



STATE OF NEW YORK DEPARTMENT OF HEALTH

Corning Tower The Governor Nelson A. Rockefeller Empire State Plaza Albany, New York 12237

Richard F. Daines, M.D.
Commissioner

James W. Clyne, Jr.
Executive Deputy Commissioner

December 17, 2009

DAL: DRS ACF 09-07
**RE: Licensed Home Care Services Agencies (LHCSAs)
Associated with Assisted Living Programs (ALPs)**

Dear Administrator:

Purpose of Letter

Effective February 1, 2010, licensed home care services agencies (LHCSAs) associated with assisted living programs (ALPs) are subject to the Criminal History Record Check (CHRC) Program administered by the Department of Health. This letter provides an overview of CHRC requirements. Information sessions and other types of training will be scheduled to provide LHCSAs with information needed to meet and maintain compliance with all CHRC requirements, policies and procedures.

Overview of CHRC Program

Home care services agencies subject to CHRC include licensed home care services agencies, certified home health agencies and long term home health care programs. Adult care facility employees are not subject to CHRC and are not covered by this letter.

Only unlicensed employees who come into direct contact with residents or who have access to their property and belongings are subject to CHRC. Licensed employees are not subject and HCSAs are prohibited from requesting criminal history record checks on licensed employees through the Department of Health's CHRC program. Refer to the June 10, 2008 CHRC Alert "Improper CHRC Requests for Licensed Employees" for a more detailed description of the types of unlicensed HCSA personnel who are subject to criminal history record check requirements. The Alert also lists the types of licensed staff who are not subject to CHRC.

All unlicensed LHCSA employees in subject jobs hired **on or after February 1, 2010** are required to have a criminal history background check. LHCSA employees in these jobs who were employed **prior to February 1, 2010** do not require criminal background checks.

Criminal history record checks require electronically scanned fingerprints. Fingerprinting is conducted by L-1, under contract to New York State's Division of Criminal Justice Services (DCJS), at L-1's LiveScan sites which are strategically located throughout the State.

The cost of a criminal background check is \$105.75 for any individual who has not already been checked through the CHRC program. Individuals previously checked by CHRC by a covered employer are not required to undergo additional fingerprinting and an eligibility determination is provided at no cost. LHCSAs will be reimbursed the \$105.75 cost based on availability of appropriated funds.

The CHRC program provides a determination of eligibility for employment to both the employer and the employee or prospective employee based on a review of the individual's criminal background. The home care agency may allow an employee to provide direct care pending a determination from the Department of Health. During this period, the employer must provide documented supervision to the employee in accordance with Department policy.

If the Department determines that the individual cannot be employed to provide direct care, the employer must immediately remove the employee from providing direct care.

All LHCSAs must meet the following requirements prior to the initiation of this program on February 1, 2010 in order to submit criminal background check requests in compliance with CHRC regulations:

- Authorized Persons – each LHCSA must designate at least two Authorized Persons (APs) who are responsible for submission of requests and receipt of employability determinations.
- HPN access – each LHCSA and each Authorized Person must have a Health Provider Network (HPN) account. All LHCSAs already have HPN accounts and HPN Coordinators. All information (with the exception of the CHRC AP designation form which must be notarized and mailed to CHRC) must be submitted using electronic forms through the HPN. In return, employability determinations are sent electronically through the HPN.
- Written policies and procedures - each LHCSA must develop written policies and procedures regarding CHRC program requirements.

Training and Help Desk Assistance

The Criminal History Record Check program will provide informational sessions that address all requirements, including those listed above, in greater detail as well as training on the use of HPN to transmit and receive information from the Department of Health. Informational sessions have been scheduled for New York City on January 5th, Rochester on January 8th and Albany on January 11th. LHCSAs should ensure that at least two staff attends a session. They should contact Liz Bayoumi at EAB04@health.state.ny.us to make reservations. Webinar training sessions will also be offered. The schedules will be posted on HPN.

The CHRC Help Desk phone number is 518-402-5549. CHRC Help Desk staff can also be reached via e-mail at CHRC@health.state.ny.us. Help Desk staff will assist home care agencies in all aspects of the program.

Thank you for your attention to this important project that will further protect our most vulnerable frail and elderly population.

Sincerely,



Mark Kissinger
Deputy Commissioner
Office of Long Term Care