



April 10, 2020

Interim Guidance Regarding Modified Background Check Requirements for Existing and New Staff Members of OPWDD Operated and Certified Providers During COVID-19 Emergency

In response to increasing concerns regarding staffing shortages related to COVID-19, and pursuant to Executive Order No. 202.13, issued March 30, 2020, the background check process required of a provider approved by the NYS Office for People With Developmental Disabilities (OPWDD) has been temporarily modified. The interim process, described in this document, is designed to enable providers to obtain new staff members more quickly to maintain critical staffing ratios, while ensuring the safety of the individuals that they serve. The following guidance is applicable to all facilities and programs certified, approved, or funded by OPWDD, and is in effect on a time limited basis, subject to revocation without notice. **Nothing herein shall preclude any provider from requiring all regularly required pre-employment checks of any prospective staff members.**

A. Staff Members Currently Employed by an OPWDD Provider

An OPWDD approved provider may hire a staff member who is currently employed by another OPWDD provider, without the need to perform a new Criminal Background Check (CBC), Staff Exclusion List (SEL) check, State Central Register (SCR) check, or Mental Hygiene Law 16.34 (MHL 16.34) check, in accordance with the following process:

1. The hiring provider will submit a Justice Center EO 202.13 Criminal Background Check Request Form to OPWDD at OPWDD.sm.IMU.Project@opwdd.ny.gov. Such form will include:
 - a. The prospective employee's name;
 - b. Date of birth;
 - c. Social security number; and
 - d. If known, the name of the provider for which the prospective employee was fingerprinted, and approximate date of such fingerprinting.
2. OPWDD will transmit the request to the Justice Center's Criminal Background Check Unit;
3. The Justice Center will confirm that the prospective employee has:
 - a. Previously completed a Criminal Background Check through the Justice Center; and
 - b. Is currently employed by an OPWDD approved provider.
4. The Justice Center will transmit approval, or a request for additional information, within one business day of receiving the request; and
5. OPWDD will contact the hiring provider to confirm that the provider may hire the prospective employee without the need for any additional pre-employment checks.

Please note, an employee who has not previously submitted an SCR check due to the nature of the service provided by their current employer, will not be required to undergo an SCR check for purposes of this temporary directive.

Prospective employees who are not confirmed by the Justice Center, pursuant with this section, will need to undergo a full background check consistent with Section (C) below. Any employee who continues to work in this program on a regular basis, shall be required to complete an updated criminal background check, as soon as practicable, after the commencement of their employment.

B. Staff Members Currently Employed by a Provider of Another State Oversight Agency

An OPWDD provider seeking to hire a prospective staff member who is currently employed by a provider operated, licensed, certified, or approved by the Office of Mental Health (OMH), the Office of Addiction Services and Supports (OASAS), or the Office of Children and Family Services (OCFS), must follow the same steps outlined above.

Please note, individuals previously employed by an OMH, OASAS, or OCFS provider, will not be required to complete SCR or 16.34 checks for purposes of this temporary directive. Any employee who continues to work in this program on a regular basis, shall be required to complete an updated criminal background check, as soon as practicable, after the commencement of their employment.

C. New Staff Members Not Otherwise Employed by an Approved Provider

An OPWDD provider seeking to hire a prospective staff member who does not currently hold a position with an OPWDD approved provider, or with a provider approved by OMH, OASAS, or OCFS, is required to submit the CBC, SEL, SCR, and MHL 16.34 checks for that employee. Such checks shall be requested at the time the prospective employee completes the hiring paperwork, and an appointment for fingerprinting shall be scheduled to occur no later than 3 business days after the prospective employee's first scheduled day of work.

An individual who is not on the SEL may be hired during the pendency of the other pre-employment checks. Once the CBC is completed, the employee may work unsupervised in their new position, at the employer's discretion, while awaiting the results of the SCR and 16.34 checks. Any unsupervised contact permitted prior to the results of the remaining pre-employment checks should be limited to the extent practicable.

For further information on the interim background check requirements, please contact Leslie Fuld, Deputy Commissioner, Division of Quality Improvement, at Leslie.Fuld@opwdd.ny.gov.