

## Fingerprinting of High Risk Providers and Owners Frequently Asked Questions April 1, 2016

### PROGRAM BACKGROUND

Section 6401(a) of the Affordable Care Act amended section 1866(j) (2) of the Social Security Act (the Act) to require the Secretary, in consultation with the Office of the Inspector General to establish procedures for screening providers and suppliers under Medicare, Medicaid and CHIP. The Secretary was directed to determine the level of screening to be conducted according to the level of risk for fraud, waste and abuse for each category of provider.

Section 6401(b) of the Affordable Care Act amended section 1902 of the Act to require states to comply with the procedures established by the Secretary for screening providers and suppliers. The Centers for Medicare & Medicaid Services (CMS) implemented these requirements with federal regulations at 42 CFR Part 455 subpart E. These regulations were published as a final rule in the *Federal Register*, Vol. 76, February 2, 2011 and were effective March 25, 2011.

On December 23, 2011, CMS issued an Informational Bulletin to offer further information to states regarding the requirements of these regulations. The Informational Bulletin, which may be found at <http://www.medicaid.gov/Federal-Policy-Guidance/downloads/CIB-12-23-11.pdf>, referenced additional sub regulatory guidance on fingerprint-based criminal background checks (FCBCs). This letter represents that guidance.

42 CFR 455.410(a) provides that a state Medicaid agency must require all enrolled providers to be screened according to the provisions of Part 455 subpart E. Under 42 CFR 455.450, a state Medicaid agency is required to screen all applications, including initial applications, applications for a new practice location and applications for re-enrollment or revalidation, based on a categorical risk level of "limited," "moderate" or "high." Under 42 CFR 455.434, a state Medicaid agency must establish categorical risk levels for providers and provider categories who pose an increased financial risk of fraud, waste or abuse to the Medicaid program. When the agency determines that a provider's categorical risk level is "high," or when the agency is otherwise required to do so under State law, the agency must require providers to consent to criminal background checks, including fingerprinting.

42 CFR 455.450(c) requires that when a state Medicaid agency designates a provider as a "high" categorical risk, the agency must do all of the following:

- Perform the "limited" and "moderate" screening requirements specified at 42 CFR 455.450(a) and (b);
- Require the submission of a set of fingerprints in accordance with 42 CFR 455.434; and
- Conduct a criminal background check.

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Under 42 CFR 455.434(b), the requirement to submit fingerprints applies to both the “high” risk provider and any person with a five percent or more direct or indirect ownership interest in the provider, as those terms are defined in 455.101.

For more information concerning the fingerprinting process, go to the following website at: <https://www.mmis.georgia.gov>. Click on Provider Information/FAQ for Providers. There are two fingerprinting instructional guides that will help you navigate on how to obtain your Agency ID (GAC) number as well as registering applicants for fingerprinting.

## **1. For Georgia Medicaid/PeachCare for Kids, what facilities are considered high risk?**

Part I, Medicaid/PeachCare for Kids policy manual defines high risk as “categories of service that pose a significant risk of fraud, waste and abuse to the Medicaid program. These include community mental health centers, prospective (newly enrolled) home health agencies and prospective (newly enrolled) suppliers of durable medical equipment, including orthotic and prosthetic suppliers.” Owners of Community Mental Health Centers, Durable Medical Equipment (DME), Home Health Agencies (HHA) and Orthotics (facilities) will be subject to fingerprinting.

Owners, whose facilities are enrolled in Medicare, are not subject to Medicaid’s fingerprint requirements provided they have been successfully fingerprinted by Medicare’s contractor. DCH will verify through Medicare’s enrollment system that all facility owners on the Medicaid enrollment application have been successfully fingerprinted by Medicare. Owners who have not been fingerprinted by Medicare will be subject to DCH’s fingerprinting requirements.

DCH’s enrollment applications will include a new panel concerning the fingerprinting requirements. The panel includes information that all owners must be fingerprinted within 30 days of submitting the enrollment application. Failure to submit fingerprints within 30 days will cause the enrollment application to be denied.

Additionally, DCH may designate any provider, including individual practitioners, as high risk based on significant risk to the Medicaid program.

## **2. When will DCH implement the fingerprinting process?**

May 1, 2016. Owners of Community Mental Health Centers, DME, HHA and Orthotics will be required to be fingerprinted at initial enrollment, re-enrollment and revalidation of enrollment.

## **3. What is 3M Cogent/GAPS?**

The Georgia Bureau of Investigation (GBI) awarded 3M Cogent the contract to provide electronic fingerprint submission services for applicants in the State of Georgia. The fingerprint service, Georgia Applicant Processing Services (GAPS), will eliminate the need for individuals to submit hardcopy fingerprint cards.

