

 WRAPAROUND MILWAUKEE POLICY & PROCEDURE	Date Issued: 1/1/07	Reviewed: 5/26/09 By: PE Last Revision: 6/16/09	Section: ADMINISTRATION	Policy No: 057	Pages: 1 of 3 (2 Attachments)
	<input checked="" type="checkbox"/> Wraparound <input checked="" type="checkbox"/> Wraparound/REACH <input checked="" type="checkbox"/> FISS	Effective Date: 1/1/10	Subject: CAREGIVER BACKGROUND CHECKS/ MILWAUKEE COUNTY RESOLUTION		

I. POLICY

It is the policy of Wraparound Milwaukee/REACH/Family Intervention Support Services (FISS) that a Caregiver Background Check (CBC) be completed on all caregivers/employees. Wraparound Milwaukee/REACH/FISS contract agencies and agencies/organizations with which Wraparound Milwaukee/REACH/FISS has reimbursable Fee-for-Service Agreements shall perform Criminal Background Checks on current employees/caregivers (as defined below) who provide direct care and services. The results of the CBC must meet the requirements as stated under Wisconsin Caregiver Law and the Milwaukee County Caregiver Resolution.

II. DEFINITIONS

- A. Caregiver/Employee** – a person who meets all of the following:
1. Is employed by or under contract with an entity.
 2. Has regular, direct contact with the entity’s clients or the personal property of the clients.
 3. Is under the entity’s control.
 4. Is the owner or administrator of an entity, whether or not they have regular, direct contact with clients or a board member or corporate office who has regular, direct contact with clients.
- B. Regular Contact** –contact that is planned, scheduled, expected or periodic.
- C. Direct Contact** –face-to-face proximity to a client that affords the opportunity to commit abuse or neglect of a client or misappropriation of a client’s property.
- D. Under the Entity’s Control** –a person employed by or under contract with the entity for whom the entity does both of the following:
1. Determines whether a person employed by or under contract with the entity who has access to clients may provide care, treatment or other similar support service functions to clients being served by the entity.
 2. Directs or oversees one or more of the following:
 - a) The policy or procedures the person must follow in performing his or her duties as a caregiver/employee.
 - b) The conditions under which the person performs his or her duties.
 - c) The tasks performed by the person.
 - d) The person’s work schedule.
 - e) The supervision or evaluation of the person’s work or job performance, including imposing discipline or awarding performance awards.
 - f) The compensation the person receives for performing his or her duties as a caregiver/employee.

III. PROCEDURE

- A. Prior to the provision of service**, a Caregiver Background Check (CBC) must be completed on all Providers as required by the State of Wisconsin Caregiver Law.
- B. A complete CBC consists of the three following required documents:**
1. A completed HFS-64 BACKGROUND INFORMATION DISCLOSURE (BID) form (*see Attachment 1*).
 2. A response from the Department of Justice (DOJ) Wisconsin Criminal History Record Request consisting of either a “no record found” response or a criminal record transcript.

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3. A response letter (Caregiver Background Check) from the Department of Health and Family Services (DHFS) that reports the person's status, including administrative finding or licensing restrictions.
- C. Qualified agency personnel are responsible for closely examining the results of the Caregiver Background Checks for criminal convictions or findings of misconduct by a governmental agency; and to make employment decisions in accordance with the requirements and prohibitions in the law and in the MILWAUKEE COUNTY CAREGIVER RESOLUTION (*see Attachment 2*).
- D. A copy of the Background Check must be kept in the Provider's personnel file or other file for each employee for the express purpose of retaining all required CBC information.

