

## Side Letter Regarding Individual Provider Background Screening Policy

This Side Letter Regarding the Individual Provider Background Screening Policy is made and entered into by and between the State of Illinois, Departments of Central Management Services and Human Services (the "State") and the Service Employees International Union, Healthcare, Illinois & Indiana and its successor ("SEIU HCII" or the "Union"). The State and SEIU HCII are collectively referred to as the Parties.

- A. As a condition of enrollment or revalidation in the Department of Human Services, Division of Rehabilitation Services, Home Services Program, Individual Providers shall be enrolled in the Illinois Medicaid Program Advanced Cloud Technology (IMPACT) system prior to being paid with funds administered by the State. As part of enrollment in IMPACT, a background screening shall be completed. An Individual Provider's enrollment in the Home Services Program will also be reviewed for continued eligibility, including a background screening. If such screenings return a result matching the Individual Provider, this policy shall apply for Individual Providers paid with funds administered by the State. The State shall provide a copy of the Provider Screening policy to all prospective and revalidating Individual Providers before a Provider Screening is conducted pursuant to this policy.
- B. If such screening indicates a potential felony criminal conviction for any of the crimes listed in this Section B within the five years prior to the date of application for enrollment or revalidation, the State shall provide notification as set forth in Section.
1. Lewd and lascivious conduct
  2. Assaults
  3. Unlawful restraint
  4. Recklessly endangering another
  5. Frauds, including forgery
  6. Larceny, including thefts and robbery
  7. Burglary
  8. Embezzlement
  9. Extortion
  10. Stalking
  11. Cruelty to children or animals
  12. Kidnapping
  13. Possession of child pornography
  14. Arson
  15. Drug-related
  16. DUI
  17. Firearms violations
  18. All forms of non-intentional homicide.
  19. Aggravated crimes not involving bodily harm.
  20. Aggravated crimes involving bodily harm, including but not limited to, aggravated battery, aggravated battery of a senior citizen, aggravated battery of a child, aggravated domestic

battery, provided that 10 years or more have passed since the date of conviction or end of incarceration, whichever is later.

- C. If the background screening process shows a potential conviction for one of the crimes listed above in Section B within the specified time period, the State shall notify the Individual Provider and Customer of the background screening result. The State shall give the Individual Provider the opportunity to confirm or dispute the accuracy of the background screening results and to submit additional information to the State regarding the criminal conviction no later than 20 days from the date of the notification. Exceptions to this timeframe may be granted for good cause. Failure of the Individual Provider to either confirm or dispute the accuracy of the background screening results may result in termination from the program without penalty and without prejudice to the ability to reenroll in the program upon compliance with this policy. The additional information submitted to the State may include, but need not be limited to:
- Whether the Individual Provider disputes the accuracy or correctness of the screening results (e.g., the Individual Provider was not convicted of the crime or crimes identified in the screening results);
  - The nature of the seriousness of the offense(s) (i.e. aggravating or mitigating circumstances);
  - Circumstances surrounding the offense;
  - Time elapsed since the offense(s);
  - Number or repeated offenses and number of times each offense has been repeated;
  - Age at the time of the offense(s);
  - Involvement, since the date of the criminal offense, with the criminal justice system and/or child or adult protective services;
  - Disclosure of the criminal conviction(s) by the prospective worker to the person receiving services, the surrogate, and the legal guardian, if any;
  - Prospective worker's unique caregiving relationship with the person receiving services;
  - Unavailability of other workers who could reasonably be expected to perform the care required;
  - Any other information the Individual Provider believes will assist in disposing of his/her application or assisting the Customer in making the decision regarding whether or not to consent to working with the Individual Provider as described below; and
  - Any other information requested by the State or Customer.
- D. If a dispute arises between the Individual Provider and the State regarding the accuracy or correctness of the background screening results (e.g., the Individual Provider asserts he or she was not convicted of the crime or crimes identified in the screening results), the State shall verify the screening results through a reliable background check process.
- E. The State shall provide the results of the background screening to the Customer and Individual Provider together with any additional information submitted by the Individual Provider and with a description of the process for the Customer to consent to working with the Individual Provider with a criminal history and all forms necessary for the Customer to complete in order to grant such consent. Except as limited in Section F below, the Customer may consent to working with

Individual Providers with criminal histories. In order to consent to working with an Individual Provider with a criminal history, the Customer may sign a form developed by the State and witnessed by State staff or notarized indicating that, he or she has been notified of the Individual Provider's criminal history (e.g. felony conviction and year of conviction), acknowledges awareness of the Individual Provider's criminal history, and wishes to hire the Individual Provider. If the Customer consents to working with the Individual Provider through this process, the State shall not terminate or defund the Individual Provider from the Home Services Program based on the information in the Customer's signed consent (e.g., the criminal conviction identified in the Customer's signed consent) .

F. If the background screening process shows a potential conviction for one of the crimes listed below in this Section F, the State shall notify the Individual Provider and Customer of the background screening result and give the Individual Provider the opportunity to submit additional information as described in Section C above. If a dispute arises between the Individual Provider and the State regarding the accuracy or correctness of the background screening results (e.g. , the Individual Provider asserts he or she was not convicted of the crime or crimes identified in the screening results), the State shall verify the screening results through a reliable background check process. Any defunding, termination, or denial of enrollment of an Individual Provider by the State based on a conviction for any of the crimes or instances listed in this Section F will not be subject to the Customer waiver process described above in Section E, but may be appealed through the Department of Healthcare and Family Services Administrative Hearings process as outlined in 89 Ill. Adm. Code 104, if applicable. The crimes or instances to which this Section F applies are the following:

1. Conviction of theft or fraud from a government funded program.
2. Having been excluded from participation in Medicaid (federal or state) or Medicare programs, or from a similar program in another state, as reflected in sanction/exclusion databases.
3. A substantiated verified record of abuse, neglect or exploitation of an adult as determined by the Department on Aging pursuant to the Adult Protective Services Act, resulting in placement on the APS registry and a waiver of such placement has not been granted.
4. All forms of intentional homicide, including but not limited to, solicitation of murder, solicitation of murder for hire, first degree murder, second degree murder and intentional homicide of an unborn child.
5. All sexual crimes, including but not limited to, criminal sexual assault, criminal sexual abuse, sexual exploitation of a child, sexual misconduct with a person with a disability.
6. Aggravated crimes involving bodily harm, including but not limited to, aggravated battery. aggravated battery of a senior citizen, aggravated battery of a child, aggravated domestic battery, provided that less than 10 years have passed since the date of conviction or end of incarceration, whichever is later.
7. Conviction of abuse, neglect, or exploitation of a child.

G. Notwithstanding anything in this policy to the contrary, Individual Providers with misdemeanor convictions not involving bodily harm or fraud may be employed at the Customer's discretion.

H. The State shall not terminate or defund an Individual Provider from the Home Services Program

for any conviction or screening or background check result not referenced in this policy.

- I. Nothing in this Side Letter shall be interpreted as requiring the State to terminate, defund, or deny enrollment to any Individual Provider.

See next page for Union signatures

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