

FAQ

Below are some frequently asked questions regarding all aspects of CHRC, before contacting CHRC see if one of your questions can be answered here.

- **Which provider types can and must request criminal background checks through the NYS DOH?**

The only providers that can and must request criminal history checks on covered employees through the Department of Health is nursing homes licensed under Public Health Law (PHL) Article 28, home care services agencies licensed under Public Health Law Article 36 and any adult home, enriched housing program or residence for adults licensed under Article 7 of the Social Services Law (SSL). Article 36 home care services agencies include licensed home care services agencies, certified home health agencies and long term home health care programs. Home care services agencies providing services to residents in Assisted Living Programs (ALPs) must request criminal history record checks on covered employees.

- **Who cannot submit background requests?**

All facilities not licensed under PHL Article 28 and 36 or Article 7 of the SSL may not submit requests. Facilities prohibited from requesting background checks through the Department of Health include, but are not limited to, hospitals, hospices, continuing care retirement communities and staffing agencies.

- **Who is subject to CHRC?**

Any unlicensed individual employed by or used by a subject employer (see #1, above) who provides direct care or supervision to a patient or resident or who has access to a patient or resident, their living quarters or their property is subject to CHRC. This includes aides to professionals licensed under Title 8 of the NYS Education Law (dietary aides, rehabilitation and other therapy aides, etc.), certified nursing assistants (CNAs), home health aides (HHAs), personal care aides (PCAs), home attendants, hairdressers (if paid by provider), maintenance workers, etc. Also subject to CHRC are LPNs and RNs working out of title.

- **Who is not subject to CHRC?**

Professionals licensed under Title 8 of the NYS Education Law (i.e., nurses, physicians, physical and occupational therapists, licensed clinical and/or master social workers, mental health practitioners, etc.), licensed nursing home administrators, security guards, hairdressers (that are paid by resident), volunteers and students enrolled in a program leading to a professional license under Article 8 are not subject to CHRC.

- **How long may a student provide services once his/her coursework ends?**

A student may continue to provide services and remain exempt from CHRC up to 90 days after graduation or until the student fails the licensing exam – whichever occurs first.

- **What should provider written policies and procedures include?**

Providers are required to have written policies and procedures for CHRC. These policies and procedures should include, but are not limited to:

- Determining who is subject to a background check according to regulations,
- Provision and documentation of supervision for temporary employees while awaiting results,
- Reporting terminations in a timely manner,
- The timeliness of initial submissions,
- Scheduling fingerprinting appointments and how to handle missed appointments,
- Not charging employees for criminal background checks, and
- CHRC record retention.

- **What CHRC records should be retained?**

All CHRC actions become part of the record that must be retained. Among them are:

- Original signed CHRC 102 (consent form),
- The completed printout of the electronic submission form which indicates when the background check request was submitted,
- Appointment Letters from fingerprint vendor,
- Employment Determination letters,
- Any legal notifications, including subsequent arrest notifications,
- A completed print out of the electronic termination form.

- **What are record retention requirements?**

All records associated with CHRC must be retained for at least six (6) years after the employee has left employment and a CHRC termination has been submitted.

- **Are CHRC results confidential?**

Yes. Only Authorized Persons (APs) are able to access CHRC determination letters on the HCS document viewer. These letters may contain criminal histories (convictions and open charges) that are strictly confidential, along with the employment eligibility determination. The criminal history may be shared only with others in the organization who have a role in the hiring/firing process.

Legal determinations may be retained in the employee's file. However, any record that shows criminal histories (convictions and open charges) must be filed in a way that makes them inaccessible to anyone other than the AP(s).

- **Who is responsible for requesting a criminal background check for employees from temporary service (staffing) agencies?**

Staffing agencies are not subject to CHRC and therefore cannot submit requests for background checks. The nursing home or home care agency must submit requests for these employees.

- **Can legal determinations be shared with the staffing agency for employees who are employed through them?**

Yes. However, only the legal determination (employable/not employable) may be shared. Any criminal history is strictly prohibited from being shared.

- **Who provides fingerprinting services for CHRC?**

Morpho Trust USA provides all fingerprinting services to CHRC under a contract with Division of Criminal Justice Services (DCJS). The fingerprint vendor provides these services at over 90 locations statewide. Appointments can be made online at www.identogo.com or via telephone at 877-472-6915.

- **Who pays for fingerprinting?**

The provider is responsible for paying the fingerprinting fee. By law, costs associated with fingerprinting cannot be charged to the prospective employee.

- **What payment methods are accepted by Morpho Trust USA for fingerprinting costs?**

An application is located on the Morpho Trust USA website that allows a provider to set up an escrow account. The provider may also pay with a credit/debit card or with a business check made payable to Morpho Trust USA. Credit cards are charged when the provider schedules an appointment. If the applicant fails to appear, the provider must request a refund from Morpho Trust USA.

