

3701-60-05 Conditional employment.

- (A) A home health agency may employ an applicant conditionally prior to obtaining a criminal records check regarding the applicant if the:
 - (1) Review of the state and national databases required by rule 3701-60-03 of the Administrative Code does not reveal any disqualifying information;
 - (2) The applicant provides the home health agency with a completed fingerprint impression sheet before the commencement of the applicant's conditional employment; and
 - (3) Chief administrator of the home health agency requests the criminal records check required by rule 3701-60-04 of the Administrative Code not later than five business days after the applicant begins conditional employment; or
 - (4) Applicant is referred to the home health agency by an employment service, the employment service or the applicant provides the chief administrator of the agency a letter that is on the letterhead of the employment service, the letter is dated and signed by a supervisor or another designated official of the employment service, and the letter states all of the following:
 - (a) That the employment service has requested the superintendent to conduct a criminal records check regarding the applicant;
 - (b) That the requested criminal records check is to include a determination of whether the applicant has been convicted of, pleaded guilty to, or been found eligible for intervention in lieu of conviction for a disqualifying offense;
 - (c) That the employment service has not received the results of the criminal records check as of the date set forth on the letter; and
 - (d) That the employment service promptly will send a copy of the results of the criminal records check to the chief administrator of the home health agency when the employment service receives the results.
- (B) If a home health agency employs an applicant conditionally pursuant to paragraph (A)(2) of this rule, the employment service, on its receipt of the results of the criminal records check, promptly shall send a copy of the results to the chief administrator of the agency.
- (C) The home health agency shall not employ an applicant prior to obtaining the completed form or forms and standard fingerprint impression sheet or sheets from the applicant as required in paragraph (F) of rule 3701-60-04 of the Administrative Code. For purposes of this prohibition, the applicant cannot perform or participate in any job related activity pertaining to a position involving the provision of direct care to an individual that places the applicant in an active pay status.
- (D) The home health agency shall terminate the individual's conditional employment if:
 - (1) In the case of an applicant for a position providing direct care to an individual, the results of the records check, other than the results of any request for information from the United States federal bureau of investigation, are not

obtained within sixty days after the date the request is made; or

(2) The results or any part of the records check indicate that the individual has been convicted of or pleaded guilty to any of the offenses listed or described in paragraph (A) of rule 3701-60-06 of the Administrative Code, unless the home health agency chooses to employ the applicant pursuant to rule 3701-60-07 of the Administrative Code.

(E) Termination under paragraph (D) of this rule shall be considered just cause for discharge for purposes of division (D)(2) of section 4141.29 of the Revised Code if the individual makes any attempt to deceive the home health agency about the individual's criminal record.

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Certification

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