

Area Agency on Aging 1-B
Debarment, Suspension, Exclusion, Disqualification
&
Background Check Guidance
Care Management, Community Living Program,
MI Choice, MI Health Link & VA Program

Debarment, Suspension, Exclusion, or Disqualification

- Monthly, vendors must conduct or cause to be conducted, for each employee, subcontractor, subcontractor employee, owner, board member, and volunteer, a review of debarment status in the following databases:
 - OIG List of Excluded Individuals <https://exclusions.oig.hhs.gov/>
 - System for Award Management (SAM) <https://sam.gov/content/home>
 - MDHHS Sanctioned Provider List <https://www.michigan.gov/mdhhs/doing-business/providers/providers/billingreimbursement/list-of-sanctioned-providers>
- For new employees, owners, board members, and volunteers, the above enumerated data bases must be reviewed prior to hire.

Criminal Background Screening

- Vendors must conduct, or cause to be conducted, criminal background checks in the following databases:
 - ICHAT: <https://apps.michigan.gov/>
 - Michigan Public Sex Offender Registry: <https://mepsor.com/>
 - National Sex Offender Registry: <https://www.nsopw.gov/>
- Criminal background checks for new hires and volunteers must be completed prior to the individual working directly with participants or having access to a participant's personal property or participant protected health information or personally identifiable information.
- Minimally, vendors are required to conduct or cause to be conducted criminal background checks that must be completed no later than 30 days after every third anniversary of the date of hire/volunteer.
- Vendors are required to conduct or cause to be conducted a Central Registry (CR) check for new employee, employee, subcontractor, subcontractor employee, or volunteer who works directly with children.
- Vendor is responsible for repayment of funds for any employee, volunteer, or other vendor agent convicted of a crime that provided services in contradiction with this requirement. Vendors are to maintain a policy that requires disclosure of any criminal conviction, pending felony charges or placement on the Central Registry as a perpetrator within 10 days. It is recommended that background checks are run at least annually to ensure compliance with these standards.

Excluding Convictions

No Vendor workforce member, including volunteers, are permitted to work directly with participants if the workforce member's background check identifies an excludable conviction. Review this document carefully as are changes to the exclusion requirements promulgated by the State of Michigan. See MDHHS Medicaid Provider Manual, General Information for Providers Chapter, Section 6.

Mandatory Exclusions:

1. Federal or state **felony conviction** related to one or more of the following crimes:
 - a. Crimes against a "vulnerable adult" as set forth in chapter XXA of the Michigan penal code, 1937 PA 382, MCL 750.145m to 750.145r.
 - b. Violent crimes including, but not limited to, murder, manslaughter, kidnapping, arson, assault (or threat thereof), battery (or threat thereof), and domestic violence.
 - c. Financial crimes including, but not limited to, fraud, forgery, counterfeiting, embezzlement, and tax evasion.
 - d. Sex crimes including, but not limited to, rape, sexual abuse, criminal sexual conduct, or prostitution.
 - e. Cruelty or torture.
 - f. Abuse or neglect.
 - g. Felony involving the use of a firearm or dangerous weapon.
 - h. Result in death or serious impairment of body function.
 - i. Involve the intent to cause death or serious impairment of body function.
2. **Any Criminal Convictions** related to the delivery of an item or service under Medicare (Title XVII), Medicaid (Title XIX) or other state health care programs (e.g. Children's Special Health Care Services, Healthy Kids), (Title V, Title XX and Title XXI).
3. **Convicted of a relevant crime described under 42 USC (1320a-7(a) (federal or state):**
 - a. Conviction of program related crimes.
 - b. Conviction under federal or state law of a criminal offense relating to patient neglect or abuse in connection with the delivery of a health care item or service
 - c. Felony conviction relating to health care fraud.
 - d. Conviction relating to the unlawful manufacture, distribution, prescription or dispensing of a controlled substance.
4. **Any Criminal Convictions** under federal or state law, directly or indirectly relating to neglect or abuse of patients in connection with a delivery of a health care item or service.
5. **Felony Convictions occurring after August 21, 1996**, under federal or state law, related to unlawful manufacture, distribution, prescription, or dispensing of a controlled substance.
6. Any individual or entity on the MDHHS Sanctioned Provider List.
7. Any individual or entity that is excluded from participating in a provider capacity in Medicare, Medicaid or any other Federal health care programs.

