

Overview of the Free Database Reviews and BCII Criminal Records Check Policy for Council on Aging's Elderly Service Program (ESP) Consumer Directed Care Workers

This is a summary that outlines the criminal records check policy as it pertains to ESP Consumer Directed Care workers. The full version of the policy can be found at www.help4seniors.org/service-providers/elderly-services-program/current-esp-provider-information.

Free Database Reviews:

Free database reviews will be conducted on all prospective and current Consumer Directed Care (CDC) workers by the Financial Management Services (FMS) Provider at the time of enrollment, and again every five years from the last check. The following free databases will be reviewed by the FMS Provider to determine worker eligibility:

- a) SAM: The United States general services administration's system for award management, which is available at <https://www.sam.gov/>;
- b) OIG: The office of inspector general of the United States department of health and human services' list of excluded individuals, which is available at <https://exclusions.oig.hhs.gov/>;
- c) Abuser registry: The department of developmental disabilities' registry of employees who cited for abuse, neglect, or misappropriation, which is available at https://its.prodapps.dodd.ohio.gov/ABR_Default.aspx;
- d) Medicaid: The department of Medicaid's online provider exclusion and suspension list, which is available at <https://medicaid.ohio.gov/provider/EnrollmentandSupport/ProviderExclusionandSuspensionList>;
- e) Sex offender search: The Ohio attorney general's sex offender and child-victim offender database, which is available at <http://www.icrimewatch.net/index.php?AgencyID=55149&disc=>;
- f) Offender search: The department of rehabilitation and correction's database of inmates, which is available at <https://appgateway.drc.ohio.gov/OffenderSearch>; and,
- g) Nurse aide registry: The department of health's state nurse aide registry, which is available at https://odhgateway.odh.ohio.gov/nar/nar_registry_search.aspx. If the worker 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 FMS Provider shall conduct a database review of the nurse aide registry in the state or states in which the applicant or employee lived.

A prospective or current CDC worker is not eligible for employment if:

- a) Any of the databases listed above list the prospective or current CDC worker's name;
- or
- b) Any of the databases listed in above list the prospective or current CDC worker as an individual who neglected or abused a long-term care facility resident or residential care facility resident or misappropriated such a resident's property.

The FMS Provider will inform the prospective or current CDC worker of any disqualifying information found in the free database review.

Criminal Background Checks

The FMS Provider shall conduct a BCII criminal records check on each prospective CDC worker under final consideration of employment.

The FMS Provider shall conduct a BCII criminal records check on each current CDC worker at least once every five years.

FBI Criminal Background Checks

If a prospective or current CDC worker does not furnish the FMS Provider with evidence that he or she has been a resident of Ohio for the five-year period immediately preceding the date of the criminal records check, or if the CDC worker does not provide the FMS Provider with evidence that BCII has requested his or her criminal records from the FBI within that five-year period, the FMS Provider shall request that BCII obtain information from the FBI as part of the criminal records check. Even if a CDC worker does furnish the Provider with evidence that he or she has been a resident of Ohio for the five-year period, the FMS Provider may request that BCII obtain information from the FBI as part of the criminal records check.

Disqualifying Offenses

Disqualifying offenses and exclusionary periods are listed in “Criminal Records Check Tier References” below.

Certificates

Except for an individual with a disqualifying offense listed under Tier I, a prospective or current CDC worker may still be employed if they were issued either:

- a) A Certificate of qualification for employment issued by a court of common pleas with competent jurisdiction pursuant to section 2953.25 of the Revised Code; or;
- b) A Certificate of achievement and employability in a home and community- based service-related field, issued by the department of rehabilitation and corrections pursuant to section 2961.22 of the Revised Code.

Pardons

A conviction or a plea of guilty to an offense listed below shall not prevent a prospective or current worker's employment under any of the following circumstances:

- a) The prospective or current CDC worker was granted an unconditional pardon for the offense pursuant to Chapter 2967 of the Revised Code;
- b) The prospective or current CDC worker was granted an unconditional pardon for the offense pursuant to an existing or former law of this state, any other state, or the United States, if the law is substantially equivalent to Chapter 2967 of the Revised Code;
- c) The conviction or guilty plea was set aside pursuant to law; or
- d) The prospective or current CDC worker was granted a conditional pardon for the offense pursuant to Chapter 2967 of the Revised Code and the conditions under which the pardon was granted have been satisfied.

Records Confidentiality

The FMS Provider shall maintain the confidentiality of all criminal records check information, including information regarding disqualifying offenses. The FMS Provider shall not make a report available to any person other than:

- a) The CDC participant who is the potential or actual employer of the prospective or current CDC worker;
- b) The prospective or current CDC worker who is the subject of the criminal records check;
- c) The staff of the Council on Aging and/or their designee.