III. REQUIREMENTS

- A. Direct Service Providers shall conduct Background Checks at their own expense on all caregivers/employees who provide direct care and services.
- B. After the initial Background Check, Direct Service Providers are required to conduct a new Background Check every four years, or at any time within that period when Direct Service Providers have reason to believe that a new check should be obtained. **Background Information Disclosure (BID) forms** DO NOT have to be redone every four years **IF** the Provider Agency has a written self-disclosure policy **AND** the Agency reminds their caregivers of that policy annually. If an Agency chooses to implement this provision, they must do the following:
 1. Ensure that all caregivers complete a BID form at the time of hire.
 2. Complete a caregiver background check (DOJ and DHFS/DRL information) at the time of hire and every four years thereafter.
 3. Develop a written self-disclosure policy that notifies caregivers that they must disclose, in writing, any changes to the information included on the BID form, including:
 - a. Convictions of any crime.
 - b. Substantiated findings of abuse, neglect or misappropriation.
 - c. Current investigations related to abuse, neglect or misappropriation.
 - d. Professional credential restrictions, limitations or revocations.
 - e. Program licensure limitations, revocations or denials.
 - f. Discharge from any branch of the U.S. Armed Forces, including any reserve component.
 - g. Residency outside the State of Wisconsin.
 - h. Rehabilitation Review requests.
 4. Remind all caregivers of the requirements of the written self-disclosure policy on an annual basis. It is recommended that this annual reminder be given via written notification to every caregiver. It may be helpful to include in the annual reminder the penalties for failure to self-disclose.
 5. Require caregivers/employees to disclose any changes to the information they included on the BID form, in writing, to their immediate supervisor as soon as possible, but no later than the person's next working day.

Reminder: If an Agency has implemented the BID Self-Disclosure policy, this DOES NOT exempt them from having to do the Criminal History and DHFS part of the Background Check every four years. This only exempts the Agency from having to complete the BID forms on their employees every four years.

- C. Direct Service Providers shall make a good faith effort to get a Background Check from the previous State of residence if any prospective Direct Care Provider has been living in the State of Wisconsin for less than three (3) years.
- D. Direct Service Providers shall not assign any individual to conduct work under the Fee-for-Service Agreement who does not meet the requirements of the Wisconsin Caregiver Laws and the Milwaukee County Caregiver Resolution.

BACKGROUND INFORMATION DISCLOSURE (BID) INSTRUCTIONS

The Background Information Disclosure form (F-82064) gathers information as required by the Wisconsin Caregiver Background Check Law to help employers and governmental regulatory agencies make employment, contract, residency, and regulatory decisions. Complete and return the entire form and attach explanations as specified by employer or governmental regulatory agency.

CAREGIVER BACKGROUND CHECK LAW

In accordance with the provisions of Chapters 48.685 and 50.065, Wis. Stats., for persons who have been convicted of certain acts, crimes, or offenses:

1. The Department of Health Services (DHS) may not license, certify, or register the person or entity (Note: Employers and Care Providers are referred to as "entities");
2. A county agency may not certify a child care or license a foster or treatment foster home;
3. A child placing agency may not license a foster or treatment foster home or contract with an adoptive parent applicant for a child adoption;
4. A school board may not contract with a licensed child care provider; and
5. An entity may not employ, contract with or, permit persons to reside at the entity.

A list of barred crimes and offenses requiring rehabilitation review is available from the regulatory agencies or through the Internet at <http://dhs.wisconsin.gov/caregiver/StatutesINDEX.HTM>.

THE CAREGIVER LAW COVERS THE FOLLOWING EMPLOYERS / CARE PROVIDERS (Referred to as "Entities"):

Programs Regulated under Chapter 48, Wis. Stats.	Treatment Foster Care, Family Child Care Centers, Group Child Care Centers, Residential Care Centers for Children and Youth, Child Placing Agencies, Day Camps for Children, Family Foster Homes for Children, Group Homes for Children, Shelter Care Facilities for Children, and Certified Family Child Care.
Programs Regulated under Chapters 50, 51, and 146, Wis. Stats.	Emergency Mental Health Service Programs, Mental Health Day Treatment Services for Children, Community Mental Health, Developmental Disabilities, AODA Services, Community Support Programs, Community Based Residential Facilities, 3-4 Bed Adult Family Homes, Residential Care Apartment Complexes, Ambulance Service Providers, Hospitals, Rural Medical Centers, Hospices, Nursing Homes, Facilities for the Developmentally Disabled, and Home Health Agencies – including those that provide personal care services.
Others	Child Care Providers contracted through Local School Boards

