

DDP CRIMINAL HISTORY BACKGROUND CHECK POLICY

Effective 9/16 (replaces 8/06 policy)

PREFACE:

Hiring a person convicted of a felony offense is a very serious matter. This policy was developed in response to concerns that DDP, up until now, had no statewide policy governing the hiring of convicted felons. The 8/1/06 DDP criminal background check policy is subject to modification as providers, DDP staff and others gain experience following implementation.

REQUIREMENTS:

Staff employed by agencies contracting with the DDP for the provision of direct care services are required to have a criminal background check completed by the Montana Department of Justice (MT DOJ). Other positions requiring background checks include professional therapy staff who are subject to a background check at the time of initial certification or licensure. Background checks are reviewed again for therapy staff during their renewal of certification or licensure.

Certain providers of waiver services do not have direct contact with service recipients, and thus, do not require background checks. Examples of these services include businesses supplying adaptive equipment, or construction firm workers hired to build a wheelchair ramp. The background check requirement may not apply to certain categories of workers providing waiver-reimbursed services who are not employees of the agency with a DDP contract, but who may have contact with service recipients. Examples include workers who provide homemaker services (e.g., employees of Kleen King or Merry Maids); however, the service recipient retains the right to request a criminal background check. The DDP Waiver 5 Freedom of Choice form (W-5) gives service recipients the right to request a Montana Department of Justice criminal background check for any person providing services not under contract with the DDP.

The cost of the background check for employees of traditional agency-based contractors is paid by the agency under contract with the DDP.

The Developmental Disabilities Program will provide reimbursement for the background check when individuals Self-Directing with Employer Authority request a background check. To receive reimbursement, an invoice with the receipt for payment for the background check attached must be submitted to the DDP. (clarification 02/08/2016)

DDP background check requirements by waiver service category are outlined in the Montana DD Services and Background Check Requirements effective 8/06 document. Background check requirements are referenced in DD waiver language, the Administrative Rules of Montana (ARMs), DDP contract language and in the Montana Code Annotated (MCA).

TYPES OF BACKGROUND CHECKS:

There are two types of background checks available from the Montana Department of Justice: name-based or fingerprint-based.

A name-based search is a search against the criminal history record file of the MT DOJ using a person's name and a numeric identifier such as date of birth or social security number. Name-based searches are

notorious for "false-positives" and "false-negatives". A false- positive occurs when a record is returned on a person with the same name and numeric identifier provided in the request but who is not the subject of inquiry. A false-negative occurs when no match is erroneously returned because the name or numeric identifier (DOB or SSN) in the record does not match the name and numeric identifier used in the inquiry. Currently, many DDP-funded providers request the MT DOJ to complete name based background checks for their employees. In this case, the results of the search would be sent to the recipient or the recipient's designee. Results of name-based checks are generally returned to the requestor within three days of MT DOJ's receipt of information.

Fingerprint-based checks are preferable. Automated fingerprint identification systems (AFIS) are used in fingerprint-based searches. The AFIS uses the fingerprint image from the request and compares it against fingerprint images from known criminal offenders in the MT DOJ repository. An AFIS match is a positive biometric match. A fingerprint card (FD-249) is used by the local law enforcement agency. The results are sent to the MT DOJ for analysis and a written report is then sent to the waiver recipient or the recipient's designee. Results of fingerprint-based checks are generally returned to the requestor within ten days of MT DOJ's receipt of information.

COSTS:

The current (as of 8/06) fee schedule for non-criminal justice requests for criminal history record information in the State of Montana:

Name-based public criminal record check \$ 10.00

Fingerprint-based public criminal record check \$ 10.00

The Montana public criminal history record does not include information on protection orders, wants/warrants, traffic offenses (except felony DUI), investigative information, intelligence information or out-of-state record information. The public criminal history record does note whether the individual is registered as a sex or violent offender in the State of Montana.