

## APPENDIX I

### DEPARTMENT OF HEALTH OFFICE OF HEALTH CARE ASSURANCE CRIMINAL HISTORY RECORD CHECK STANDARDS

#### I. PURPOSE

To protect the health, safety and welfare of clients, criminal history information on an individual who wishes to serve as a direct service provider shall be considered in determining whether the individual is suitable to serve as a direct service provider to Med-QUEST Division (MQD) clients and Department of Health clients.

#### II. STATE CRIMINAL INFORMATION SYSTEM CHECK

- A. Upon implementation of these standards, a check of the Criminal Justice Information System (CJIS) and the Federal Bureau of Investigation (FBI) data system for a criminal history record check shall be conducted when an individual is:
  - 1. Conditionally offered a position as a direct service provider by an agency, purchase of service contractor, or individual employer. Pending the completion of the criminal history record check, the individual may be placed in a direct service provider position on a probationary status not to exceed thirty (30) days;
  - 2. In a direct service provider position when these standards become effective. The criminal history record check shall be completed within six (6) months of the effective date of these standards.
- B. The criminal history record check shall include the submission of fingerprints to the FBI and the CJIS for a State criminal history record check.
- C. Individuals shall have a criminal history record check upon initial hire or implementation of these standards and a second criminal history record check twelve months later. Thereafter, State name checks shall be conducted every other year.
- D. The responsibility for conducting a criminal history record check shall rest with the individual seeking to become a direct service provider or the individual/agency/organization hiring the individual as a direct service provider.
- E. The criminal history record checks shall be conducted through:
  - 1. For all DOH and DHS providers: The Department of Health (DOH) designee contracted to fingerprint individuals and to submit information to and receive information from the FBI and CJIS. The individual shall complete, sign and date the DHS 1645, "Authorization for Criminal

History Record Clearance”, and submit the completed form to the DOH designee. This form may be revised as needed.

2. For MQD, CWSB, and DOH providers: State name checks are to be obtained from the Hawaii Criminal Justice Data Center (HCJDC) website: (<http://ecrim.hawaii.gov/ahewa/>). Individuals who do not have access to a computer may request information from the following:

**Oahu:** Hawaii Criminal Justice Data Center  
465 South King Street, Room 101  
Honolulu, Hawaii 96813

The Oahu office, for an additional fee, will process mailed-in requests for criminal history records checks.

**Neighbor Islands:** County police stations where HCJDC computer terminals are available. Molokai and Lanai are covered through the main police station on Maui.

- F. When name checks into the State name inquiry system are required for employment, a printed report of each name record check accompanied by a signed Statement of Authenticity that the criminal history record report is a true and unaltered copy shall be retained in the hired individual’s personnel file and made available for review by DOH staff or its designee for compliance monitoring purposes.
- G. Fingerprint results and/or a printed name check in the State criminal history records, dated no more than six (6) months before the date an initial criminal history record check is required, may be accepted instead of a new criminal history record check being performed.
- H. DHS shall not be directly responsible for any cost related to the criminal history record check. Funds received through a Purchase of Service contract with DHS for administrative costs may be used to meet the cost for criminal history record checks.

### III. CONVICTION RECORDS IN HIRING AND TERMINATING DIRECT SERVICE PROVIDERS

Information contained in criminal history record check reports shall be taken into consideration when hiring and terminating individuals as direct service providers. An offer of employment shall be withdrawn or the position of a direct service provider shall be terminated when a prospective or current direct service provider has a criminal history as indicated below:

