



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

NEWSLETTER

Volume 33 No. 06

March 2023

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

SUBJECT: BA/IIC Provider Requirements – Fingerprint-Based Background Checks and Driver's License Verification

EFFECTIVE: Immediately

PURPOSE: To clarify requirements related to provider fingerprint-based background checks and driver's license verification for Medicaid/FamilyCare (NJFC) Home Care/Children's System of Care (CSOC) BA/IIC providers. **This updated newsletter is intended to replace Vol. 32 No. 24.**

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) members 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 their 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 BA and IIC staff possessing appropriate qualifications and training to provide services in the context of other presenting problems. All providers must be screened and determined by DCF's CSOC to meet 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 agencies 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 fingerprint-based background check 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 first 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, BA/IIC agencies may no longer complete background checks independently using private companies. All background checks will be processed by the Employment Controls and Compliance Unit (ECCU) within the Office of Program Integrity & Accountability (OPIA) at the Department of Human Services.

Any existing BA/IIC agency that has not previously complied with the private company background check requirement shall immediately submit a request for State Bureau of Identification fingerprint-based background checks to CSOC utilizing the procedure identified in this newsletter.

BA/IIC agencies shall henceforth complete fingerprint-based background checks for **all new staff** utilizing the procedure identified in this newsletter prior to staff providing services.

Current agency staff who have completed private company background checks prior to the release of this newsletter are grandfathered for a period of two years (through February 28, 2025). All grandfathered staff must complete a fingerprint-based background check utilizing the procedure identified in this newsletter prior to March 1, 2025.

Agencies applying to become BA/IIC providers shall be required to submit a request for State Bureau of Identification fingerprint-based background checks to CSOC prior to enrollment with the DHS, Division of Medical Assistance and Health Services (DMAHS) utilizing the procedure identified in this newsletter prior to staff providing services.

Effective immediately, all existing and prospective BA/IIC agencies shall provide CSOC with **attestations of valid driver's licenses** for all employees whose job responsibilities may require them to transport Medicaid/NJ FamilyCare members. An attestation of a valid driver's license must be completed for every new employee before they can provide transportation to Medicaid/NJ FamilyCare members and should be submitted to CSOC as part of the new provider application or Change of Staff request. In addition, agencies shall submit an attestation form to CSOC for current staff members every January.

Additional information and instructions related to the fingerprint-based background checks and driver's license verifications and attestation requirements are provided below.

REQUESTING BACKGROUND CHECKS

Agencies that require State Bureau of Identification fingerprint-based background checks for staff shall submit a request to CSOC by email at IIProvider.Communications@dcf.nj.gov or by mail at the following address:

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

CSOC will provide the agency with the required information and instructions, including an agency-specific ECCU service code form, to schedule free fingerprint-based background checks 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 to children.

If staff have appointments scheduled through private companies as of the release of this newsletter, the agency has the option to proceed with the appointment or schedule a new appointment through ECCU. Please note that if an agency decides to proceed with the previously-scheduled appointment, that staff member will still need to be fingerprinted through ECCU by February 28, 2025.

Licensed individuals who are 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 staff complete the fingerprint process, the agency can retrieve copies of “cleared” letters from ECCU’s online Fingerprint Approval Retrieval Application (FARA) website. Instructions can be found at <https://www.nj.gov/humanservices/staff/opia/cfu/fara.html>. Should an agency encounter any problems they can call ECCU at (609)292-0207 or email them at ECCU.FARA@dhs.nj.gov. If the applicant is not cleared for employment, the employer will be instructed to contact ECCU for additional guidance.

PROSPECTIVE BA/IIC AGENCIES

Once “cleared” letters are obtained for all applicable staff, the applying agency shall submit the completed DMAHS Medicaid enrollment application, including the “cleared” letter(s) and other required documents, to CSOC’s Office of Community Services for review and approval. The Children’s System of Care requires providers to include a copy of a “cleared letter” indicating successful completion of a fingerprint-based background check for each BA/IIC staff member, as well as proof of their highest level of education, proof of licensure or certification (if applicable) and attestation of a valid driver’s license. CSOC will screen the application and if it is determined to satisfy staff requirements, submit it to Gainwell, Medicaid’s fiscal agent, for additional checks and final DMAHS approval. Once approved, the agency will be enrolled in the NJ FamilyCare system as a

BA/IIC provider. If not approved by CSOC, the agency has 10 business days to file an appeal with DMAHS by mailing a written request to the following address:

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

Please note that while provider agencies must submit copies of fingerprint-based background checks, they are still responsible to maintain all original required employment documentation.

EXISTING BA/IIC AGENCIES HIRING NEW STAFF

As new staff are hired, the BA/IIC agency shall ensure that they complete a fingerprint-based background check through ECCU. If the agency previously obtained fingerprint-based background checks through ECCU, the agency will continue to utilize their identification code and follow the fingerprinting process they were given to request fingerprint-based background checks for new employees. They will then submit a copy of a “cleared letter” indicating a successful fingerprint-based background check, proof of the highest educational level obtained, an attestation of the employee’s valid driver’s license, and the Change of Staff form to CSOC for review and submission to Gainwell Technologies. Failure to submit proof of a successful fingerprint-based 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. If an agency utilizes staff without obtaining a cleared letter, they will be considered noncompliant with 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

Once staff have been 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 fingerprint-based background check. No further fingerprinting is required. If an employee is identified as having being associated with an arrest, ECCU will reach out to DMAHS for a final determination of whether the employee may continue to provide services. For those staff who are determined ineligible for employment, DMAHS will communicate the determination to CSOC who will notify the employer and these staff that they shall stop working immediately.

If an individual who has been fingerprinted on behalf of an agency is not hired or is terminated, 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.

BACKGROUND CHECK GUIDELINES

To clarify what qualifies for a successful fingerprint-based background check, DHS and DCF shall utilize the following criteria:

1. Any agency/provider enrolled with New Jersey Family Care as a provider of Medicaid services shall not be paid 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 agency or the 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 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 fingerprint-based 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 (C.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 fingerprint-based background check refuses to consent to, or cooperate in, the securing of one, 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

fingerprint-based 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 persons 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 fingerprint-based background checks may face denied Medicaid claims, sanctions, penalties, and exclusion from the Medicaid program.

DRIVER'S LICENSE VERIFICATION

BA/IIC agencies shall provide verification of valid driver's licenses annually for all active employees whose job responsibilities may require them to transport Medicaid/NJ FamilyCare members. This shall include attestation each applicable staff member's license was in their 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 form will be available on the DCF website and completed forms shall be submitted electronically to the CSOC Office of Community Services, at IIProvider.Communications@dcf.nj.gov every January.

Agencies 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 and appropriate action taken by the agency.

Existing agencies shall submit driver's license verification forms to CSOC for all prospective staff being considered for employment. These forms should be submitted as part of the Change of Staff request. Prospective BA/IIC agencies shall submit license verification forms for any staff who may provide transportation services. These forms should accompany the completed DMAHS Medicaid enrollment application that is submitted to CSOC.

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

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