

HEALTHWEST

POLICY / PROCEDURE

No. 02-030

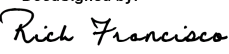
Prepared by:

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Approved by:

Subject: Background Checks

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I. POLICY

HealthWest will not employ, independently contract with, allow volunteer/student observer/intern access, or grant clinical privileges to an individual with a criminal conviction disclosed through a criminal background check required by law, if the individual will regularly have direct access to or provide direct services to clients, and the individual is prohibited by law from having access or performing services due to a criminal conviction. Criminal background checks will occur prior to date of hire or contract initiation, and minimally every two years thereafter. HealthWest 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) HealthWest has determined the criminal record is not substantially related to the position. HealthWest shall require all providers who employ staff to have policies outlining the completion of required background checks. The 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 HealthWest network. During quarterly reviews, HealthWest will verify background checks are completed and maintained by Provider Agencies.

II. PURPOSE

To ensure HealthWest and its contracted providers conduct both criminal and exclusionary background checks as required by law and as required under contracts with the Michigan Department of Health and Human Services (MDHHS), the Lakeshore Regional Entity, and as required by specific funding sources.

III. APPLICATION

This policy applies to HealthWest employees, volunteers, student interns/observers, and licensed independent contractors who provide direct services.

IV. DEFINITIONS

A. Staff – Any reference to staff in the below policy is to include employees, interns, volunteers, students, and contracted licensed independent practitioners.

V. PROCEDURE

**A. Required Background Checks**

1. Background checks required for all staff:
  - a) State Criminal Record Background Check, using ICHAT (Internet Criminal History Access Tool System)
  - b) National Criminal Background Check (requires fingerprints) – anyone who has lived outside of Michigan anytime during the 5 years prior to starting at HealthWest.
  - c) Sanctions Checks
    - ii. Office of Inspector General (OIG)
    - iii. Systems for Awards Management (SAM)
    - iv. Medicaid/Medicare Sanction Provider List (MSP)
  - d) Recipient Rights Checks
  - e) Michigan Driving Record Check
  - f) Michigan Sex Offender Registry
  - g) National Sex Offender Registry
2. Additional background checks required for specialty areas:
  - a) Workforce Background Check - for employees working in the Crisis Residential Unit
  - b) Central Registry Checks – for all individuals serving youth consumers

**B. Criminal Background Checks**

Upon a formal offer, the applicant will fill out form [A158](#) Background Check Information Consent Form to grant permission for formal background checks to be ran.

1. State Criminal History Record Check

HealthWest and its contracted providers shall complete and maintain criminal and exclusionary background checks for all employees, potential employees, and independently contracted staff 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 will be ran through the state's Internet Criminal History Access Tool (iCHAT) system before hire and minimally every two (2) years for all staff.
2. National Criminal History Record Check

If a potential employee or contractor has lived outside of Michigan within the last five (5) years, a national background check shall be conducted by the provider. This will require fingerprinting. Results of fingerprint checks obtained through the Criminal History Record Internet Subscription Service (CHRISS) database will remain in the system and not filed in the individual's credentialing file in order to meet CHRISS compliance.

Leadership staff will log directly into the system to review results and determine corresponding actions if necessary.

3. Workforce Background Check

Adult Foster Care Provider 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. HealthWest requires Crisis Residential staff to be re-fingerprinted through a Workforce Background Check approved vendor every five (5) years.

4. Central Registry Check (CR)

Central Registry checks will be performed prior to hire on all individuals who provide services to youth consumers in order to comply with the MDHHS/PIHP contract.

Determination of Outcome of Criminal Background Check

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 in 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 HealthWest.

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

- a) Has been convicted of any of the following felonies:
  - i. Medicaid/Medicare fraud
  - ii. 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 Michigan penal code XXA of PA 328 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
- b) 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.

- c) Has been convicted of any of the following misdemeanors:
- i. 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
  - ii. 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
  - iii. 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.)
  - iv. 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
- d) Is the subject of an order or disposition under the code of criminal procedure with a finding of “not guilty by reason of insanity”.
- e) Had a substantiated finding of neglect, abuse, or misappropriation of property by a state or federal agency in a nursing facility or skilled nursing facility.
- f) Individuals providing applied behavior analysis services must not have any felony or misdemeanor convictions.

If the results of the criminal and exclusionary background investigation show no criminal record identified, the employment process may proceed.

If the results of the criminal check show a finding that does not fit within the identified exclusionary findings above, the results will be brought forward to a HealthWest Executive Team Member for review and approval or denial.

HealthWest 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) HealthWest has determined that the criminal record is not substantially related to the position. HealthWest shall document the review and determination which may be requested during quality monitoring reviews.

**D. Medicaid Michigan Sanctioned Provider List (MSP), Office of Inspector General (OIG), and System for Award Management (SAM) Exclusion Checks**

1. HealthWest shall complete and maintain Medicaid Exclusion background checks by conducting an examination of Federal and State databases of excluded parties and litigation checks from SAM, OIG, and MSP. Such examinations must take place prior to time of hiring or contract and at least monthly thereafter. HealthWest currently performs these checks through EPStaffCheck.
2. Determination of Outcome of Medicaid Exclusion Background  
Individuals presently excluded from participation in Medicaid/Medicare, or any other Federal health care program, may not provide services within the HealthWest Provider Network. The HealthWest Human Resources Manager and/or Provider Network Manager must be notified, in writing, of exclusion as soon as it is identified.