8. **Conviction for violating the Medicaid False Claims Act, the Health Care False Claims Act, a substantially similar statute, or a similar statute by another state or the federal government.**

Felony Conviction:

1. The results of the criminal background check identifies that the person has **any federal or state felony conviction** in the preceding 10 years from the date of the background check, including but not limited to:
 - a. Crimes involving state, federal or local government assistance programs.
 - b. Theft crimes including, but not limited to, larceny, burglary, robbery, extortions, false pretenses, false representation, retail fraud and conversion.
 - c. Drug crimes including, but not limited to, possession.
 - d. Any felony that placed the Medicaid program or its beneficiaries at immediate risk, such as a malpractice suit that results in a conviction of criminal neglect or misconduct.

Misdemeanor Conviction:

1. The results of a criminal background check identifies that the person has **any federal or state misdemeanor conviction** within the preceding 5 years from the date of the background check, including but not limited to:
 - a. Crimes involving state, federal, or local government assistance programs.
 - b. Crimes against a “vulnerable adult” as set forth in chapter XXA of the Michigan Penal code, 1931 PA 328, MCL 750.145m to 750.145r.
 - c. Financial crimes including, but not limited to, extortion, fraud, forgery, counterfeiting, embezzlement, and tax evasion.
 - d. Theft crimes including, but not limited to, larceny, burglary, robbery, extortion, false pretenses, false representation, retail fraud and conversion.
 - e. Sex crimes including, but not limited to, rape, sexual abuse, criminal sexual conduct, and prostitution.
 - f. Drug crimes including, but not limited to, possession, delivery, and manufacturing.
 - g. Cruelty or torture.
 - h. Abuse or neglect.
 - i. Home invasion.
 - j. Assault or battery.
 - k. Misdemeanor involving the use of a firearm, dangerous weapon with the intent to injury, the use of a firearm or dangerous weapon that results in a personal injury, or a misdemeanor involving the use of force or violence or the threat of the use of force or violence.
 - l. Any misdemeanor crime listed as a permissive exclusion in 42 USC 1320a-7(b).
 - m. Any misdemeanor that placed the Medicaid program or its beneficiaries at immediate risk, such as malpractice suit that results in a conviction of criminal neglect or misconduct.

If any individual has an Excludable Conviction, that individual will be prohibited from participating as a service provider for Medicaid and all other programs facilitated by AAA 1-B.

A Criminal Conviction means any one or more of the following:

- a. Judgment of conviction has been entered against the individual or entity by a federal, state, tribal, or local court, regardless of whether there is an appeal pending or whether the judgment of conviction or other record relating to criminal conduct has been expunged.
- b. A finding of guilt against the individual or entity by a federal, state, tribal or local court.
- c. A plea of guilty or nolo contendere by the individual or entity has been accepted by a federal, state, tribal or local court.
- d. An individual or entity that has entered into participation in a first offender, deferred adjunction, or other arrangement or program where judgment of conviction has been withheld.
- e. For criminal offenses that fall under the mandatory exclusions of 42 USC 1320a -7(a), the definition of conviction will conform with 42 USC 1320a – 7(i), which may include, but is not limited to, a record relating to criminal conduct that has been expunged.

In the event that a vendor, including its employees, is indicted or otherwise criminally charged by a government entity (federal, state, or local) with commission of any Excludable Conviction, Vendor will promptly notify AAA 1-B.

A Note on Background Checks and State of Michigan Court Rules

The Michigan Supreme Court approved revisions of Court rules to protect Personally Identifiable Information (PII). PII is defined as date of birth, Social Security number, driver's license number, passport number, or financial information. The Michigan Supreme Court published for comment and then adopted various rule revisions that prohibit filers from including PII on court forms.

On June 30, 2021, the Michigan Supreme Court issued an order that delays implementation of their rule which would make dates of birth unavailable. The implementation date has been changed from July 1, 2021, until January 1, 2022. At this point no additional guidance can be given but AAA 1-B will communicate any additional information it may receive.