

MEMORANDUM

To: ARIS Solutions

From: Megan Tierney-Ward, Deputy Commissioner, DAIL

Re: Background Check Requirements During COVID-19 Emergency

Date: April 23, 2020

The Department of Disabilities, Aging and Independent Living (Department) has considered whether to strictly adhere to the requirements of the DAIL Background Check Policy ("Policy") during the COVID-19 emergency. In so doing, the Department has balanced the importance of continuing to protect our most vulnerable populations against the need to ensure that a workforce is authorized as quickly as possible to begin to provide the needed services during this crisis. This Memorandum reflects the Department's position and provides guidance to ARIS Solutions (ARIS) to enable employee enrollment and payment.

Background

The Policy requires that background checks be performed for all prospective workers who are paid with funds administered by the Department. A complete background check requires a check of the following:

- The Vermont Child Abuse Registry;
- The Vermont Adult Abuse Registry;
- Vermont Crime Information Center (VCIC) databases (criminal background);
- Federal Exclusions Databases (HHS Office of Inspector General (OIG)); and
- Vermont Motor Vehicle Driver database (for those who transport participants).

The Policy further states that Medicaid funds shall not be used to pay for services provided before the background check is completed or when the background check is found to be unsatisfactory.

Discussion

1. During the COVID-19 emergency, strict compliance with the DAIL Background Check Policy across all programs is required, **except** as follows:

- A. The Department is temporarily suspending the application of the Policy for all prospective employees who were cleared to begin working within the preceding 90 days. See **2.A.**
 - B. Except as noted in **2.B.** (i.e., the OIG check) below, the Department is waiving its background check requirements for parents and other family members who have been authorized to receive payments, through either the Developmental Disabilities Services Division or the Children's Personal Care Program, for providing care to an adult or minor child in the home during this crisis.
 - C. For the duration of the COVID-19 crisis, the Department authorizes ARIS to make retroactive payments to individuals who have been cleared to work. Payments may be made for services provided on or after March 15, 2020.
2. For each of these groups, the Department requests that ARIS do the following:
- A. EMPLOYEES CLEARED TO WORK IN THE PRECEDING 90 DAYS**
- (1) Upon receipt of a completed employment packet, including all background check authorizations collected by ARIS, ARIS shall determine whether the prospective employee has been authorized to begin work for another employer within the preceding 90 days.
 - (2) If the prospective employee has been so authorized, ARIS shall, within three (3) business days of its receipt of the completed employment packet, issue a letter to the employer, which includes the following statements:
 - (a) That during the COVID-19 crisis, the Department has temporarily suspended the background check requirements for all prospective employees who have been cleared to begin working within the preceding 90 days.
 - (b) That the employer's prospective employee has been identified as an individual who, within the preceding 90 days, was cleared to work in compliance with the terms of the Department's Background Check Policy.
 - (c) That the prospective employee is hereby authorized to begin working for the employer as of the date of this letter.
 - (d) That the prospective employee's prior clearance to work does not necessarily mean that, upon completion of the background checks, the prospective employee had been *initially* cleared to work; that it is possible the employee was initially excluded from employment but subsequently was authorized to work.
 - (e) That no additional information about those prior background checks will be provided to the employer at this time.
 - (f) That if the employer wants more information about the prior background checks, the employer will need to provide an Authorization, in a form approved by ARIS, that permits ARIS to disclose the information identified in the Authorization, to the extent permitted by law.

- (g) That the employer's submission of a timesheet constitutes the employer's decision to employ the employee and acknowledges that the employer has received enough information to enable the employer to make that employment determination.
- (h) That, notwithstanding the prohibition on retroactive payments in the Policy, the Department has authorized ARIS to make payments to the employee for services provided by the employee to the employer on or after March 15, 2020.

B. PARENTS AND OTHER FAMILY MEMBERS WHO HAVE BEEN AUTHORIZED TO RECEIVE PAYMENTS, THROUGH EITHER THE DEVELOPMENTAL DISABILITIES SERVICES DIVISION OR THE CHILDREN'S PERSONAL CARE PROGRAM, FOR PROVIDING CARE TO AN ADULT OR MINOR CHILD IN THE HOME DURING THIS CRISIS

- (1) Prior to processing any payment to a parent or other family member for the provision of care to an adult or minor child under the DS or CPCS Programs, ARIS shall check the Department of Health and Human Services' Office of Inspector General (OIG) List of Excluded Individuals.
- (2) If this check is unsatisfactory, the parent or other family member shall not be paid with Medicaid funds, and ARIS shall immediately inform the parent or other family member of this information, in writing.
- (3) Except as provided in 2.C. below, ARIS need not perform any of the other background checks described in the Policy.

C. STEPS TO BE TAKEN ONCE THE EMERGENCY HAS ENDED

- (1) The end date for the availability of a waiver from the requirements of the current Background Check Policy shall be the termination of the Public Health Emergency.
- (2) Once the Emergency has ended, and as soon as practicable, all background checks shall be performed for any individual who was cleared to work during the crisis, without having to pass a full background check, if the individual employee/caregiver:
 - (a) is eligible to continue to be paid upon termination of the Emergency; and
 - (b) wishes to continue to receive payment(s) once the Emergency has ended.