**E. Recipient Rights Background Check**

1. HealthWest will 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 HealthWest Recipient Rights Main Database (or equivalency). Recipient Rights checks must be completed at the time of hire or contracting.
2. Rights checks done through HealthWest are completed by submitting the background consent form to the Recipient Rights Office, who then checks the Recipient Rights Main Database. Results are then returned to Human Resources staff.
3. Determination of Outcome of Recipient Rights Background
  - a) 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 HealthWest Network without a formal review of circumstances and timeframe of the violation, and without the written consent of either the HealthWest Executive Director if the individual is a HealthWest staff or the appropriate approving staff from the Provider Agency.

- b) If an employee of a provider agency starts services with a consumer of HealthWest 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 a HealthWest consumer, claims submitted will not be paid.

## **F. Driving Record Check**

1. HealthWest shall complete initial driving record checks prior to start date for all individuals that may transport individuals served by HealthWest. HealthWest uses the Secretary of State subscription service for continuous driving record monitoring.
2. Determination of Outcome of Driving Record Check.  
The information obtained from driving record checks will be used to evaluate an individual provider's qualifications to provide approved transportation for Individuals. If certain offenses appear on the driving record check, it may mean that the prospective or current provider is precluded from transporting individuals served by HealthWest.
  - a) One or more of the following offenses in the past three years may preclude one from providing transportation:
    - 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.
    - Reckless driving
    - Careless driving
    - Speed contest (Illegal Racing)
    - Hit and run
    - Permitting an unlicensed person to drive
    - Aggravated assault with a motor vehicle
    - Driving while license is suspended or revoked
    - Operating a motor vehicle for the commission of a felony
    - Fleeing or evading police or roadblock or resisting arrest
    - Manslaughter or negligent homicide using a motor vehicle
    - Failure to report an accident
    - Illegal passing of a school bus
3. Employees must have a valid license to be employed at HealthWest. Exceptions can be made for an approved disability which prevents one from obtaining a license. If their license is suspended while employed, the employee must inform Human Resources immediately. They must also inform Human Resources if any of the above infractions occur while employed or contracted. The infraction will be reviewed, and further action will be determined by human resources and executive leadership.

## **G. Michigan and National Sex Offender Registry**

1. Sex offender registry checks will be done for HealthWest staff and minimally for licensed, certified and/or registered provider Agency staff per the MDHHS Credentialing and Recredentialing requirements using both the Michigan Sex Offender Registry and the United States Department of Justice National Sex Offender Public website.

2. Determination of the Outcome of the Registry Check

Results of the registry checks that come back with a hit that do not already fall under the convictions listed in C. 6. above will be sent to the Human Resources Manager for review. If necessary, they will then be sent on to the Chief Clinical Officer and/or Executive Director for review and approval/denial.

**H. Standard Operation Procedures**

Human Resources maintains Standard Operating Procedures explaining the processes for conducting background checks and they are available for view upon request.

VI. REPORTING

All HealthWest staff are required to report in writing to their Department Head as soon as possible after an incident occurs but no later than five (5) days of a charge, arrest, conviction, placement on the CR as a perpetrator, or assessment imposition. The Department Head will forward the notice to the HealthWest Human Resources Manager, who will forward the report to the Muskegon County Human Resources Director for review. Any Department Head who is arrested, convicted, placed on the CR as a perpetrator, or charged for a violation of criminal law will notify the County Administrator. Employees are also required to notify the Department Head, or as appropriate, the Administrator, of any conviction for a violation of criminal law. The Department Head will also provide notice to the Human Resource Manager. Notification by the employee must occur as soon as possible after the incident but no later than five (5) business days after the charge, arrest, or conviction. Conviction includes a plea of guilty and a plea of no contest.

- A. Any criminal conviction, felony, misdemeanor or being placed on any of the violator registries while employed will result in an immediate Group 3 offense per Muskegon County Personnel Rules.
- B. The imposition of civil money penalties or assessments imposed under section 1128 A of the Social Security Act.

HealthWest Human Resources must report offenses as defined in 1128(a) and 1128(b)(1), (2), or (3) of the Social Security Act, or that have had civil money penalties or assessments imposed under section 1128A of the Act to the Lakeshore Regional Entity pursuant to LRE Policy 9.11.

VII. ATTACHMENTS

- A. Background Check Information Consent Form (A158) – [Laserfiche Forms](#)

VIII. REFERENCES

- A. [Michigan Medicaid Provider Manual](#)
- B. MDHHS Contract Attachment – [Credentialing and Re-credentialing Processes](#)
- C. Lakeshore Regional Entity Policy 9.11 – [Criminal History Checks](#)
- D. [State of Michigan Contract](#)
- E. [Social Security Act Sec. 1128](#)
- F. [Michigan Sex Offender Registry](#)
- G. [United States Department of Justice National Sex Offender Public website](#)
- H. Public Health Code Act 368 of 1978 ([MCL 333.20173a](#))

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- I. [42 U.S. Code 1320a-7](#)
- J. Mental Health Code Act 258 of 1974 section ([MCL 330.1134a](#))
- K. [Code of Federal Regulations Title 42, Chapter V, Subchapter B section 1001.101](#)
- L. Public Health Code 368 of 1978 (MCL [333.18263](#)) specific to behavior technicians providing ABA services.

SP/hb