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MEMORANDUM

TO: Area Agency on Aging Executive Directors **Notice #: 120911-1-I-LA**

FROM: Charles T. Corley, Secretary

DATE: December 9, 2011

SUBJECT: Notice of Instruction: Background Screening Comprehensive Procedures

The purpose of this Notice is to provide a compilation of the current procedures and requirements for the Department of Elder Affairs' ("Department") background screening process. This document contains the instructions and a link to all of the forms that are required in the Department's background screening process and is meant to be used as the current comprehensive guide for the process.

1. **AUTHORITY.** Section 430.0402 and Chapter 435, Florida Statutes, are the regulations governing background screening for the Department. The Department's Emergency Rule 58ER10-2 has expired and is no longer in effect.
2. **PERSONS TO BE SCREENED.** Any person who meets the definition of a "direct service provider" and who is providing services to the elderly pursuant to a program administered by the Department, must receive a level 2 background screen through the Department. A direct service provider is defined as "a person 18 years of age or older who, pursuant to a program to provide services to the elderly, has direct, face-to-face contact with a client while providing services to the client or has access to the client's living areas or to the client's funds or personal property. The term includes coordinators, managers, and supervisors of residential facilities and volunteers." § 430.0402(1)(b), Fla. Stat.

DOH Exception: However, if the direct service provider is a physician, nurse, or other professional licensed by the Department of Health ("DOH") and if they are providing a service within the scope of their licensed practice, then that individual is not subject to the Department's level 2 background screen. § 430.0402(2), Fla. Stat.

FAQs

(a) Question: My employee is a direct service provider but has received a level 2 screen through AHCA. Can the Department accept the AHCA screen as meeting the requirements of the law?

Answer: No, at this time the Department cannot accept the level 2 background screens of other state agencies.

(b) Question: One of our contracted providers is a county. The county performs its own background screens and does not send its direct service providers to be screened through the Department. Is this in compliance with Chapter 435 and section 430.0402, Florida Statutes?

Answer: Yes. The screening required by Chapter 435 is required to be conducted by an "agency" defined as "any state, county, or municipal agency", meaning that it is only a governmental entity that may receive the criminal history information and conduct a screen for disqualifying offenses. s. 435.02(1), Fla. Stat. Therefore, a county may conduct its own background screening in compliance with sections 430.0402 and Chapter 435, while non-governmental entities providing services through a program of the Department may only utilize the background screening process provided by the Department.

3. **PROCESS.**

How to complete the background screening process:

Step 1 - Complete the appropriate Appointment Form **and** the Affidavit of Good Moral Character. Copy and paste this website address for the current Appointment Form and Affidavit of Good Moral Character.
(<http://elderaffairs.state.fl.us/english/backgroundscreening.php>)

It is important to complete the correct Appointment Form as the Origination Number ("ORI") is specific to programs within the Department. The requested information must be completed in full and the Affidavit of Good Moral Character must be signed by the Applicant.

Step 2 - The Applicant must take the Appointment Form to a LiveScan vendor for electronic fingerprinting. Copy and paste this website address for a list of LiveScan vendors: (<http://www.fdle.state.fl.us/Content/getdoc/941d4e90-131a-45ef-8af3-3c9d4efefd8e/Livescan-Service-Providers-and-Device-Vendors.aspx#Vendors>)

Please verify with your selected vendor that results can be submitted to the Department of Elder Affairs.

It is important that the vendor complete the "Screener" section of the Appointment Form, including providing its Transaction Control Number ("TCN").

After completing fingerprints, the Appointment Form should be returned to the Employer/Agency.

Step 3 - The Employer/Agency must submit the completed Appointment Form and a copy of the signed Affidavit of Good Moral Character to the Department at the specific address indicated on the Appointment Form, or to the Department's e-fax at (850) 617-6595. The original Affidavit should be retained by the Employer/Agency in the Applicant's file.

Step 4 - The Department will notify both the Applicant and the Employer/Agency of the screening results. The Department will send one of the following letters:

- (a) Successful passage of the background screening;
- (b) A re-screening request due to unreadable fingerprints;
- (c) A deficiency letter concerning missing paperwork or lack of receipt of FDLE results; or,
- (d) Notification of disqualifying offenses.

If the Applicant is determined to have disqualifying offenses, the Department will provide directions to the Applicant concerning completing an exemption from disqualification packet. Thereafter, a final determination of the exemption review process will be issued by the Department.

Step 5 - Each Employer/Agency must send employee/volunteer status updates to the Department utilizing the Retention Log located on the Department website at (http://elderaffairs.state.fl.us/english/bs/Retention_rpt.xls). The Retention Log status update is due by the fifteenth (15th) day of each month and should be transmitted to the e-fax at (850) 617-6595. This information is needed to maintain a current retention list. Until further notice, retention fees will not be collected from the Employer/Agency.

Step 6 - The Employer/Agency should send a completed Affidavit of Compliance to the Department annually by January 15th. The Affidavit of Compliance affirms compliance with level 2 background screening requirements. Copy and paste this website address for the current Affidavit of Compliance.
(<http://elderaffairs.state.fl.us/english/bs/AFFIDAVITOF COMPLIANCE.pdf>)

4. FUTURE CHANGES. Under direction of the Executive Office of the Governor and in coordination with the Governor's Office of Policy and Budget for Health and Human

Services, a statewide Interagency Background Screening Workgroup was created. The Workgroup was tasked with developing a strategy for the criminal background screening of the professionals, lay persons, and volunteers that serve vulnerable populations within the State, and with recommending potential legislative changes to implement this strategy. The Workgroup recently drafted and submitted its recommendations to the Governor. The recommendations addressed the sharing of criminal history information among state agencies, creation of a common list of disqualifying offenses for all agencies to eliminate the need for multiple background screens, and collection of the state retention fee at the time of initial screening.

Until changes are enacted by the Legislature, please continue to follow the Department's background screening process as described above. Your assistance and cooperation in keeping the service provider network informed is very much appreciated. If you have any questions or concerns, please do not hesitate to contact your contract manager.