

TO BE RESCINDED

173-9-03.1

Background checks for paid direct-care positions: reviewing databases (for the self-employed).

(A) Databases to review: Any time this rule requires a responsible party to review a self-employed provider's status in databases, the responsible party shall review the databases listed in paragraphs (A)(1) to (A)(7) of this rule. In the following table, ODA listed the web address (URL) on which each database was accessible to the public at the time of this rule's adoption. If a URL listed in the table becomes obsolete, please consult with the government entity publishing the database for an updated URL.

DATABASES TO REVIEW	
SAM	https://www.sam.gov/
OIG	https://exclusions.oig.hhs.gov/
Abuser Registry	https://its.prodapps.dodd.ohio.gov/ABR_Default.aspx
Medicaid	http://medicaid.ohio.gov/provider/EnrollmentandSupport/ProviderExclusionandSuspensionList
Sex-Offender Search	http://www.icrimewatch.net/index.php?AgencyID=55149&disc=
Offender Search	https://appgateway.drc.ohio.gov/OffenderSearch
Nurse-Aide Registry	https://odhgateway.odh.ohio.gov/nar/nar_registry_search.aspx

- (1) The United States general services administration's system for award management, which is maintained pursuant to subpart 9.4 of the federal acquisition regulation.
- (2) The office of inspector general of the United States department of health and human services' list of excluded individuals and entities, which is maintained pursuant to sections 1128 and 1156 of the "Social Security Act," 42 U.S.C. 1320a-7 and 1320c-5; or, if using ODM's automated registry check system (ARCS), the medicare exclusion database which is maintained pursuant to 42 C.F.R. 455.436.

- (3) The department of developmental disabilities' online abuser registry, established under section 5123.52 of the Revised Code, which lists people cited for abuse, neglect, or misappropriation.
- (4) The department of medicaid's online provider exclusion and suspension list.
- (5) The Ohio attorney general's sex offender and child-victim offender database, established under division (A)(1) of section 2950.13 of the Revised Code.
- (6) The department of rehabilitation and correction's database of inmates, established under section 5120.66 of the Revised Code.
- (7) The department of health's state nurse aide registry, established under section 3721.32 of the Revised Code. If the applicant or employee does not present proof that he or she has been a resident of Ohio for the five-year period immediately preceding the date of the database review, the responsible party shall conduct a database review of the nurse aide registry in the state or states in which the applicant or employee lived.

(B) When to review databases:

WHEN TO REVIEW DATABASES		
SELF-EMPLOYED DIRECT-CARE POSITIONS	WHEN APPLYING TO BECOME ODA- CERTIFIED OR WHEN BIDDING FOR AN AAA- PROVIDER AGREEMENT	AFTER BECOMING ODA-CERTIFIED OR WHEN ENTERING INTO AN AAA-PROVIDER AGREEMENT
Only delivers meals	Required	Not required
Only has access to consumers' or individuals' personal records	Required	Not required
Only provides a specified once-ever service	Required	Not required
All other self-employed direct-care positions not listed above	Required	Required

- (1) When the self-employed provider applies to become ODA-certified or bids for an AAA-provider agreement, the responsible party shall review the self-employed provider's status in the databases before checking the self-employed provider's criminal records.
 - (2) After the self-employed provider is ODA-certified or has entered into an AAA-provider agreement, the responsible party may review the self-employed provider's status in the databases at any time. But, the responsible party shall review the self-employed provider's status in the databases no less often than each time that the responsible party conducts a criminal records check according to one of the schedules in rule 173-9-04.1 of the Administrative Code. If the self-employed provider provides services equivalent to one of the direct-care positions under paragraph (B) of rule 173-9-02 of the Administrative Code, the responsible party is not required to conduct subsequent databased reviews and criminal records checks after the self-employed provider becomes ODA-certified or has entered into an AAA-provider agreement.
- (C) Disqualifying status: No responsible party shall certify a self-employed provider to provide a direct-care service, enter into an AAA-provider agreement with a self-employed provider, fail to terminate an AAA-provider agreement with a self-employed provider, or fail to revoke a self-employed provider's certification, if

the self-employed person's status in the databases reveals that one or more of the databases in paragraphs (A)(1) to (A)(6) of this rule lists the self-employed provider or the database in paragraph (A)(7) of this rule lists the self-employed provider as a person who neglected or abused a long-term care facility resident or residential care facility resident or misappropriated such a resident's property.

Effective:

Five Year Review (FYR) Dates: 7/20/2023

Certification

Date

Promulgated Under: 119.03

Statutory Authority: 121.07, 173.01, 173.02, 173.381, 173.391,, 173.392;
42 U.S.C. 3025; 45 C.F.R. 1321.11

Rule Amplifies: 173.381

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