

## TO BE RESCINDED

173-9-02                    **Background checks for paid direct-care positions: applicability.**

- (A) **Applicability:** Chapter 173-9 of the Administrative Code (the chapter) applies to every every paid direct-care position unless this rule states otherwise. (ODA defined "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 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: 7/20/2023

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Certification

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Date

Promulgated Under: 119.03  
Statutory Authority: 121.07, 173.01, 173.02, 173.38, 173.381, 173.391, 173.392; 43 U.S.C. 3025; 45 C.F.R. 1321.11  
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