



Date: October 19, 2021

To: Community Living Assistance and Support Services Providers;  
Deaf Blind with Multiple Disabilities Providers;  
Home and Community-based Services Program Providers;  
Texas Home Living Program Providers;  
Adult Foster Care Providers;  
Community Attendant Services Providers;  
Day Activity and Health Services Providers;  
Emergency Response Services Providers;  
Family Care Providers;  
Home-Delivered Meals Providers;  
Hospice Providers;  
Primary Home Care Providers;  
Residential Care Providers;  
Transition Assistance Services Providers;  
Consumer Managed Personal Attendant Services Providers;  
Local Intellectual and Developmental Disability Authorities;  
Prescribed Pediatric Extended Care Centers;  
Programs of All-Inclusive Care for the Elderly;  
Special Services to Persons with Disabilities Providers

Subject: Information Letter No. 2021-48 (Revision 11/10/21)  
Acceptable Documentation for a Criminal History Check

This letter is provided as a companion letter to [PL 2019-01](#) which describes acceptable documentation a contractor may use to demonstrate the contractor conducted a criminal history check of an employment applicant or an employee. Licensed contractors must continue to follow the guidance outlined in PL 2019-01. Unlicensed contractors must follow the guidance in this information letter.

## **Verification of Employment Requirements**

A contractor that is not required to have a license must conduct a criminal history check before offering a position to an unlicensed applicant, subcontractor or volunteer and determine if the person has been convicted of an offense that bars the person from employment or prevents employment with the contractor in accordance with 40 Texas Administrative Code [§49.304](#) (relating to Background Checks), if applicable, and Health and Safety code [§250.003](#). A contractor, or private agency on behalf of a contractor, is authorized to obtain criminal history record information (CHRI) that relates to an applicant for employment, an employee, a subcontractor, or a volunteer from the Department of Public Safety (DPS). This information is available to the contractor or private agency by using the Computerized Criminal History (CCH) search on [DPS's Crime Records Service](#) Secure Site. A contractor using the DPS Crime Records Service Secure Site must comply with all restrictions applicable to the contractor's access, use, dissemination, storage, and retention of CHRI, including any user agreement with DPS and DPS' security policy for such information.

## **Documentation**

The Health and Human Services Commission (HHSC) contract monitoring staff will not ask contractors to submit or otherwise make available their criminal history reports for review. Instead, HHSC staff will ask contractors to provide evidence of the date they conducted the required DPS criminal history checks and determined there were no unlicensed employees, subcontractor, or volunteers with bars to employment.

To demonstrate the contractor conducted a criminal history check, reviewed the CHRI, and made the required determination, a contractor must maintain a log or choose another form of documentation that includes all of the elements listed on the example log in Attachment 1. If the log is complete and accurate, HHSC contract monitoring staff must accept it as evidence a contractor conducted the criminal history check in accordance with contracting rules and licensure requirements, if applicable.

## **Unacceptable Documentation**

HHSC contract monitoring staff must determine a criminal history log in the form of Attachment 1 is not acceptable documentation if it:

- is incomplete, inaccurately completed or both; or
- does not include information about one or more employees, subcontractors, or volunteers of the contractor.

If HHSC contract monitoring staff considers a log to be unacceptable, staff may consider other documentation to evaluate a contractor's compliance. If a contractor does not present acceptable documentation showing compliance with applicable requirements, contract monitoring staff will cite a deficiency in relation to the applicable monitoring standard or item.

## **Contract Monitoring Staff Access to Documentation**

HHSC contract monitoring staff may copy a contractor's log or a record of conviction obtained from a public source. However, CHRI obtained from the DPS Secure Site is regulated by state statute and cannot be copied.

## **Contact Information**

If you have any questions about this information letter, please contact [LTSS\\_policy@hhs.texas.gov](mailto:LTSS_policy@hhs.texas.gov).

Sincerely,

*[signature on file]*

Erica Brown  
Deputy Director of Policy and Program  
Medicaid and CHIP Services

**Attachments:**

Attachment 1 — Log of Criminal History Checks

**Attachment 1**

**VERIFICATION OF CRIMINAL HISTORY CHECKS**

Provide complete information in each column for each applicant and each employee checked. List all applicants hired, subcontractor, volunteers and employees. Do not leave any column blank for any individual listed.

Name and position	Start Date	Date of first of service delivery	Date check was conducted *	Determined to be employable under 40 TAC §49.304 or Health and Safety Code §250.003(a)(1)	Name and title of person conducting the check	Signature of person conducting the check**
John Doe	8/24/08	8/26/2018	8/25/08	Yes	Samantha Smith Admin. Tech.	<i>Samantha Smith</i>

\* Include as a separate entry every check performed for an individual, including the initial check required and any subsequent check.

\*\*My signature confirms that I have reviewed the information recorded on this form and attest that the information is supported by available documentation and, to the best of my knowledge, is true and accurate.

