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DATE: August 3, 2010
TO: All ADA and ALW Service Providers
FROM: Barbara Suarez
Director of Program Integrity and Accountability
REF: Background screening requirements

This memo serves as clarification of the new Level 2 background screening requirements as referenced in DOEA's NOI #060910-1I-SWCBS and House Bill No. 7069.

The new law requires that, effective 8/1/2010, all individuals seeking employment or volunteerism, which will require direct contact with individuals receiving services under the jurisdiction of DEOA, must undergo a level 2 background screening prior to employment or volunteerism.

The Department of Elder Affairs has adopted an emergency rule in order to facilitate the implementation of this law (see emergency rule attached). The rule states that the following:

- Each Providers must complete a “**Direct Service Provider Attestation Form**” attached for each employee/volunteer/subcontractor (and their staff), effective immediately, attesting that they've received a list of the Level 2 disqualifying offenses. The employee/volunteer/subcontractors must disclose any disqualifying offenses. The employer will use this data to determine if the individual is able to continue in the current capacity. If the staff/volunteer or subcontractors discloses a disqualifying offense, then the Provider must contact DOEA's Background Screening Coordinator at 850-414-2000. The signed form must be kept in the individual's file for monitoring purposes.
- Employees of direct service providers who already have a Level 1 screening, or who have not been previously screened, must ensure that at least 20% of all staff, including volunteers, complete a Level 2 screening within 120 calendar days of August 1, 2010, and an additional 20% every 90 calendar days thereafter, until all direct service providers have successfully satisfied the screening standards of Ch. 435, F.S., or have applied for and received an exemption pursuant to Section 435.07 F.S. This requirement also applies to subcontractors.
- Employers with fewer than 5 staff/volunteers must ensure that all individuals are screened within the initial 120 calendar day window.
- All hired staff/volunteers/subcontractors with an existing Level 2 background screening are required to be re-screened every 5 years by law or until their fingerprints are completed and retained/monitored by FDLE in the Applicant Fingerprint Retention and Notification Program

(Livescan). However, the law states that all individuals with a current Level 2 background screen must be re-screened using the Livescan method by 7/1/2012. Because all existing Level 2 individuals have to be re-screened electronically using the Livescan method by 7/1/2012, and because they must also be re-screened through DOEA, the Department is requiring that all individuals with existing Level 2 be re-screened using the new process as identified above.

- The level 2 background screening requirements also apply to HCE caregivers and employees (if applicable).
- The “**Background Screening Appointment Form**” attached must be completed by the Applicant, the Screener and the Employer.
 - The Employer must ensure the applicant presents this form with the DOEA’s ORI# to the Background Screening Vendor prior to being screened.
 - The Employer must complete the appropriate sections of the form, prior to presenting it to the Applicant.
 - The Applicant must complete appropriate sections of the form prior to presenting it to the Screener.
 - The Screener must complete appropriate sections of the form and return the form to the Applicant after the screening is completed.
 - The Applicant must return the completed form to the Employer once the screening is complete.
 - The Employer must scan and email the form to DOEA at the email address indicated on the form. (The Department will use the data from this form to enter into a data base and match email notification information from FDLE.)
- Employers are responsible for coordinating with DOEA to ensure the retention of the applicant’s fingerprints by FDLE in the Applicant Fingerprint Retention and Notification Program, whereby, in the event of an arrest, notification will be automatically sent to DOEA’s Background Screening Coordinator. There is an annual cost of \$6.00 per print (the first year is free of charge).
- The provider must notify DOEA directly when an individual is no longer employed in order to avoid unnecessary annual fingerprint retention fees.
- The “**Affidavit of Good Moral Character**” must be completed by the Applicant, the Screener and the Employer. The Employer must ensure the applicant completes the form at the time the Background Screening Appointment form is completed. The Employer will complete the Employer section of the form and retain the form in the Applicant's file. (The Employer will retain this data in the Applicant file and forward to the Department if the Applicant is notified of a disqualifying offense and requests to apply for exemption.)
- The following individuals are **exempted** from being re-screened by DOEA:
 - Licensed physicians, nurses, or other professional licensed by Department of Health if providing services within the scope of their license. A copy of the background screening results received from AHCA must be placed in the employees file for monitoring purposes. Proof of exemption must be kept in the individual’s file for monitoring purposes.
 - Individuals qualified for employment by AHCA, pursuant to the Agency’s background

screening standards for licensure or employment. For example, home health agencies, ALF's and Adult Day Cares that have already met the requirements of the new law through AHCA due to licensure requirements are not required to complete a second screening through DOEA. A copy of the background screening results received from AHCA must be placed in the employees file for monitoring purposes. However, any individual currently working for your agency that was not screened by AHCA but has direct client contact or comes in contact with client information must receive a Level 2 background screening through Livescan by DOEA.

- Background screening results may share among DOEA programs and providers if an individual has successfully passed a Level 2 background screening for one program. The Provider must obtain verification in writing from DOEA that the individual has successfully passed the Level 2 background screening. The results must be filed in the individual's file for monitoring purposes.
- Providers must monitor and ensure that all subcontracted providers adhere to this new requirement.
- A list of Livescan vendors can be obtained at: www.fdle.state.fl.us/Content/getdoc/04833e12-3fc6-4c03-9993-379244e0da50/livescan.aspx . Employers must obtain verification in writing from the screening vendor that all screeners have passed a Level 1 background screening and that the screening vendor has performed a credit check on the screeners prior to utilizing that vendor.

The Department's unique identifier ORI number (found on Background Screening Appointment Form) is active and will be ready for use starting Monday 8/2/10.

Existing contracts will be amended to include this new requirement. If you have questions, please don't hesitate to contact your Medicaid Waiver Specialist.

Thank you in advance for your cooperation.