3M Cogent provides fixed office locations throughout the State, so Georgia residents will not have to travel more than 25 miles to a GAPS office. In addition, 3M Cogent plans to have mobile units available for businesses to contract for the fingerprinting of large groups. Mobile operations will be at an additional cost to the requesting business.

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Search results of the fingerprint background check should be available for DCH to retrieve from the GAPS website **within 24 to 48 hours** after the applicant is fingerprinted and the transaction submitted to GCIC for processing.

Electronic submission of fingerprint images will involve the use of a 3M Cogent live scan machine. The live scan is, essentially, a sophisticated scanner and personal computer that captures fingerprint images and demographic data and submits this information to GBI and the FBI. GBI and the FBI conducts a search of its criminal history records using the fingerprint images. Notifications of the search results are then forwarded to 3M Cogent were these results are then electronically disseminated to DCH.

#### **4. What is the cost of fingerprinting and how do I pay?**

The cost of fingerprinting for a State and National check per individual is currently \$51.00. You must pay the fee online through the 3M Cogent/GAPS website at the time you are completing the fingerprint registration form. You may also setup a billing account with 3M Cogent in which they will invoice the facility for the costs of fingerprinting.

#### **5. How do I get an Agency ID or GAC (Georgia Applicant Code) number and then register for fingerprinting?**

First time users to 3M Cogent's website must first obtain an Agency ID number before they register owners for fingerprinting. Instructional guides on how to first obtain a GAP number can be found at: <https://www.mmis.georgia.gov>. Click on Provider Information. There are two fingerprinting instructional guides that will help you navigate on how to obtain your Agency ID number as well as registering applicants for fingerprinting. If you already have an Agency ID (or OAC or GAP) number, then you may skip this step in the process.

#### **6. How will DCH conduct the background checks?**

Within 24-48 hours after an applicant has been fingerprinted, DCH will receive the Georgia and National fingerprints through the 3M Cogent/GAPS website. DCH will review the criminal history and make a determination as to the owner's [or provider] suitability for enrollment. Within two business days of reviewing the criminal history results. DCH will prepare a satisfactory fitness determination letter and either mail or email it to the facility.

DCH will not approve a facility for enrollment until the owner(s) have been fingerprinted and DCH has issued a satisfactory fitness determination.

#### **7. What are the disqualifying crimes that would prevent an owner from having their facility becoming enrolled as a Georgia Medicaid/PeachCare for Kids provider?**

The GBI requires that the applicant be allowed to dispute any adverse findings. In cases in which an applicant has a disqualifying crime or there is a missing disposition(s), DCH will send a letter to the owner requesting they provide court documentation to DCH within 15 days should they want to dispute the charge(s)/disposition. If no documentation is received, DCH will issue an unsatisfactory fitness determination.

Part I, Section 404(J), of the Medicaid/PeachCare for Kids manual states,

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“Any criminal conviction (as defined in the Definitions section of this Manual) or admission in a court of law, Composite State Board of Medical Examiners proceeding, criminal investigation or administrative proceeding relating to:

1. The provision of services under Medicare, Medicaid/PeachCare for Kids or other health insurance program.
2. Neglect or abuse of a patient.
3. Unlawful manufacture, sale, possession, distribution, prescription or dispensing of a controlled substance or the conspiracy or attempt thereof.
4. Any sexual offense perpetrated against a child or a patient or the attempt or conspiracy thereof.
5. Fraud, theft, embezzlement, breach of fiduciary responsibility, other financial misconduct or the attempt or conspiracy thereof.”

## **9. Is there an appeal process?**

There are two different types of appeals. If you believe your criminal history is inaccurate or incorrect, you would appeal those directly to the GBI and/or FBI. If you are denied enrollment based on your criminal history, you will be sent a denial letter from DCH containing information on the appeal process.

## **10. Once I am fingerprinted, how long will it take DCH to make a determination?**

As mentioned previously, within 24-48 hours after the owner [or provider] has been fingerprinted, DCH will receive the Georgia and FBI fingerprints through the 3M Cogent/GAPS website. DCH will review the criminal history and make a determination as to the owner's suitability for enrollment. Within two business days of reviewing the criminal history results, DCH will prepare a satisfactory fitness determination letter and either mail or email it to the owner.

## **11. My durable medical equipment company is located in Texas. Do I have to come to Georgia to be fingerprinted?**

No. You can elect to submit hard copy fingerprint cards to 3M Cogent in lieu of coming to Georgia. Follow the instructional guidelines for obtaining your Agency ID number and submission of hard copy fingerprint cards by visiting the GAMMIS website at:

<https://www.mmis.georgia.gov>. Click on Provider Information/FAQ for Providers.

## **12. Where may I obtain more information about the fingerprinting process?**

Contact Nichole Thompson, Director of DCH Provider Enrollment, at 404-651-5191 or by email at [nthompson1@dch.ga.gov](mailto:nthompson1@dch.ga.gov).