- A. The criminal conviction shall have occurred within ten (10) years of the date of the criminal history record check. A criminal conviction occurring more than ten (10) years prior to the date of the criminal history record check may be considered when the criminal history of the individual may pose a risk to the health, welfare and safety of service recipients ; and
- B. The crime for which there is a conviction shall have a rational relationship to the direct service provider's position. Rational relationship means the crime for which there is a history is substantially related to the qualifications, duties and responsibilities of the direct service provider position. Crimes having rational relationships to direct service provider positions include any felony, including but not limited to theft, abuse, neglect, assault, or crimes involving violence or sexual offenses.
- C. Exemptions from the requirements of sections III. A. and B. may be approved for MQD or DOH providers by the DOH designee and for CWSB providers by the CWSB.
  - 1. Requests for exemptions shall be made in writing by using form DHS 1673, "Request for Exemption (From Criminal History Records Check Standards or Protective Services Central Registry Check Standards)", or a similar form. The individual seeking the exemption must complete the DHS 1673 or similar form. A copy of the individual's current results of a name inquiry into the State criminal history records check must accompany the request. Fingerprint results for MQD providers should already be on file with the DHS designee.
  - 2. The "Checklist for Exemption Request" may be used as a reminder of the documents to be submitted for EACH exemption request. All documents shall be submitted to the DOH designee or CWSB.
  - 3. Unless an individual is self-employed, the employer agency must be involved in the exemption process to assure the timely submittal of all required documents and appropriateness of the exemption request. Requests for exemptions shall be routed through the prospective employer agency prior to submittal to the Department or its designee.
  - 4. **For MQD Providers:** All documents shall be submitted to the DOH designee. Upon receipt of the written exemption request and other required documents listed on the "Checklist for Exemption Request", the DHS designee shall convene a panel consisting of three (3) professional level multi-disciplinary team members to review the request. The panel shall include individuals in at least two different professions with backgrounds in criminal justice, legal and/or the therapeutic mental health field.
  - 5. **For CWSB Providers:** All documents shall be submitted to the CWSB Administrator. Upon receipt of the written exemption request and other required documents listed on the "Checklist for Exemption Request", the CWSB Administrator shall convene a panel to review the request. The panel may include the CWSB Administrator or designee, the CWSB

Program Development Administrator, relevant CWSB Assistant Program and Section Administrators, and anyone else deemed appropriate by the CWSB Administrator or designee.

6. The exemption panel shall consider the following:
  - a. The relevancy of the individual's conviction record to the qualifications, functions and duties of the direct service provider position the individual wishes to fill;
  - b. Passage of time since the crime was committed; and
  - c. Any evidence of rehabilitation, such as letters from counselors or therapists attesting to a sustained improvement in the individual's behavior, character references, and activities since conviction, such as employment.
7. A single factor may not be evidence of rehabilitation. If necessary, the panel shall request additional information from the individual seeking the exemption.
8. Individuals requesting exemptions shall be informed in writing of the panel's decision within 45 calendar days from the date the panel receives all documents needed for a decision to be made. The panel may extend the 45-day period with cause and a written explanation to the individual seeking the exemption.
9. Individuals who are dissatisfied with the panel decisions on their exemption requests may:
  - a. Appeal the panel's decision to the Department of Health, Office of Health Care Assurance.

- D. MQD clients may choose not to conduct criminal history record checks on individuals they hire on their own. Clients who choose not to have criminal history record checks shall complete form DHS 1672, "Consumer-Employer Choice Regarding Criminal History Record Check and Adult Protective Services (APS) Central Registry Check", to acknowledge their understanding of these standards and the purpose for the checks, and their decision not to conduct criminal history record checks or APS Central Registry checks on individuals they plan to hire as direct service providers.

#### Attachments

DHS 1645 with instructions

DHS 1672 with instructions

DHS 1673 with instructions

Statement of Authenticity

Checklist for Exemption Request

Note: These standards will be updated to assure correct form numbers are included once approval of forms through DHS or DOH system.

DEPARTMENT OF HEALTH  
and  
DEPARTMENT OF HUMAN SERVICES, Med-QUEST Division

PROTECTIVE SERVICES  
CENTRAL REGISTRY CHECK STANDARDS

I. PURPOSE

To protect the health, safety and welfare of the public, Protective Services Central Registry information on an individual who wishes to serve as a direct service provider shall be considered in determining whether the individual is suitable to serve as a direct service provider to MQD clients or DOH providers.