THE CAREGIVER LAW COVERS THE FOLLOWING PERSONS:

- Anyone employed by or contracting with a covered entity who has access to the clients served, except if the access is infrequent or sporadic and service is not directly related to care of the client.
- Anyone who is a Child Care Provider who contracts with a School Board under Wisconsin Statute 120.13 (14).
- Anyone who lives on the premises of a covered entity and is 10 years old or over, but is not a client ("nonclient resident").
- Anyone who is licensed by DHS.
- Anyone who has a foster home licensed by DHS.
- Anyone certified by DHS.
- Anyone who is a Child Care Provider certified by a county department.
- Anyone registered by DHS.
- Anyone who is a board member or corporate officer who has access to the clients served.

FAIR EMPLOYMENT ACT

Wisconsin's Fair Employment Law, Chapters 111.31 - 111.395, Wis. Stats., prohibits discrimination because of a criminal record or pending charge; however, it is not discrimination to decline to hire or license a person based on the person's arrest or conviction record if the arrest or conviction is substantially related to the circumstances of the particular job or licensed activity.

PERSONALLY IDENTIFIABLE INFORMATION

This information is used to obtain relevant data as required by the provisions set forth by the Wisconsin Caregiver Background Check Law. Providing your social security number is voluntary; however, your social security number is one of the unique identifiers used to prevent incorrect matches. For example, the Department of Justice uses social security numbers, names, gender, race, and date of birth to prevent incorrect matches of persons with criminal convictions. The Department of Health Services' Caregiver Misconduct Registry uses social security numbers as one identifier to prevent incorrect matches of persons with findings of abuse or neglect of a client or misappropriation of a client's property.

BACKGROUND INFORMATION DISCLOSURE (BID)

Completion of this form is required under the provisions of Chapters 48.685 and 50.065, Wis. Stats. Failure to comply may result in a denial or revocation of your license, certification, or registration; or denial or termination of your employment or contract. Refer to the instructions (F-82064A) on page 1 for additional information. Providing your social security number is voluntary; however, your social security number is one of the unique identifiers used to prevent incorrect matches.

PLEASE PRINT YOUR ANSWERS.

Check the box that applies to you.

- Employee / Contractor (including new applicant)
- Household member / lives on premises - but not a client
- Applicant for a license or certification or registration (including continuation or renewal)
- Other – Specify:

NOTE: If you are an owner, operator, board member, or non client resident of a Division of Quality Assurance (DQA) regulated facility, complete the BID, F-82064, and the Appendix, F-82069, and submit both forms to the address noted in the Appendix Instructions.

Name – (First and Middle)	Name – (Last)	Position Title (Complete only if you are a prospective employee or contractor, or a current employee or contractor.)		
Any Other Names By Which You Have Been Known (Including Maiden Name)		Birth Date	Gender (M / F)	Race
Address <u>Street, City, State, ZIP Code</u>			Social Security Number(s)	
Business Name and Address - Employer or Care Provider (Entity)				

SECTION A - ACTS, CRIMES, AND OFFENSES THAT MAY ACT AS A BAR OR RESTRICTION	YES	NO
1. Do you have any criminal charges pending against you or were you ever convicted of any crime anywhere, including in federal, state, local, military and tribal courts? ➤ If Yes , list each crime, when it occurred or the date of the conviction, and the city and state where the court is located. You may be asked to supply additional information including a certified copy of the judgement of conviction, a copy of the criminal complaint, or any other relevant court or police documents.		
2. Were you ever found to be (adjudicated) delinquent by a court of law on or after your 10 th birthday for a crime or offense? (NOTE: A response to this question is only required for group and family day care centers for children and day camps for children.) ➤ If Yes , list each crime, when and where it happened, and the location of the court (city and state). You may be asked to supply additional information including a certified copy of the delinquency petition, the delinquency adjudication, or any other relevant court or police documents.		
3. Has any government or regulatory agency (other than the police) ever found that you committed child abuse or neglect? A response is required if the box below is checked: <input type="checkbox"/> (Only employers and regulatory agencies entitled to obtain this information per sec. 48.981(7) are authorized to, and should, check this box.) ➤ If Yes , explain, including when and where it happened.		
4. Has any government or regulatory agency (other than the police) ever found that you abused or neglected any person or client? ➤ If Yes , explain, including when and where it happened.		

