

Informational Bulletin Regarding Medi-Cal Requirement to Submit Fingerprints for a Criminal Background Check

This bulletin amends the initial bulletin regarding Medi-Cal Requirements to Submit Fingerprints for a Criminal Background check on September 11, 2015.

In accordance with 42 *United States Code* (USC), Section 1866(j)(2)(B)(ii)(I) and (II) of the Social Security Act, 42 *Code of Federal Regulations* (CFR), Section 455.434, published on February 2, 2011, in the Federal Register to implement the Patient Protection and Affordable Care Act (ACA) of 2010, and *Welfare and Institutions Code* (W&I Code), Section 14043.38, the Department of Health Care Services (DHCS) is required to screen applicants or providers according to their designated categorical risk level.

Based upon the authority granted to the director of DHCS in the W&I Code, Section 14043.75(b), the director of DHCS hereby implements W&I Code, Section 14043.38, which requires provider types designated as high categorical risk to submit fingerprints for a criminal background check. The requirements and procedures set forth in this bulletin have the full force and effect of law, and are effective October 11, 2014.

Establishment of Provider Categorical Risk Levels

Federal law requires State Medicaid Agencies (Medi-Cal in California) to establish categorical risk levels for providers and provider categories who pose an increased financial risk of fraud, waste or abuse to the Medicaid program. Federal law mandates that Medi-Cal screen all initial applications, including applications for a new practice location and any applications received in response to a re-enrollment or a revalidation of enrollment request based on a categorical risk level of "Limited," "Moderate" or "High." An applicant or provider is subject to the "High" risk level of screening if the provider category is designated by DHCS as "High" risk. In addition, any applicant and any type of provider can be subject to the "High" level screening if any of the following conditions apply:

- DHCS imposed a payment suspension on the provider based on a credible allegation of fraud, waste or abuse.
- The applicant or provider has an existing Medicaid overpayment based on fraud, waste or abuse.
- The applicant or provider has been excluded by the Federal Office of the Inspector General or another state's Medicaid program within the previous 10 years.
- The Centers for Medicare & Medicaid Services (CMS) has in the previous six months lifted a temporary moratorium for the particular provider type and that provider would have been prevented from enrolling based on the moratorium.

(42 CFR §§ 424.518, 455.434, and 455.450; W&I Code, Section 14043.38.)

Fingerprinting and Criminal Background Checks of "High" Risk Applicants and Providers

State Medicaid Agencies are required to collect fingerprints and conduct criminal background checks from applicants or providers screened at the "High" categorical risk level. (42 CFR §§ 424.518, 455.434, and 455.450.)

Effective January 1, 2013, California law requires that all Medi-Cal providers and applicants categorized as “High” risk, and any person with a five percent or greater direct or indirect ownership interest in a provider or applicant, must submit fingerprints for a criminal background check in the form and manner determined by DHCS within 30 days of the request. (W&I Code § 14043.38.) Effective January 1, 2015, W&I Code § 14043.38 was amended to subject the officers and executive director of a non-profit Drug Medi-Cal provider or applicant to the same requirements. This bulletin implements that statute.

Effective October 11, 2014, any time an application is submitted to DHCS by a Medi-Cal provider or applicant categorized as “High” risk, that provider or applicant must submit proof that fingerprints for all the required individuals have been submitted to an authorized State Identification Bureau (Bureau of Criminal Information and Analysis, Department of Justice [DOJ] in California). Providers and applicants must attach a copy of the Provider Enrollment Division (PED) prefilled DOJ [Request for Live Scan Service \(BCIA 8016\)](#) form for each required individual with their application, date stamped and showing verification that all fees have been paid by either a “PAID” stamp from the public Live Scan operator or a receipt of payment.

In order to obtain the required fingerprints, the individuals required to be fingerprinted must:

- Present the PED **prefilled** DOJ [Request for Live Scan Service \(BCIA 8016\)](#) form to the Live Scan operator;
- Pay all applicable fees at the time of Live Scan including: Live Scan fee, DOJ State criminal background check fee, and Federal Bureau of Investigations criminal background check fee.

