



State of New Jersey
Department of Human Services
Division of Medical Assistance & Health Services

NEWSLETTER

Volume 32 No. 24

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TO: Behavioral Assistance (BA) and Intensive In-Community (IIC)
Service Providers – **For Action**
Managed Care Organizations – **For Information Only**

SUBJECT: BA/IIC Provider Requirements – Background Checks and Driver License Verification

EFFECTIVE: Immediately

PURPOSE: To notify NJ Medicaid/NJ FamilyCare Home Care/CSOC BA/IIC providers of updates and clarifications related to background checks and driver license verification requirements.

BACKGROUND: N.J.A.C 10:77 sets forth the manner in which BA services and IIC mental health rehabilitation services shall be provided to eligible Medicaid/NJ FamilyCare and Department of Children and Families' (DCF) Children's System of Care (CSOC) beneficiaries under age twenty-one. BA and IIC services are provided as part of an integrated service plan addressing the unique needs of the child, youth, or young adult and his or her family/caregiver. Services are provided with the goal of stabilizing and maintaining the child, youth or young adult in the community and averting the need for more intensive services, including, but not limited to, treatment in residential or other inpatient settings.

Providers of BA/IIC services shall have demonstrated experience, or shall employ individuals with demonstrated experience, in providing services to children with serious emotional or behavioral health challenges and their families. Requirements include, but are not limited to, all IIC and BA staff possessing appropriate qualifications and training to provide services in the context of other presenting problems. All providers must be certified by DCF's CSOC as meeting these criteria prior to being enrolled as a Medicaid/NJ FamilyCare provider of BA/IIC services. Provider entities rendering BA/IIC mental health rehabilitation services shall employ appropriate and sufficient staff to comply with the administrative oversight, clinical supervision, service provision and monitoring requirements set forth in N.J.A.C. 10:77.

Enrolled BA/IIC providers shall ensure and maintain documents demonstrating that all staff meet the training and licensure requirements for their practice specialty or profession, including proof of a successfully-completed background check having been

performed prior to staff providing any services. The Department of Human Services (DHS) shall not pay for, nor enter into agreement with, any BA/IIC employee or BA/IIC agency head providing services, unless it has been determined, consistent with the requirements and standards set forth in this newsletter and N.J.A.C. 10:77, that no criminal history record exists on file in the State Bureau of Identification in the Division of State Police which would disqualify the community agency head or their employees from employment.

ACTION: Effective immediately, all **existing** BA/IIC providers that have failed to satisfy the background check requirement, and all **new** BA/IIC provider applicants, shall be required to initiate a request for background checks from CSOC prior to enrollment with the Division of Medical Assistance and Health Services (DMAHS). This does not apply to providers who have completed background checks under previous requirements, as they are grandfathered. This guidance applies to providers who failed to meet this requirement previously as well as any newly enrolled or newly hired staff who may provide face-to-face services as applicable. Providers can send electronic inquiries to IIcprovider.Communications@dcf.nj.gov, or, written inquiries to:

Department of Children and Families
PO Box 717
Trenton, NJ 08625-0717
Attn: CSOC Office of Community Services, Provider Enrollment Unit

PROVIDERS

New providers must first reach out to CSOC at the address above to begin the application process. CSOC will then provide the applicants with the required information and instructions, including an agency-specific service code form, to schedule a free fingerprint background check through the DHS-approved vendor for the agency head (owner, president or CEO) as well as any agency staff who will provide face-to-face services. **All providers that previously failed to satisfy the background check requirement and all new providers must complete the background check process through the Employment Controls and Compliance Unit (ECCU) at the Department of Human Services' approved vendor. Effective Immediately, Providers may no longer complete background checks independently using private companies.** Please note that licensed individuals who may be required to complete background checks as part of their licensure must still comply with this process. Licensing boards are not permitted to share background check information with our agencies.

Once the agency head and staff complete the fingerprint process they can retrieve a copy of their "cleared" letter from ECCU's on-line Fingerprint Approval Retrieval Application (FARA) website. Instructions may be found at <https://www.nj.gov/humanservices/staff/opia/cfu/fara.html>. Should an agency encounter any issues, they may contact ECCU by phone at 609-292-0207, or via email at ECCU.FARA@dhs.nj.gov. If an applicant is not cleared for employment, the employer will be instructed to contact ECCU for guidance.