- **Are providers reimbursed for costs associated with fingerprinting?**

LCHSAs and ACFs are reimbursed quarterly for CHRC costs, based on funding availability. All other entities are reimbursed through Medicaid rates.

- **What is the cost for CHRC fingerprinting?**

Currently, the cost of fingerprinting is \$101.45. This cost includes the DCJS, FBI and Morpho Trust USA administrative fees and may fluctuate semi-annually based on DCJS contract terms with Morpho Trust USA. All payments are made directly to Morpho Trust USA.

- **Can Morpho Trust USA provide on-site fingerprinting services?**

Morpho Trust USA can provide on-site fingerprinting services for providers that have at least 30 individuals needing fingerprinting at one time. Contact the fingerprint vendor via telephone to make arrangements.

- **How does a newly licensed provider get started for CHRC?**

A new provider may contact the CHRC program via email (CHRC@health.ny.gov). CHRC staff will assist the provider with meeting requirements so they are able to submit requests. The provider will designate one Agency Representative (AR) and at least two Authorized Persons (APs).

- **What is the role of the Authorized Person (AP)?**

Authorized Persons are the only individuals who are authorized to submit requests for background checks and to receive and view the employment eligibility determinations as completed by CHRC. APs have access to strictly confidential information.

- **How does a facility assign Authorized Persons (AP)?**

APs are assigned by the Agency Representative (AR). ARs are individuals in the HCS administrator role. Each AR should assign a minimum of two APs. ARs can add APs by clicking on the "Manage AP Assignments", check that an individual is an AP and save. This adds the individual's access to CHRC information. A new AP will be required to attest of their AP status when accessing the system for the first time.

- What should a provider do when an Authorized Person no longer is employed or used in that capacity?**
The Agency Representative is required to formally remove the Authorized Person's permissions by proceeding to the CHRC application. ARs can remove APs by clicking on the "Manage AP Assignments", uncheck that an individual is an AP and save. This eliminates the individual's access to confidential CHRC information.
- When should a CHRC request for a background check be submitted?**
The background check must be submitted immediately, or as soon as possible, once the employer reasonably expects to hire, employ or use the individual. Providers may temporarily approve the prospective employee (temporary employee) pending completion of a CHRC and employment eligibility determination.
- Can a "temporary" employee be assigned direct access to residents?**
Yes. However, any temporary employee who has not received approval for hire from CHRC must be supervised until the CHRC determination has been received. Such temporary employees must be directly observed and evaluated and the supervision must be documented by a member of the provider's staff weekly.
- What are supervision requirements for temporary employees?**
In nursing homes and adult care facilities, supervision must be provided by an employee working on the same unit who knows the temporary employees' location at all times.
In home care, direct on-site observation is required for the first week by a licensed health care professional, senior aide or other paraprofessional with at least one year of experience. After the first week, on-site and off-site supervision must be provided and documented in alternating weeks.
- How must supervision be documented?**
The provider is required to produce written documentation of supervision. This documentation should be completed by the individual who has performed the supervision. Documentation must include how the supervision was performed, those involved in the supervision and the dates the supervision occurred.
- Must a prospective employee provide permission for a CHRC background review?**
Yes. The prospective employee must provide permission for a CHRC background check and does so by completing and signing a CHRC 102 form. This form serves to provide attestation of the individual's prior criminal record (as self-reported), to inform of the procedures and rights to review and correct criminal history, to consent to fingerprinting review of such by DCJS and the FBI, and to allow the Department of Health to share information provided by DCJS and the FBI. This form must be retained on record by the provider.
- What must the provider do if a CHRC approved employee is reassigned to non-direct care with no access to residents or has been released from employment?**
The provider must complete and submit an electronic termination as soon as possible, which is available from the CHRC menu.
- How does an employer submit a request for CHRC?**
A criminal background check is requested by completing and submitting an electronic submission form.
Upon receipt of the request, CHRC will determine if the individual has been reviewed in the past or if this is the first request. If the individual has been previously reviewed by CHRC, an expedited review is conducted using available information. New fingerprinting is not required and there is no cost for the determination. If the individual has not been previously reviewed by CHRC, fingerprinting is required and the provider will receive an Appointment Letter in the document viewer.
- What is the CHRC document viewer?**
The CHRC document viewer is located on the HCS and is accessible only to the AP(s). All CHRC legal determinations and other correspondence are posted on the document viewer. It is important that AP(s) review the file viewer at least daily and take appropriate actions as directed in the correspondence.
Posted and unopened letters are shown in bold. These letters should be immediately opened and acted upon. Once opened the letter notification will display in normal font and remain on the document viewer.
- What must the provider do once an Appointment Letter is posted?**
Using the pertinent information contained in the Appointment Letter, an appointment should be made within seven (7) days.
- How do I make an appointment?**
Appointments may be made either online or via telephone. Pertinent information listed on the Appointment Letter must be used in arranging the appointment. The appointment should be scheduled at a time and location convenient for the prospective employee.