Note that the PED prefilled BCIA 8016 contains identifiers specific to DHCS. Using any other version of the BCIA 8016 may result in DHCS not receiving the findings and denial of your application.

DOJ only accepts the electronic submission of fingerprints from an authorized public Live Scan operator. A list of the DOJ authorized public Live Scan sites can be found on the [Applicant Live Scan Fingerprint Services Locations and Hours of Operation](#) page of the DOJ website.

If an individual or applicant is located **out of state** and is not traveling to California for Live Scan services, or does not have access to a Live Scan site, the individual or applicant is required to be fingerprinted using hardcopy fingerprint cards and to complete the PED prefilled [Request for Exemption From Mandatory Electronic Fingerprint Submission Requirement \(CJIS 9004\)](#) form. In order for an application to be considered complete, the individual or applicant required to be fingerprinted must:

- Email PEDCBCFORMREQUEST@dhcs.ca.gov **prior to submitting an application** to request the hardcopy fingerprint card. DHCS will then mail out a hardcopy fingerprint card.
- Take the hardcopy fingerprint card to a **law enforcement agency within the United States** to have the prints rolled, and pay the applicable “rolling” fee by the agency providing the service.

- Fill out the PED prefilled [CJIS 9004](#). The PED prefilled DOJ CJIS 9004 has the “Basis for Exemption” pre-populated.
- Submit the hardcopy fingerprint card and PED prefilled CJIS 9004, with the required processing fee of \$49 **made out to The California Department of Justice** with the application package, to DHCS for submission to DOJ and FBI. **Please be aware that the processing time required for hardcopy fingerprint cards is substantially longer than with Live Scan fingerprinting. This will delay the processing of the application.**

If, during the initial review of an application for enrollment, it is determined that the applicant or provider is required to be screened at the “High” categorical risk level and the required proof of fingerprinting is not included with the application, DHCS will consider the application incomplete and return it to the applicant to remediate all deficiencies, including the submission of fingerprints for a state and federal criminal background check.

The notice of deficiency will instruct the applicant or provider that they are required to submit fingerprints and that they have **30 calendar days** to submit their fingerprints for a state and federal criminal background check or the application package will be denied. It will also instruct them that they have 60 days to resubmit their application and identify any missing or discrepant items that must be resubmitted with their application. The applicant or provider must include a copy of the PED **prefilled** [DOJ Request for Live Scan Service \(BCIA 8016\)](#) form for each individual identified in the deficiency letter and submit verification that all fingerprinting fees have been paid by either a “PAID” stamp from the Live Scan operator or a receipt of payment when they resubmit the application.

Fingerprint Rejections

The FBI may reject an applicant or provider fingerprint transaction for a number of reasons. Upon receipt of the first rejection, PED will notify the applicant or provider and provide a copy of the rejection notice, which specifically states the rejection reason. The applicant or provider will be required to submit their fingerprints a second time. If the fingerprints are rejected a second time for poor quality fingerprints, DHCS will request to have an FBI name check performed, which will be submitted within 75 days of the date of the initial rejection notice. No additional fees will be charged for the name check.

Failure to submit fingerprints for a criminal background check when required will result in the denial of the application package. (42 CFR Code § 455.416; W&I Code § 14043.26[f][4][E].)

Provider Types Currently Designated as “High” Categorical Risk

Currently, the following provider types are designated as a “High” categorical risk: prospective (newly enrolling) Home Health Agencies (HHA), prospective (newly enrolling) Durable Medical Equipment (DME) suppliers, and newly certifying or newly enrolling and revalidating Drug Medi-Cal Clinics (DMCs), with the exception of DMCs operated by governmental entities. DHCS has the authority to designate other provider types as “High” risk if it is determined that that they pose an increased risk for fraud, waste, and abuse, or fall within the scope of the statutory “High” risk designation.

Please note that HHA providers are certified for Medi-Cal by the California Department of Public Health (CDPH) and the fingerprinting and criminal background process defined

in this provider bulletin does not apply to HHA providers. HHA providers should contact CDPH regarding fingerprinting and criminal background check requirements.