

173-9-04.1

When to check criminal records, pay fees, and use forms (for the self-employed).

(A) Database reviews first: The responsible party shall review databases on a self-employed provider before checking the self-employed provider's criminal records. If the database reviews disqualify the self-employed provider, the responsible party shall not conduct a criminal records check. If the database reviews did not disqualify the self-employed provider, the responsible party shall conduct a criminal records check.

(B) When to check criminal records:

WHEN TO CHECK CRIMINAL RECORDS

<u>SELF-EMPLOYED DIRECT-CARE POSITIONS</u>	<u>CHECK WHEN THE SELF-EMPLOYED PROVIDER APPLIES TO BECOME ODA-CERTIFIED OR BIDS FOR A PROVIDER AGREEMENT</u>	<u>CHECK AFTER THE SELF-EMPLOYED PROVIDER BECOMES ODA-CERTIFIED OR HAS ENTERED INTO A PROVIDER AGREEMENT</u>
<u>Only delivers meals</u>	<u>Required</u>	<u>Not required</u>
<u>Only has access to consumers' personal records</u>	<u>Required</u>	<u>Not required</u>
<u>Only provides a specified once-ever service</u>	<u>Required</u>	<u>Not required</u>
<u>All other self-employed direct-care positions not listed above</u>	<u>Required</u>	<u>Required</u>

START DATES & DEADLINES FOR CHECKING CRIMINAL RECORDS

	<u>START DATE</u>	<u>FIRST DEADLINE AFTER JANUARY 1, 2013</u>	<u>SUBSEQUENT DEADLINES</u>
<u>Before the self-employed provider applied to become an ODA-certified provider or before the self-employed</u>	<u>Before the self-employed provider applied to become an ODA-certified provider or before the self-employed</u>	<u>Fingerprinting before ODA certifies the self-employed provider or before an AAA enters into a provider agreement with the</u>	<u>Not applicable (See rows below)</u>

<u>provider bid for a provider agreement</u>	<u>provider bid for a provider agreement</u>	self-employed provider	
<u>Five-year schedule if the self-employed provider became an ODA-certified provider or entered into a provider agreement before 2008</u>	Any time, but only if the database reviews don't disqualify the self-employed provider	<u>2013 anniversary of certification or agreement + 30 days</u>	<u>Every 5th-year anniversary of certification or agreement + 30 days</u>
<u>Five-year schedule if the self-employed provider became an ODA-certified provider or entered into a provider agreement in 2008 or a later date</u>	Any time, but only if the database reviews don't disqualify the self-employed provider	<u>First 5th-year anniversary of certification or agreement + 30 days</u>	<u>Every 5th-year anniversary of certification or agreement + 30 days</u>
<u>Less-than five-year schedule</u>	Any time, but only if the database reviews don't disqualify the self-employed provider	<u>No deadline, so long as more frequent than every 5 years</u>	<u>No deadline, so long as more frequent than every 5 years</u>

- (1) When a self-employed provider applies to become ODA-certified, or before bidding for a provider agreement, the responsible party shall check the self-employed provider's criminal records.
- (2) After becoming ODA-certified, or after entering into a provider agreement, the responsible party shall check the self-employed provider's criminal records at least once every five years, unless the self-employed provider's direct-care position is listed under paragraph (B) of rule 173-9-02 of the Administrative Code:
- (a) Five-year schedule (pre-2008): If the self-employed provider became ODA-certified provider or entered into a provider agreement with ODA (or an area agency on aging) before January 1, 2008, the responsible party shall conduct a criminal records check on the self-employed provider no later than thirty days after the 2013 anniversary of the self-employed provider's certification or provider agreement, and no later than thirty days after each anniversary every five years after 2013. If the self-employed provider serves consumers both as an ODA-certified provider and through a provider agreement, the

anniversary date is the anniversary of whichever occurred first: the certification or the agreement. A responsible party that follows this schedule is not required to wait until the self-employed provider's anniversary to conduct a criminal records check.

(b) Five-year schedule (2008-present): If the self-employed provider became an ODA-certified provider or entered into a provider agreement with ODA (or an area agency on aging) on or after January 1, 2008, the responsible party shall conduct a criminal records check on the self-employed provider no later than thirty days after the fifth anniversary of the self-employed provider's certification or provider agreement and no later than thirty days after each five-year anniversary. If the self-employed provider serves consumers both as an ODA-certified provider and through a provider agreement, the anniversary date is the anniversary of whichever occurred first: the certification or the agreement. A responsible party that follows this schedule is not required to wait until the self-employed provider's five-year anniversary to conduct a criminal records check.

(c) Less-than-five-year schedule: The responsible party may conduct criminal records checks on a self-employed provider more frequently than every five years. If the responsible party checks more frequently than every five years, the responsible party is not responsible for conducting criminal records checks according to the five-year schedules. If a responsible party complies with the requirements for rapback, the responsible party is conducting criminal records checks on a daily basis, which is a less-than-five-year schedule.

(3) Reverification: If a responsible party has obtained criminal records on the self-employed provider during the past year, the responsible party may request a reverification of the criminal record from BCII. The reverification of the criminal record has the same validity as the criminal records obtained during the past year.

(C) When to check the FBI's criminal records: If a self-employed provider has not been a resident of Ohio for the five-year period immediately preceding the date the responsible party must check criminal records, the responsible party shall request that BCII also obtain the FBI's criminal records.

(D) Investigation fees:

(1) The responsible party shall pay to BCII the fees that divisions (C)(2) and (C)(3) of section 109.572 of the Revised Code authorize for each criminal records check.

(2) The responsible party may charge the self-employed provider a fee for checking

criminal records so long as the fee does not exceed the amount the responsible party pays to BCII.

(E) Forms: Unless the procedures that BCII established in rule 109:5-1-01 of the Administrative Code require providing fingerprint impressions electronically and requesting criminal records electronically, the responsible party shall complete the following two tasks:

(1) The responsible party shall use the form(s) that BCII requires in division (C)(1) of section 109.572 of the Revised Code.

(2) The responsible party shall forward the completed fingerprints and forms to BCII for processing.

Replaces: 173-9-04.1

Effective:

Five Year Review (FYR) Dates:

Certification

Date

Promulgated Under: 119.03
Statutory Authority: 173.01, 173.02, 173.381, 173.391, 173.392; Sections 305(a)(1)(C) and 712(a)(5)(D) of the Older Americans Act of 1965, 79 Stat. 210, 42 U.S.C. 3001, as amended in 2006; 45 C.F.R. 1321.11 (October 1, 2014 edition)

Rule Amplifies: 109.572, 173.381
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