is suspended or revoked.
 - (i) Operating a motor vehicle for the commission of a felony
 - (j) Fleeing or evading police or roadblock or resisting arrest.
 - (k) Manslaughter or negligent homicide using a motor vehicle.
 - (l) Failure to report an accident.
 - (m) Illegal passing of a school bus
 - 2) Three or more of the following offenses in the past three years precludes one from providing transportation:
 - (a) Suspended for moving violations.
 - (b) Speeding
 - (c) Improper lane change
 - (d) Failure to obey traffic signal or sign.
 - (e) Failure to yield.
 - (f) At fault accidents

VI) Resources:

- A) Michigan Sex Offender Registry <http://www.mipsor.state.mi.us/com>
- B) United States Department of Justice National Sex Offender Public website <http://www.nsopw.gov/>
- C) Offender Tracking Information System (OTIS) – State of Michigan only <https://mdocweb.state.mi.us/otis2/otis2.aspx>

- D) Medicaid/Medicare Office of Inspector General (OIG) Exclusion List (national)
<https://exclusions.oig.hhs.gov/>
- E) Internet Criminal History Access Tool – free to non-profits – state of Michigan only (ICHAT)
<https://apps.michigan.gov/>
- F) Workforce Background Check <https://www.michigan.gov/lara/bureau-list/bchs/workforce-back>

ATTACHMENTS

- 702.1 Provider Background (CC/RR) Release Form
- 109.3 Background Check Release Form

REFERENCES

- Michigan Mental Health Code (MCL 330.1134a)
- Michigan Public Health Code (MCL 333.20173a)
- Michigan Adult Foster Care Facility Licensing Act (MCLA 400.734b)
- LRE Policy – 9.11 Criminal History Checks
- MDHHS Contract Attachment – Credentialing and Re-credentialing Processes
- 42 U.S.C. 13 20A-7 – Public Health Code: Exclusion from participation in Medicaid and Medicare programs
- Section 1128 and Section 1902(a)(39) of the Social Security Act