CRIMINAL RECORDS CHECK TIER REFERENCES

Tier I: Permanent exclusion: A prospective or current CDC worker shall not be employed if the individual was convicted of, or pleaded guilty to, an offense in any of the following sections of the Revised Code:

	Aggravatedmurder
	Murder
	Voluntary manslaughter
2903.11	Felonious assault
	Permitting child abuse
	Failing to provide for a functionally-impaired person
2903.34	Patient abuse or neglect
2903.341	Patient endangerment
	Kidnapping
	Abduction
	Human Trafficking
	Unlawful conduct with respect to documents Rape
	Sexual battery
	Unlawful sexual conduct with a minor, formerly corruption of a minor Grossexual imposition
	Sexual imposition
	Importuning Voyeurism
2907.12	Felonious sexual penetration
	Disseminating matter harmful to juveniles Pandering obscenity
	Pandering obscenity involving a minor
	Panderingsexually-orientedmatterinvolvingaminor
	Illegal use of a minor in nudity-oriented material or performance Soliciting or providing support for an act of terrorism
	Making terroristic threats Terrorism
2913.40	Medicaid Fraud

If related to another offense of this rule, 2923.01(conspiracy), 2923.02 (attempt). Or 2923.03 (complicity);

A conviction related to fraud, theft; embezzlement; breach of fiduciary responsibility, or other financial misconduct involving a federal or state-funded program, excluding the disqualifying offenses set forth in section 2913.46 (illegal use of SNAP or WIC program benefits)

A violation of an existing or former municipal ordinance or law of this state, any other state, or the United States that is substantially equivalent to any of the Tier I offenses or violations described above.

Tier II: Ten-Year exclusionary period: No prospective or current CDC worker shall be employed for a period of ten years from the date the individual was fully discharged from all imprisonment, probation or parole; if the individual was convicted of, or plead guilty to, an offense in any of the following sections of the Revised Code:

- 2903.04 Involuntary manslaughter
- 2903.041 Reckless homicide
Child stealing, as it existed before July 1, 1996
Child enticement
- 2905.11 Extortion
Compelling prostitution
Promoting prostitution
Enticement or solicitation to patronize a prostitute; procurement of a prostitute for another
Aggravated arson
Arson
- 2911.01 Aggravated robbery
- 2911.11 Aggravated burglary
- 2913.46 Illegal use of SNAP or WIC program benefits
Worker's compensation fraud
Identity fraud
- 2917.02 Aggravated riot
- Carrying concealed weapons
Illegal conveyance or possession of deadly weapon or dangerous ordnance in a school safety zone, illegal possession of an object indistinguishable from a firearm in a school safety zone
Illegal conveyance, possession, or control of deadly weapon or ordnance into a courthouse
Having weapons while under disability
Improperly discharging a firearm at or into a habitation or school
Discharge of firearm on or near prohibited premises
- 2923.21 Improperly furnishing firearms to a minor
- 2923.32 Engaging in a pattern of corrupt activity
- 2923.42 Participating in a criminal gang
Corrupting another with drugs
Trafficking in drugs
Illegal manufacture of drugs or cultivation of marijuana
- 2925.041 Illegal assembly or possession of chemicals for the manufacture of drugs
- 3716.11 Placing harmful or hazardous objects in food or confection

If related to another offense under paragraph of this rule, 2923.01 (conspiracy), 2923.02 (attempt), or 2923.03 (complicity);

Or, a violation of an existing or former municipal ordinance or law of this state, any other state, or United States that is substantially equivalent to any of the Tier II offenses or violations described above.

If the prospective or current CDC worker was convicted of multiple disqualifying offenses, including an offense listed under Tier II, and another offense or offenses listed in under Tier II, Tier III and Tier IV of this rule, and if the multiple disqualifying offenses are not the result of, or connected to, the same act, the individual is subject to a fifteen-year exclusionary period.