Once a “cleared” letter is obtained, the provider shall submit the completed DMAHS Medicaid/NJ FamilyCare enrollment application, including the “cleared” letter and other required documents, to CSOC for review and approval. The Children’s System of Care requires providers to include a copy of the successful background check for each required individual, as well as proof of their highest level of education, proof of licensure or certification (if applicable) and a copy of a valid driver’s license for any staff who may provide transportation services. CSOC will review the application and, if approved, submit it to Gainwell Technologies, Medicaid/NJ FamilyCare’s fiscal agent, for additional checks and final DMAHS approval. Once approved, providers will be enrolled in the Medicaid/NJ FamilyCare system as a BA/IIC provider. If the provider is not approved by CSOC, the provider shall notify DMAHS at the following address within 10 business days to request an appeal:

Division of Medical Assistance and Health Services
Office of Provider Enrollment
PO Box 712
Trenton, NJ 08625-0712

Please note that while providers must submit copies of background checks, they are still responsible to maintain original copies of all required employment documentation.

NEW STAFF AND UPDATED INFORMATION

N.J.A.C 10:77-4.14(d) and 5.14(d) require providers to maintain a copy of a valid unexpired driver’s license for each employee who may be required to drive to fulfill their responsibilities as well as to maintain written documentation of successful completion of the criminal background check as described above. As new staff are hired, the BA/IIC agency shall ensure that staff complete both the background check and driver’s license validation. If an agency previously obtained background checks from ECCU, the agency will continue to utilize their identification code and follow the fingerprinting process they were given to request background checks for new employees. They will then submit a copy of a successful background check, proof of the highest educational level obtained and a copy of the employee’s valid driver’s license to CSOC for review and submission to Gainwell Technologies.

If an agency has completed previous background checks prior to the release of this newsletter, and does not have a provider specific code for fingerprinting, they must reach out to CSOC as described above. The Children’s System of Care will reach out to ECCU to provide CSOC the information necessary to complete the fingerprinting process for their new staff. Once the applicant has been fingerprinted, they can bring their receipt back to the agency and the agency can retrieve the results for their files. If the applicant is not cleared, ECCU will notify the agency/applicant via letter. **The code (agency-specific) and instructions utilized by the agency for pre-employment criminal**

background checks should be maintained and can be used for all future background check requests for future employees.

Copies of a successful background check, valid driver's license and proof of highest educational level obtained must be submitted to CSOC to ensure that new staff members are added to the provider's staff list and for CSOC to grant access to CYBER. Access to CYBER is required for staff to input CSOC's required documentation. Failure to submit proof of a successful background check, educational level and verification of a valid driver's license will prevent registration of that staff person within CYBER and reimbursement for any claims.

Provider applications cannot be forwarded to Gainwell Technologies for processing and approval without submission of the requested information. If an agency utilizes staff without obtaining a cleared letter, they will be considered in violation of NJAC 10:77-4.14(c)-(d) and 5.14(d), et. al., and subject to any and all applicable penalties. These providers may be referred to the Medicaid Fraud Division and any reimbursed services that were provided by these staff are subject to recovery.

ONGOING BACKGROUND CHECKS

For all staff previously background checked by ECCU, the State Police "flag" each fingerprint and notify ECCU when it is associated with a criminal activity subsequent to the initial background check. No further fingerprinting is required. If an employee is identified as having been associated with an arrest, ECCU will reach out to DMAHS for a final determination and CSOC will be notified of the determination. For those staff who are determined ineligible for employment, CSOC will notify the employer. That staff must stop working immediately.

Once an individual is fingerprinted, if they are not hired, or the employee's employment terminates for any reason, the provider must submit a flag removal form to ECCU. The provider can contact the help desk via email at ECCU.FARA@dhs.nj.gov or call 609-262-0207 for assistance if needed.

DRIVER'S LICENSE VERIFICATION

Providers shall provide proof of driver's licenses **annually** for all active employees whose job responsibilities may require them to transport Medicaid/NJ FamilyCare members. This shall include attestations that the licenses were in the staff members' possession and that the license was physically reviewed and noted to have a future expiration date. Staff with license expiration dates within two months of the license examination date should present a copy of the renewed license upon renewal. The required verification documentation form will be available on the DCF website and completed forms shall be submitted electronically to the CSOC Office of Community Services, Provider Enrollment Unit (listed on the first page) every January. Providers shall adopt a policy requiring that any changes to an employee's driving or clinical license status must be reported by the employee to the provider immediately.