(continued on next page)

SECTION A (continued)	YES	NO
5. Has any government or regulatory agency (other than the police) ever found that you misappropriated (improperly took or used) the property of a person or client? ➤ If Yes , explain, including when and where it happened.		
6. Has any government or regulatory agency (other than the police) ever found that you abused an elderly person ? ➤ If Yes , explain, including when and where it happened.		
7. Do you have a government issued credential that is not current or is limited so as to restrict you from providing care to clients? ➤ If Yes , explain, including credential name, limitations or restrictions, and time period.		

SECTION B – OTHER REQUIRED INFORMATION	YES	NO
1. Has any government or regulatory agency ever limited, denied, or revoked your license, certification, or registration to provide care, treatment, or educational services? ➤ If Yes , explain, including when and where it happened.		
2. Has any government or regulatory agency ever denied you permission or restricted your ability to live on the premises of a care providing facility? ➤ If Yes , explain, including when and where it happened and the reason.		
3. Have you been discharged from a branch of the US Armed Forces, including any reserve component? ➤ If yes, indicate the year of discharge: _____ ➤ Attach a copy of your DD214 if you were discharged within the last 3 years.		
4. Have you resided outside of Wisconsin in the last 3 years? ➤ If Yes , list each state and the dates you lived there.		
5. Have you had a caregiver background check done within the last 4 years? ➤ If Yes , list the date of each check, and the name, address, and phone number of the person, facility, or government agency that conducted each check.		
6. Have you ever requested a rehabilitation review with the Wisconsin Department of Health Services, a county department, a private child placing agency, school board, or DHS designated tribe? ➤ If Yes , list the review date and the review result. You may be asked to provide a copy of the review decision.		

A "NO" answer to all questions does not guarantee employment, residency, a contract, or regulatory approval.

I understand, under penalty of law, that the information provided above is truthful and accurate to the best of my knowledge and that knowingly providing false information or omitting information may result in a forfeiture of up to \$1,000.00 and other sanctions as provided in DHS 12.05 (4), Wis. Adm. Code.

SIGNATURE	Date Signed
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**RESOLUTION REQUIRING BACKGROUND CHECKS ON
DEPARTMENT OF HEALTH AND HUMAN SERVICES
CONTRACT AGENCY EMPLOYEES PROVIDING
DIRECT CARE AND SERVICES TO CHILDREN AND YOUTH**

Provisions of the Resolution requiring criminal background checks for current or prospective employees of DHS contract agencies and agencies/organizations with which the DHS has reimbursable agreements providing **direct care and services to Milwaukee County children and youth** were initially passed by the County Board in September, 1999.

In May, 2000, the County Board adopted a modification of the resolution that separates individuals who have committed crimes under the Uniform Controlled Substances Act under Chapter 961 Wisconsin Statutes from the felony crimes referenced in the original Resolution and those referenced under Chapter 948 of the Statutes.

The Resolution shall apply only to those employees who provide direct care and services to Milwaukee County children and youth in the ordinary course of their employment, and is not intended to apply to other agency employees such as clerical, maintenance or custodial staff whose duties do not include direct care and services to children and youth.

