

**3701-60-04 Requirements for criminal records check.**

- (A) The chief administrator of a home health agency or his designee shall request that the superintendent conduct a criminal records check with respect to each applicant for a direct care position.
- (B) The chief administrator of a home health agency or his designee shall conduct a criminal background check on employees who provide direct care as follows:
  - (1) For employees hired prior to January 1, 2008, no later than thirty days after the anniversary of the employee's date of hire and at least every five years thereafter; or
  - (2) For employees hired on or after January 1, 2008, no later than thirty days after the fifth anniversary of the employee's date of hire and at least every five years thereafter.
- (C) Residency requirement.
  - (1) If the applicant does not present proof of having been a resident of this state for the five year period immediately prior to the date the criminal records check is requested or provide evidence that within that five year period the superintendent has requested information about the applicant from the United States federal bureau of investigation in a criminal records check, the chief administrator of the home health agency shall request that the superintendent obtain information from the United States federal bureau of investigation as part of the criminal records check of the applicant.
  - (2) Even if the applicant presents proof of having been a resident of this state for the five year period or proof of an United States federal bureau of investigation criminal records check as specified in paragraph (C)(1) of this rule, the home health agency may request that the superintendent include information from the United States federal bureau of investigation in the criminal records check.
- (D) Notification to the applicant. The chief administrator of the home health agency or his designee shall notify each applicant and employee of the following:
  - (1) That the individual is required to provide a set of fingerprint impressions and that a criminal records check is required to be conducted if the individual comes under final consideration for employment, or, in the case of an employee, that a criminal records check will be conducted as a condition of continued employment;
  - (2) If applicable, the fee required under paragraph (E)(2) of this rule; and
  - (3) Any fees authorized under division (C)(2) of section 109.572 of the Revised Code that are associated with obtaining fingerprint impressions.
- (E) Investigation fee.
  - (1) A home health agency shall pay to the bureau of criminal identification and investigation the fee prescribed pursuant to division (C)(3) of section 109.572 of the Revised Code for each criminal records check conducted pursuant to this

rule.

- (2) A home health agency may charge an applicant a fee not exceeding the amount the home health agency pays under paragraph (D)(1) of this rule. A home health agency may collect a fee only if both of the following apply:
    - (a) The home health agency notifies the person at the time of the initial application for employment of the amount of the fee and that, unless the fee is paid by the person, the person will not be considered for employment;
    - (b) The medicaid program established under Chapter 5111. of the Revised Code does not reimburse the home health agency for the fee it pays under paragraph (D)(1) of this rule.
- (F) Criminal records check forms. The chief administrator of a home health agency required by this rule to request a criminal records check shall do all of the following:
- (1) Provide each applicant and employee a copy of the form or forms prescribed by division (C)(1) of section 109.572 of the Revised Code and a standard fingerprint impression sheet, or instructions for acquiring a standard fingerprint impression sheet prescribed pursuant to division (C)(2) of that section.
    - (a) An applicant who meets the residency requirement shall be provided a copy of the bureau of criminal identification and investigation "civilian identification" form for fingerprint impressions; in addition, if the home health agency chooses to do so, the applicant may also be provided an United States federal bureau of investigation "applicant" fingerprint impression form;
    - (b) An applicant who does not meet the residency requirement, specified in paragraph (C) of this rule, shall be provided both the bureau of criminal identification and investigation and United States federal bureau of investigation fingerprint impression forms.
  - (2) Obtain the completed form or forms and standard fingerprint impression sheet or sheets from the applicant;
  - (3) Forward the completed form or forms and standard fingerprint impression sheet or sheets to the superintendent.
    - (a) The home health agency shall submit the completed forms in the method prescribed by bureau of criminal identification and investigation.
    - (b) The home health agency shall submit all applicable fees with completed forms or arrange for payment in a method prescribed by bureau of criminal identification and investigation prior to submitting forms for processing.
- (G) An applicant or employee provided the forms and standard fingerprint impression sheets under paragraph (F)(1) of this rule, who fails to complete the forms or to provide fingerprint impressions, shall not be employed in any position for which a criminal records check is required by this rule.
- (H) If an applicant or employee has been the subject of a criminal records check pursuant to division (D) of section 109.572 of the Revised Code within the previous twelve months, the chief administrator of the home health agency may request and

accept a reverification of that criminal records check. A reverification of a criminal records check does not relieve the home health agency of the requirements under paragraph (C) of this rule if the applicant or employee has not been a resident of this state for the five year period immediately prior to the date the criminal records check.

- ~~(H)~~(1) Exception to criminal records check requirement. The home health agency is not required to request that the superintendent conduct a criminal records check of an applicant if the applicant has been referred to the home health agency by an employment service that supplies full-time, part-time, or temporary staff for positions involving the direct care to an individual if all of the following apply:
- (1) The chief administrator receives from the employment service confirmation that a review of the databases required by rule 3701-60-03 of the Administrative Code was conducted with regard to the applicant or employee;
  - (2) The chief administrator receives from the employment service confirmation that a report of the results of a criminal records check regarding the applicant or employee has been conducted by the superintendent within the one-year period immediately preceding the following:
    - (a) In the case of an applicant, the date of the applicant's referral by the employment service to the home health agency;
    - (b) In the case of an employee, the date by which the home health agency would otherwise have to request a criminal records check of the employee pursuant to this rule; and
  - (3) The report of both the database review and the criminal records check demonstrates that the applicant or employee has not been convicted of or pleaded guilty to an offense listed or described in paragraph (A) of rule 3701-60-06 of the Administrative Code.

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