The Protective Services Central Registry may include information from the Adult Protective Services (APS) Central Registry and the Child Welfare Services (CWS) Central Registry. The APS Central Registry shall be checked for individuals serving as direct service providers. The CWS Central Registry shall be checked for individuals serving as direct service providers for CWSB clients. Both Registries shall be checked for individuals serving as direct service providers for both MQD and CWSB clients, and for MQD clients who are minor children.

These Protective Services Central Registry Check Standards do not apply to direct service providers who must meet the licensing standards as specified in the Child-Caring Institution and/or Child-Placing Organization administrative rules.

II. PROTECTIVE SERVICES CENTRAL REGISTRY CHECK

- A. Upon implementation of these standards, a check of the Protective Services Central Registry shall be conducted when an individual is:
1. Conditionally offered a position as a direct service provider by an agency, purchase of service contractor, or individual employer. Pending the completion of the Protective Services Central Registry check, the individual may be placed in a direct service provider position on a probationary status not to exceed thirty (30) days; or
  2. In a direct service provider position when these standards become effective. The Protective Services Central Registry check shall be completed within six (6) months of the effective date of these standards.
- B. Individuals shall have a Protective Services Central Registry check upon initial hire or implementation of these standards and a second Protective Services Central Registry check twelve (12) months later. Thereafter, Protective Services Central Registry checks shall be conducted every other year.

- C. The Department of Health or its designee is responsible for conducting the Protective Services Central Registry checks upon request of the individual seeking to become a direct service provider.
1. **For MQD Direct Service Providers:** The individual shall sign and date form DHS 1507, “Authorization to Release Information from the Protective Services Central Registry, Med-QUEST Division”, and mail (not fax) the completed form to:

Insights to Success, Inc.

1132 Bishop Street, Suite 2401

Honolulu, Hawaii 96813

2. **For CWSB Direct Service Providers:** The individual shall sign and date the “Child Protective Service System Central Registry Clearance Form – Experimental (2/06)” and mail (not fax) the completed form to:

Child Welfare Services Branch  
Statewide Child Welfare Services Section  
420 Waiakamilo Road, Suite 300A  
Honolulu, Hawaii 96817  
Phone: (808) 832-0624

The release of information by the Department of Health or its designee shall be limited to the following:

#### ***APS CENTRAL REGISTRY CHECK***

- Notification of whether the individual requesting the information is known to the Department of Human Services to have caused the abuse of a dependent adult; and
- Notification of whether the allegation of abuse is confirmed or not confirmed.

#### ***CWS CENTRAL REGISTRY CHECK***

- Date of CONFIRMED incident(s) of child abuse or neglect; and
  - Type of abuse for each incident.
- D. Upon completion of the Protective Services Central Registry check, the Department of Health or its designee shall mail a letter to the individual requesting the information or to the agency/organization identified by the individual to receive the information. A copy of each Protective Services Central Registry check shall be retained in the hired individual’s personnel file and made available for review by Department staff for compliance monitoring purposes.
- E. A copy of a Protective Services Central Registry check, dated no more than six (6) months before the date an initial Protective Services Central Registry check is

required, may be accepted instead of a new Protective Services Central Registry check being performed.

### III. PROTECTIVE SERVICES CENTRAL REGISTRY CHECKS IN HIRING AND TERMINATING DIRECT SERVICE PROVIDERS

When the Protective Services Central Registry check indicates that abuse has been confirmed, the individual/agency/organization hiring the individual as a direct service provider must inquire of that individual as to the nature and circumstance of the confirmed abuse. Information obtained by the individual/agency/organization from the Protective Services Central Registry check shall be taken into consideration when hiring and terminating individuals as direct service providers. An offer of employment shall be withdrawn or the position of a direct service provider shall be terminated when:

