

173-9-02

Background checks: paid direct-care positions:
Applicabilityapplicability.

- (A) Applicability: Chapter 173-9 of the Administrative Code (the chapter) applies to every ~~paid ombudsman position~~ and every paid direct-care position unless this rule states otherwise. (ODA defined "~~ombudsman position~~" and "direct-care position" in rule 173-9-01 of the Administrative Code.)
- (B) Limited applicability: Although the chapter applies to any a person who is an applicant (pre-hire) for a paid direct-care position, a person who is an employee in one of the following paid direct-care positions is not required to undergo subsequent (post-hire) database reviews and criminal records checks:
- (1) A direct-care position that only delivers home-delivered meals.
 - (2) A direct-care position that only has access to one or more consumers' (or individuals') personal records (e.g., a position in an office, kitchen, or central monitoring station).
 - (3) A direct-care position that only provides a one-time chore service, home maintenance, home modification, home repair, or pest control. If the person provides a subsequent episode of service to the same consumer (or individual) or to another consumer (or individual) who is enrolled in an ODA-administered program, the person shall undergo subsequent (post-hire) database reviews and criminal records checks.
- (C) Inapplicability: The chapter does not apply to the following positions:
- (1) A volunteer position.
 - (2) A position that solely involves transporting consumers or individuals while working for a county transit system, regional transit authority, or regional transit commission.
 - (3) A position that involves providing legal services.
 - (4) A position in a residential care facility.
 - (5) A position providing medicare-certified home health services.
 - (6) A position that only serves ~~consumers~~ individuals who are enrolled in an ODM-administered medicaid waiver program.

- (D) No implied factors: Whether a position is supervised or unsupervised, alone or never alone, enters a home or never enters a home, regulated elsewhere or not regulated elsewhere is not a factor that determines if the chapter applies to the position.

- (E) Chief administrators: Requirements in the chapter for responsible parties of area agencies on aging, PASSPORT administrative agencies, agency providers, consumers, individuals, and agency sub-contractors to request, review, or retain criminal records are requirements of each responsible party's chief administrator or any person that the chief administrator designates for these tasks.

Effective:

Five Year Review (FYR) Dates: 05/04/2017

Certification

Date

Promulgated Under: 119.03
Statutory Authority: 173.01, 173.02, 173.38, 173.381, 173.391, 173.392;
Sections 305(a)(1)(C) of the Older Americans Act of 1965, 79 Stat. 210, 42 U.S.C. 3001, as amended by the Older Americans Act Reauthorization Act of 2016; 45 C.F.R. 1321.11 (October, 2016 edition).
Rule Amplifies: 173.38, 173.381; 42 C.F.R. 460.68(a), 460.71(b)(1), 460.71(b)(2) (November 15, 2016).
Prior Effective Dates: 173-41-01: 03/04/1997 (Emer.), 07/31/1997, 04/17/2003, 01/01/2008. 173-9-01: 02/15/2009, 08/11/2011. 173-9-02: 01/01/2013, 04/01/2014, 02/01/2015.