- **Can a provider have a letter reissued after it has been purged from the Document Viewer?**

In most cases the letter can be regenerated by request to CHRC@health.ny.gov

- **What should a provider do if the employee cannot go to the appointment?**

The provider should notify the fingerprint vendor by calling 877-472-6915 and reschedule an appointment as soon as possible and continue to provide documented supervision until a CHRC legal determination is received.

- **What if the employee does not go to the appointment and does not notify the employer?**

CHRC will post to the file viewer a new Appointment Letter seven (7) days after the scheduled appointment that indicates the employee missed the appointment. The provider must reschedule another appointment immediately and continue to provide documented supervision until a CHRC legal determination is received.

- **What should the employee bring to the fingerprinting appointment?**

The individual is required to bring at least two forms of identification. Other pertinent information regarding the appointment (location, date and time) should be available to the employee. This information is available on the Appointment Letter or the issued Registration Confirmation (if scheduled online).

- **What types of identification are required for fingerprinting?**

Two forms of valid identification are required for fingerprinting. One of the forms of identification must contain a picture. Expired identifications will not be accepted. Also accepted are a valid passport, military ID, Alien Registration Card or a school ID that has the current year listed. If using a school ID and the date of birth is not listed, the applicant will be required to also produce a government-issued document that lists the individual's date of birth. For a complete list of acceptable forms of identification, visit the [LIST OF ACCEPTABLE DOCUMENTS FOR THE I-9 FORM](#).

- **What should a provider do if a CHRC request was submitted and the employee never showed up for work?**

The provider must complete and submit an electronic termination as soon as possible. This will stop any correspondence from CHRC to the provider regarding this individual. The provider should retain all CHRC records as appropriate (see Record Retention, above).

- **What actions must a provider take when a CHRC legal determination letter is posted?**

The AP(s) must review letters posted to the document viewer at least on a daily basis and they must immediately take all actions as directed in the letters. All legal determination letters are to be printed and retained in the individual's personal file. The second page of negative employment determinations that lists actual charges and/or convictions must be kept under separate cover. Only Authorized Persons should have access to this information.

- **What actions should be taken if an Appointment Letter is posted for an employee who already received a CHRC determination letter?**

The new Appointment Letter indicates that the employee must be re-fingerprinted. This is usually in response to DCJS needing to validate fingerprints for an individual. The AP is required to take actions to schedule the individual for fingerprinting within seven (7) days.

- **What types of legal Employment Determination letters are there and what are the required actions on the provider's part?**

Favorable CHRC legal determinations allow the individual to work without supervision. They include:

- Non-Ident Letters – indicate the individual has no criminal history background.
- No Conviction Letters – indicate the individual has never been convicted on any charges.
- NOT Held in Abeyance Letters – indicate the individual has open charges that do not rise to the level of severity that would result in a negative determination.
- Final Non-Denials – indicate the individual has provided sufficient rehabilitation evidence to allow him/her to receive a favorable CHRC determination.

The following CHRC legal determinations require immediate action and the removal of the employee from a position providing direct care or having access to residents and their belongings:

- Hold in Abeyance – indicates the individual has open charges that will result in a CHRC denial if there is a conviction. The individual must be immediately removed from providing direct care. The individual is responsible for contacting CHRC when the charges are resolved, at which time CHRC legal will revisit the case and make a determination. If the provider no longer plans to employ this individual an electronic termination must be submitted.

- Pending Denials – indicates the individual has criminal convictions sufficient for CHRC to deny employment eligibility. The individual must be immediately removed from providing direct care. The individual has thirty days to submit rehabilitation information to assist CHRC in making a final determination.
- Final Denials – indicates the individual must be immediately removed from providing direct care. An electronic termination must be submitted.

- **What actions must the provider take when notified of a subsequent arrest?**

A subsequent arrest notification is provided for any previously checked employee who is arrested in New York State. CHRC cannot take secondary actions regarding the employment eligibility once a legal determination has been made. The subsequent arrest information includes a summary of the charges. The provider must conduct a risk assessment pursuant to all relevant law to determine whether the provider wishes to continue to employ the individual.

- **How do I contact CHRC?**

You can reach CHRC by email at CHRC@health.ny.gov or via telephone by calling 518-402-5549. All email questions or requests should contain the provider's PFI number.