- A. A prospective or current direct service provider has a Protective Services Central Registry check indicating that abuse was confirmed and that the abuse occurred within ten (10) years of the date of the Protective Services Central Registry check. A confirmation of abuse occurring more than ten (10) years of the date of the Protective Service Central Registry check may be considered when the abuse confirmation history of the individual may pose a risk to the health, welfare and safety of service recipients; and
- B. The confirmed abuse has a rational relationship to a direct service provider's position. Rational relationship means the confirmed abuse is substantially related to the qualifications, duties and responsibilities of a direct service provider position.
- C. Exemptions from the requirements of sections III. A. and B. may be approved for MQD providers by the DOH designee and for CWSB providers by the CWSB.
  - 1. Requests for exemptions shall be made in writing by using form DHS 1673, "Request for Exemption (From Criminal Conviction Records Check Standards or Protective Services Central Registry Check Standards)", or a similar form. The individual seeking the exemption must complete the DHS 1673 or similar form. A copy of the individual's current Protective Services Central Registry check must accompany the request.
  - 2. The "Checklist for Exemption Request" may be used as a reminder of the documents to be submitted for EACH exemption request.
  - 3. The employer agency must be involved in the exemption process to assure the timely submittal of all required documents and appropriateness of the exemption request. Requests for exemptions shall be routed through the prospective employer agency prior to submittal to the Department or its designee.
  - 4. **For MQD Providers:** All documents shall be submitted to the DOH designee. Upon receipt of the written exemption request and other required documents listed on the "Checklist for Exemption Request", the DOH designee shall convene a panel consisting of three (3) professional level multi-disciplinary team members to review the request. The panel shall include individuals in at least two different professions with

backgrounds in criminal justice, legal and/or the therapeutic mental health field.

5. **For CWSB Providers:** All documents shall be submitted to the CWSB Administrator. Upon receipt of the written exemption request and other required documents listed on the “Checklist for Exemption Request”, the CWSB Administrator shall convene a panel to review the request. The panel may include the CWSB Administrator or designee, the CWSB Program Development Administrator, relevant CWSB Assistant Program and Section Administrators, and anyone else deemed appropriate by the CWSB Administrator or designee.
6. The panel shall consider the following:
  - a. The relevancy of the individual’s protective services history to the qualifications, functions and duties of the direct service provider position the individual wishes to fill;
  - b. Passage of time since the abuse was committed; and
  - c. Any evidence of rehabilitation, such as letters from counselors or therapists attesting to a sustained improvement in the individual’s behavior, character references, and activities since the commission of abuse.
7. A single factor may not be evidence of rehabilitation. If necessary, the panel shall request additional information from the individual seeking the exemption.
8. Individuals requesting exemptions shall be informed in writing of the panel’s decision within 45 calendar days from the date the panel receives all documents needed for a decision to be made. The panel may extend the 45-day period with cause and a written explanation to the individual seeking the exemption.
9. Individuals who are dissatisfied with the panel decisions on their exemption requests may:
  - a. Request an informal discussion with the DOH Office of Health Care Assurance Chief; and/or
  - b. Appeal the panel’s decision to the DOH Office of Health Care Assurance Chief.

- D. MQD clients may choose not to do APS Central Registry checks on individuals they hire on their own. Clients who choose not to have APS Central Registry checks shall complete form DHS 1672, “Consumer-Employer Choice Regarding Criminal Conviction Record Check and Adult Protective Services (APS) Central Registry Check”, to acknowledge their understanding of these standards and the purpose for the checks, and their decision not to conduct criminal conviction record or APS Central Registry checks on the individuals they plan to hire as direct service providers.

Attachments:

DHS 1507 with instructions

CPS System Central Registry Clearance Form – Experimental (2/06)) with instructions



DHS 1672 with instructions  
DHS 1673 with instructions  
Checklist for Exemption Request

Note: These standards will be updated to assure correct form numbers are included once approval of forms through DHS or DOH systems.