

Important — action required for TennCare CHOICES (CHOICES) and Employment and Community First CHOICES (ECF CHOICES) providers

Background: Pursuant to the *Contractor Risk Agreement*, during both credentialing and recredentialing site visits, MCOs are required to verify that CHOICES and ECF CHOICES providers have policies and processes concerning criminal background checks including registry checks for employees and volunteers, that these providers have conducted all required criminal background checks including registry checks, and that providers have policies and processes concerning individualized assessments for applicants for employment who have criminal backgrounds.

Following are definitions to assist in understanding some of the language within this document:

- A **direct contact** is an employee or volunteer who provides direct, hands-on support with the activities of daily living for members.
- An **incidental contact** is an employee or volunteer who does not have direct contact with a member but has incidental contact only. This individual will not provide hands-on care with any of the activities of daily living and has limited face-to-face interaction with that person. Examples of such employees or volunteers are individuals providing pest control and home-delivered meals.
- The **Provider Criminal Background Check Attestation** (Attachment A) is a form in which the provider acknowledges and attests that they have conducted and have in their possession criminal background investigation reports including registry checks on each individual who will have direct contact with CHOICES and/or ECF CHOICES members. Providers also attest that they have performed registry checks on each individual who will have incidental contact with CHOICES and/or ECF CHOICES members.
- The **Provider Criminal Background Check Roster** (Attachment B) is a form to be completed and maintained by the provider that lists all employees and volunteers who have either direct or incidental contact with members.

What is new?

- Providers are required to maintain a criminal background check roster that contains evidence and details of background checks of employees that support CHOICES or ECF CHOICES members. This roster will be used and shared with each MCO.
- Tracking of employees for this process must begin using the *Provider Criminal Background Check Roster* on July 1, 2017.
- Employees will be categorized as having direct contact and/or incidental contact with a member.
- Providers will be required to sign attestation forms during initial and/or recredentialing visits conducted by the MCOs. Attestations will be provided to TennCare to validate that applicable background checks are conducted.

The information in this update may be an update or change to your provider manual. Find the most current manual at:

<https://providers.amerigroup.com>

- Providers must make organizational payroll documentation from the previous month for employees that support CHOICES or ECF CHOICES members available to MCO during the site visit.
- Organizational payroll documentation will be used by the MCO to audit and validate employees that are compensated to support CHOICES or ECF CHOICES members against the *Provider Criminal Background Check Roster*.
- Volunteers who support CHOICES or ECF CHOICES members will be validated using the attestation form.

What has changed?

- Employees that support CHOICES and ECF CHOICES members must have background checks completed and vetted prior to having direct contact with members as opposed to before being hired.
- MCOs will audit a sample of employee files and background checks (as opposed to 100 percent of employee files) that support CHOICES or ECF CHOICES members.

What is the impact of this change?

Effective July 1, 2017, all contracted CHOICES and/or ECF CHOICES providers will begin tracking the following information utilizing the *Provider Criminal Background Check Roster* for employees and volunteers:

- Employee or volunteer name
- Employee or volunteer Social Security number
- Title
- Hire date (or start date if a volunteer)
- First date providing services to members
- Criminal background check date (for employees and volunteers with direct contact only)
- Tennessee Abuse Registry check date
- National Sex Offender Registry check date
- Tennessee Sex Offender Registry check date
- List of Excluded Individuals/Entities (LEIE) check date
- Whether the employee or volunteer's record was audited, if applicable, by one of the MCOs during their credentialing visit, and if so, the date of the audit and the name of the MCO that completed the audit

Employees and volunteers who will have direct contact with members must have a criminal background check including registry checks that include verification that the employee or volunteer's name does not appear on the Tennessee Abuse Registry, the National Sex Offender Registry, the Tennessee Sex Offender Registry or the LEIE. For all volunteers and employees who qualify to provide services constituting only incidental contact with members, the provider shall maintain proof that requisite registry checks were completed.

- If a potential employee or volunteer's name appears on any of the preceding registries, that individual is disqualified from providing services to a CHOICES or ECF CHOICES member.
- If a potential employee or volunteer's criminal background check returns results, the provider must use his/her discretion as to whether that individual is appropriate to have

direct contact with members and must provide the potential employee with an individualized assessment taking into account the following three factors:

- Whether or not the evidence gathered during the individualized assessment shows that the criminal conduct is related to the job in such a way that could place the member at risk
- The nature and gravity of the offense or conduct, such as whether the offense is related to physical, sexual or emotional abuse of another person; whether the offense involves violence against another person; or whether the offense involves the manufacture, sale or distribution of drugs
- The time that has passed since the offense or conduct and/or completion of the sentence

Employees and volunteers who will not have direct contact with members, but will have incidental contact only, must have registry checks for all registries listed above but do not require criminal background checks. Appearance on any registry disqualifies an individual from having incidental contact with a member. Such registry checks must be performed prior to any employee or volunteer having any incidental contact with the member.

For all volunteers and employees who qualify to provide services constituting only incidental contact with members, the CHOICES or ECF CHOICES provider shall maintain proof that requisite registry checks were completed and will be subject to MCO review during credentialing and recredentialing visits as requested.

Note: The effective date of the new background check process is July 1, 2017. However, all employees hired on or after January 1, 2017, must be recorded on the *Provider Criminal Background Check Roster*.

A copy of the *Provider Criminal Background Check Roster* and the *Provider Criminal Background Check Attestation* are attached for your use and must be maintained at your office for MCOs to utilize during onsite reviews.

Attachment A
CHOICES and ECF CHOICES *Provider Criminal Background Check Attestation*

I understand that all employees and volunteers having direct or incidental contact with a CHOICES and/or ECF CHOICES member must have all applicable criminal background checks including applicable registry checks completed prior to the start of employment or providing support as applicable. I understand that I am required to offer upon request an individualized assessment for any applicant for employment whose criminal background check reveals past criminal conduct.

I understand that identification on the Tennessee Abuse Registry, the National Sex Offender Registry, the Tennessee Sex Offender Registry or the LEIE automatically disqualifies employees and volunteers from supporting CHOICES or ECF CHOICES members.

On behalf of _____ (name of agency or provider), I acknowledge and attest that we have conducted and have in our possession criminal background investigation reports including registry checks on each individual who will have direct contact with CHOICES and/or ECF CHOICES members, as well as registry checks on each individual who will have incidental contact with CHOICES and/or ECF CHOICES members. Such criminal background checks are satisfactory and do not reveal any criminal history activity that would prevent the individuals from providing support to such members. I also acknowledge annual compliance and ongoing investigations as required by state and federal laws. If any noncompliant areas are identified, we will complete corrective actions as identified.

Signature of provider representative

Date