1. DHS contract agencies and agencies/organizations with which the DHS has reimbursable agreements are required to certify, by written statement to the DHS, that they have a written screening process in place to ensure background checks, extending at least three (3) years back, for criminal and gang activity, for current and prospective employees providing direct care and services to children and youth. The background checks are to be made prior to hiring a prospective employee on all candidates for employment regardless of the person's place of residence.
2. DHS contract agencies and agencies/organizations with which the DHS has reimbursable agreements re required to certify, by written statement to the DHS, that they are in compliance with the provisions of the Resolution; that the statement shall be subject to random verification by the DHS or its designee; and, that the DHS or its designee shall be provided, on request, at all reasonable times, copies of any or all background checks performed on its employees pursuant to this Resolution.
3. DHS contract agencies and agencies/organizations with which the DHS has reimbursable agreements which do not provide to the DHS or its designee, copies of any or all background checks, on request, at all reasonable times, pursuant to this Resolution, shall be issued a letter of intent within 10 working days by the DHS or its designee to file an official 30-day notice of termination of the contract, if appropriate action is not taken by the contract agency towards the production of said documents
4. DHS contract agencies and agencies/organizations with which the DHS has reimbursable agreements shall perform criminal background checks on current employees who provide direct care and services to children and youth by January 31, 2001; and, after 48 months of employment have elapsed, criminal background checks shall be performed every four (4) years within the year thereafter.
5. DHS contract agencies and agencies/organizations with which the DHS has reimbursable agreements shall hire prospective employees after January 31, 2001 conditioned on the provisions stated above for criminal background checks and, after four (4) years within the year thereafter, and for new employees hired after January 31, 2001.
6. DHS contract agencies and agencies/organizations with which the DHS has reimbursable agreements which determine that a current or prospective employee was convicted of one or more of the following

offenses shall notify the DHS or its designee immediately. Offenses include: homicide (all degrees); felony murder; mayhem; aggravated and substantial battery; 1st and 2nd degree sexual assault; armed robbery; administering dangerous or stupefying drugs; and, all crimes against children as identified in Chapter 948 of Wisconsin Statutes.

7. DHS contract agencies and agencies/organizations with which the DHS has reimbursable agreements which determine that a current or prospective employee was convicted of any other offense not listed in Number 6 shall notify the DHS or its designee immediately. Offenses include but are not limited to: criminal gang member solicitations; simple possession; endangering public safety; robbery; theft; or, two (2) or more misdemeanors involving separate incidences within the last three (3) years.
8. DHS contract agency employees and employees of agencies/organizations with which the DHS has reimbursable agreements who provide direct care and services to children and youth, charged with any of the offenses referenced in Number 6 and Number 7, shall notify the DHS or its designee within two (2) business days of the actual arrest.
9. Upon notification from a contract agency or from agencies with other reimbursable agreements that their screening process has identified a current or prospective employee with a conviction as stated in Number 6, or a conviction that occurred less than three (3) years from the date of employment as stated in Number 7, the DHS or its designee shall issue a letter of intent within 10 working days to file an official 30-day notice of termination of the contract if appropriate action is not taken towards the exclusion of said individual from having any contact with children or youth in the direct provision of care and services to children and youth.
10. The DHS or its designee, upon receipt of notification of potentially disqualifying past criminal misconduct or pending criminal charges as stated in Number 6 and Number 7 of this Resolution, shall terminate the contract or other agreement if, after 10 days' notice to the contract agency, the DHS or its designee has not received written assurance from the agency that the agency has taken appropriate action towards the convicted current or prospective employee consistent with the policy expressed in this Resolution.
11. DHS contract agencies and agencies/organizations with which the DHS has reimbursable agreements which determine that a current or prospective employee was convicted of any crime under the Uniform Controlled Substances Act under Chapter 961 of Wisconsin Statutes, excluding simple possession, and the conviction occurred within the last five (5) years from the date of employment or time of application, shall notify the DHS or its designee immediately.
12. Upon notification from a contract agency or from agencies with other reimbursable agreements that their screening process has identified a current or prospective employee with a conviction under the Uniform Controlled Substances Act under Chapter 961 of Wisconsin Statutes, excluding simple possession, the DHS or its designee shall issue a letter of intent, within 10 working days, to file an official 30-day notice of termination of the contract if appropriate action is not taken towards the exclusion of said individual from having any contact with children or youth in the direct provision of care and services to children and youth. **Current or prospective employees of DHS contract agencies or other reimbursable agreements who have not had a conviction within the last five (5) years under the Uniform Controlled Substances Act under Chapter 961 of Wisconsin Statutes, excluding simple possession, shall not be subject to the provisions of this Resolution.**