BACKGROUND CHECK GUIDELINES

To clarify what qualifies as a successful background check, DHS and DCF shall utilize the following criteria:

1. Any provider agency under contract with the Department of Human Services (DHS) shall not be reimbursed for the provision of services unless it has first been determined that no criminal history record information exists on file in the State Bureau of Identification in the Division of State Police, which would disqualify the provider agency or the provider agency's employees from such employment. Final determinations shall be made by DHS. The Department shall notify the community agency if an individual has been determined to be qualified or disqualified. The department's determination of qualification shall not require the community agency to employ the individual. The department's determination of disqualification shall require the community agency to terminate employment or not offer employment to the individual.
2. An individual shall be disqualified from employment if that individual's criminal history record background check reveals a record of conviction of any of the following crimes and offenses:
 - (A) In New Jersey, any crime or disorderly person's offense:
 - (1) Involving danger to the person, meaning those crimes and disorderly persons offenses set forth in N.J.S.2C:11-1 et seq., N.J.S.2C:12-1 et seq., N.J.S.2C:13-1 et seq., N.J.S.2C:14-1 et seq. or N.J.S.2C:15-1 et seq.; or
 - (2) Against the family, children or incompetents, meaning those crimes and disorderly persons offenses set forth in N.J.S.2C:24-1 et seq.; or
 - (3) A crime or offense involving the manufacture, transportation, sale, possession, or habitual use of a controlled dangerous substance as defined in the "New Jersey Controlled Dangerous Substances Act," P.L.1970, c. 226 N.J.S. 24:21-1 et seq.
 - (B) In any other state or jurisdiction, of conduct which, if committed in New Jersey, would constitute any of the crimes or disorderly persons offenses described in paragraph (1) of this subsection.
3. If an individual who is required to undergo a background criminal history check refuses to consent to, or cooperate in, the securing of a criminal history record background check, the person shall be immediately removed from the person's position and the person's employment shall be terminated.

4. Notwithstanding the provisions of regulation to the contrary, no individual shall be disqualified from employment on the basis of any conviction disclosed by a criminal history record background check if the individual has affirmatively demonstrated to the department, clear and convincing evidence of the individual's rehabilitation. In determining whether an individual has affirmatively demonstrated rehabilitation, the following factors shall be considered:

- i. the nature and responsibility of the position which the convicted individual would hold, has held or currently holds, as the case may be;
- ii. the nature and seriousness of the offense;
- iii. the circumstances under which the offense occurred;
- iv. the date of the offense;
- v. the age of the individual when the offense was committed;
- vi. whether the offense was an isolated or repeated incident;
- vii. any social conditions which may have contributed to the offense; and
- viii. any evidence of rehabilitation, including good conduct in prison or in the community, counseling or psychiatric treatment received, acquisition of additional academic or vocational schooling, successful participation in correctional work-release programs, or the recommendation of those who have had the individual under their supervision.

5. A conviction of a crime or disorderly persons offense against children as set forth in N.J.S.2C:24-4 adversely relates to a position in a community agency that involves or would involve working directly with a person under 18 years of age. Individuals convicted of such crimes or disorderly person offenses are permanently disqualified from such employment at a community agency and from being qualified to be a community care residence applicant, alternate, or household member.

6. The individual shall have no longer than 14 days from the date of the written notice of disqualification to provide evidence of affirmatively demonstrated rehabilitation to the department as provided pursuant to this section.

7. The department shall have no longer than 60 days from the date of receipt of evidence of the individual's affirmatively developed rehabilitation to make a determination on the individual's qualification. The department shall notify the individual and the community agency in writing of the determination of the individual's qualification or disqualification no longer than 60 days from the date of receipt of evidence of the individual's affirmatively developed rehabilitation. The written notice may be transmitted electronically if the individual authorizes the department to transmit the information electronically.

8. Any BA/IIC provider who is found to be non-compliant with the required background checks may face denial of Medicaid/NJ FamilyCare claims, sanctions, penalties, and exclusion from the Medicaid/NJ FamilyCare program.

If you have any questions concerning this Newsletter, please contact the Medicaid/NJ FamilyCare Office of Customer Service at 609-588-2765.

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