Tier III: Seven-Year exclusionary period: No prospective or current CDC worker shall be employed for a period of seven years from the date the individual was fully discharged from all imprisonment, probation or parole; if the individual was convicted of, or plead guilty to, an offense in any of the following sections of the Revised Code:

- 959.13 Cruelty to animals
- 959.131 Prohibitions concerning companion animals
- 2903.12 Aggravated assault
- 2903.21 Aggravated assault
- 2903.211 Menacing by stalking
- 2905.12 Coercion
- 2909.04 Disrupting public services
- 2911.02 Robbery
- 2911.12 Burglary
- 2913.47 Insurance Fraud
- 2917.01 Inciting to violence
- 2917.03 Riot
- 2917.31 Inducing panic
- 2919.22 Endangering children
- 2919.25 Domestic violence
- 2921.03 Riot
- 2921.11 Perjury
- 2921.13 Falsification, falsification in a theft offense, falsification to purchase a firearm, or falsification to obtain a concealed handgun license
- Escape
- Aiding escape or resistance to lawful authority
- Illegal conveyance of weapons, drugs, or other prohibited items onto the grounds of a detention facility or institution
- Funding drug trafficking
- Illegal administration of distribution of anabolic steroids
- 2925.24 Tampering with drugs
- 2927.12 Ethnic intimidation

If related to another offense under paragraph of this rule, 2923.01 (conspiracy), 2923.02 (attempt), or 2923.03 (complicity); Or, a violation of an existing or former municipal ordinance or law of this state, any other state, or United States that is substantially equivalent to any of the Tier III offenses or violations described above.

If a prospective or current CDC worker was convicted of multiple disqualifying offenses, including an offense listed under Tier III, and another offense or offenses listed in under Tier III and Tier IV of this rule, and if the multiple disqualifying offenses are not the result of, or connected to, the same act, the individual is subject to a ten-year exclusionary period.

Tier IV: Five-Year exclusionary period: No prospective or current CDC worker shall be employed for a period of five years from the date the individual was fully discharged from all imprisonment, probation or parole; if the individual was convicted of, or plead guilty to, an offense in any of the following sections of the Revised Code:

- 2903.13 Assault
- 2903.22 Menacing
- 2907.09 Public indecency
- 2907.33 Soliciting, engaging in solicitation after a positive HIV test Prostitution
- 2911.13 Deception to obtain matter harmful to juveniles
- 2913.11 Breaking and entering
- 2913.21 Theft
- 2913.41 Unauthorized use of a vehicle
- 2913.42 Unauthorized use of computer, cable, or telecommunication property
- 2913.43 Telecommunications fraud
- 2913.44 Passing bad checks
- 2913.45 Misuse of credit cards
- 2913.46 Forgery, forging identification cards Criminal simulation
- 2913.47 Defrauding a rental agency or hostelry
- 2913.48 Tampering with records
- 2913.49 Securing writings by deception Personating an officer
- 2913.441 Unlawful display of law enforcement emblem
- 2913.45 Defrauding creditors
- 2913.51 Receiving stolen property
- 2919.12 Unlawful abortion
- 2919.121 Unlawful abortion upon minor
- 2919.123 Unlawful distribution of an abortion-inducing drug
- 2921.12 Interference with custody
- 2921.12 Contributing to the unruliness or delinquency of a child
- 2921.12 Tampering with evidence
- 2921.21 Compounding a crime
- 2921.24 Disclosure of confidential information
- 2921.32 Obstructing justice
- 2921.321 Assaulting or harassing a police dog, horse, or service animal

- 2921.51 Impersonation of peace officer 2925.09 Illegal administration, dispensing, distribution, manufacture, possession, selling, or using any dangerous veterinary drug
- 2925.11 Drug possession, unless a minor drug possession offense
- 2925.13 Permitting drug above Deception to obtain a dangerous drug Illegal processing of drug documents
- 2925.36 Illegal dispensing of drug samples Unlawful purchase of a pseudoephedrine product, underage purchase of a pseudoephedrine product, using false information to purchase a pseudoephedrine product, improper purchase of a pseudoephedrine product Unlawfully selling a pseudoephedrine product unlawfully selling a pseudoephedrine product to a minor; improper sale of a pseudoephedrine product);

If related to another offense under paragraph of this rule, 2923.01 (conspiracy), 2923.02 (attempt), or 2923.03 (complicity);

Or, a violation of an existing or former municipal ordinance or law of this state, any other state, or the United States that is substantially equivalent to any of the Tier IV offenses or violations described above.

If the prospective or current CDC worker was convicted of multiple disqualifying offenses, including an offense listed under Tier IV, and another offense or offenses listed in under Tier IV of this rule, and if the multiple disqualifying offenses are not the result of, or connected to, the same act, the individual is subject to a seven-year exclusionary period.

Tier V: No exclusionary period: A prospective or current CDC worker shall be employed if the individual was convicted of, or pleaded guilty to, an offense in any of the following sections of the Revised Code:

- 2925.11 Drug possession, but only if a minor drug possession offense
- 2925.14 Illegal use, possession, dealing, selling, or advertising of drug paraphernalia
- 2925.141 Illegal use or possession of marijuana drug paraphernalia

Or, a violation of an existing or former municipal ordinance or law of this state, any other state, or the United States that is substantially equivalent to any of the Tier V offenses or violations described above.