

**Office of
Medical Assistance**

John R. Kasich, Governor
John B. McCarthy, Director

TO: Mark Hamlin
Director of Regulatory Policy
Ohio Lieutenant Governor's Office

THROUGH: Jim Tassie, Chief Legal Counsel 
Ohio Office of Medical Assistance

FROM: Debra L. Moscardino, Chief 
Bureau of Long Term Care Services and Supports

RE: CSI Review – OAC 5101:3-45 Criminal Record Check Rules

DATE: November 1, 2012

Thank you for your recent review of the proposed rules governing "OMA-administered Waiver Program: Criminal Records Checks Involving Aging and Independent Providers, and Exclusionary Periods for Disqualifying Offenses, Certificates and Pardons" found in Chapter 5101:3-45 of the Ohio Administrative Code (OAC).

The Office of Medical Assistance (OMA) acknowledges that based upon your review, CSI has not requested any changes to these rules. However, as indicated in an October 31st communication between Rick Tully and Whitney Sullinger, OMA is revising OAC rules 5101:3-45-07, 5101:3-45-08 and 5101:3-45-11 to reflect the following additional proposed changes.

- OMA is amending OAC rules 5101:3-45-07 and 5101:3-45-08 to add RC 2925.141 (illegal use or possession of marihuana drug paraphernalia) to the list of disqualifying offenses. OMA is also amending paragraph (G) of OAC rule 5101:3-45-11 to add RC 2925.141 to Tier V.
- OMA is amending paragraph (C)(1)(a) of OAC rule 5101:3-45-07 to change the Excluded Parties List System database to the System for Award Management (SAM) database.
- OMA is adding a new paragraph (G) to rule 5101:3-45-07 to add a limited grandfathering provision that permits a waiver agency to choose to continue to employ an employee who is otherwise excluded if the employee was convicted of, or pleaded guilty to, a Tier IV offense if:

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- The employee was hired prior to January 1, 2013;
- The conviction or guilty plea occurred prior to January 1, 2013; and
- The waiver agency has considered the nature and seriousness of the offense(s), and attests in writing prior to April 1, 2013, to the character and fitness of the employee based on his/her demonstrated work performance. The required written attestation must be maintained in the employee's personnel record.

OMA will proceed with the formal revise-filing of this rule package with the Joint Committee on Agency Rule Review.

Thank you.