POLICY TITLE:	CRIMINAL HISTORY CHECKS	POLICY # 9.11	REVIEW DATES	
Topic Area:	Corporate Compliance	**ISSUED BY:** Chief Operations Officer	8/18/16	7/22/22
Applies to:	LRE Board Members, LRE Staff, Member CMHSPs, Network Providers		7/21/23	7/1/2024
			6/7/25	7/20/26
Developed and Maintained by:	Chief Operations Officer	**APPROVED BY:** Chief Executive Officer		
Supersedes:	N/A	**Effective Date:** August 18, 2016	**Revised Date:** 7/1/2025	

I. PURPOSE

To comply with federal and state mandates to assure that access to and services performed for consumers are provided by individuals who are permitted by law and are qualified to perform the services.

II. POLICY

Lakeshore Regional Entity (LRE), Member Community Mental Health Service Providers (CMHSP), and Network Providers will conduct criminal history checks prior to hire, contracting, and/or service. LRE, Member CMHSPs, and Network Providers will not employ, independently contract with, or grant clinical privileges to individuals with criminal histories meeting criteria listed in this policy if the individual will regularly have direct access to or provide direct services to consumers, and the individual is prohibited by law from having the access or performing the services due to a criminal conviction. Criminal history checks will occur prior to hire or contract initiation, and minimally every two years thereafter.

LRE, its member CMHSPs, and contracted providers will not employ, contract with, authorize services for, reimburse services for, or seek reimbursement for services delivered, prescribed, or ordered by any individual if:

1. The individual has received a criminal history check that indicates a mandatory disqualifying conviction listed in Subdivision (1) in the table below (42 USC 1320a-7a, Michigan Medicaid Provider Manual Section 6 Denial of Enrollment, Termination and Suspension).
2. The individual has been the subject of a substantiated finding as described in Subdivision (8) in the table below;
3. The individual has direct access, or provides direct services, to consumers in a prescribed setting (inpatient psychiatric, specialized residential) and the individual has received a criminal history check indicating a time-limited disqualifying conviction for which the time limitation has not yet been satisfied (listed in Subdivisions 2-7 in the table below) (MCL 20173a, MCL 330.1134a, MCL 400724b);

4. The individual is being considered or is currently employed as a Behavior Technician and the criminal history check reveals any criminal conviction for the individual (MCL 333.18263(1)(a)).
5. If an employee or non-employee agent or Subcontractor/Network Provider is found to be ineligible, LRE will remove/require removal of the employee from direct responsibility for, or involvement with, the Medicaid program, or for the termination of the Subcontract/Network Provider, as appropriate.

A. **Background Checks**
   1. **Specialized Residential and Psychiatric Inpatient settings:** Inpatient psychiatric facilities and licensed adult foster care homes shall follow Michigan Department of Health and Human Services (MDHHS) Michigan Workforce Background Check procedures for obtaining criminal background checks and fingerprints (MCL 2333.20173a; MCL 330.1134a; MCL 400.734b). The Workforce Background Check system alerts employers to ongoing criminal activity, so biannual re-checks of criminal history status are not necessary.
   2. **LRE and all other settings**: Entities shall ensure its background checks are completed by an organization, service, or agency that specializes in gathering the appropriate information to review the complete history of an individual. Use of the state of Michigan Offender Tracking Information System (OTIS) or a county level service that provides information on individuals involved with the court system are not appropriate resources to use for criminal background checks.
      a. Entities shall secure written consent from individuals who apply for employment, contracting or volunteering, at the time of application, for the entity to conduct a criminal history check.
      b. Background check documentation shall be maintained in the employee record and shall include the following (which shall be updated every two years for those individuals having direct access or providing services to customers):
         i. OIG exclusion verifications to ensure no mandatory disqualifying convictions from 42 USC 1320a-7(a), or other exclusions.
         ii. Queries for state offenses committed in the state of Michigan.
         iii. If the individual has resided in any other state in the 5 years prior to application, or since age 16, whichever is less, queries of those states' criminal background systems (required for initial background check only, unless the individual resides part-time in another state).
         iv. A statement signed by the individual that indicates that he or she has not been the subject of a substantiated finding as described in Subdivision (8) of the table below.

B. **Reporting**
   1. **LRE INTERNAL:** All employees, directors, managers, and individuals with any other type of employment or consulting arrangement with LRE are required to

report the following to LRE Human Resources designee within five (5) days of conviction or assessment imposition:

a. Any criminal conviction, felony or misdemeanor; and/or
b. The imposition of civil money penalties or assessments imposed under section 1128 A of the Social Security Act.

2. **EXTERNAL:** Criminal conviction results are to be disclosed to LRE by Member CMHSPs and Network Providers with regard to those offenses as detailed in sections 1128(a) and 1128(b)(1), (2), or (3) of the Social Security Act, or that have had civil money penalties or assessments imposed under section 1128A of the Act.
3. **MDHHS:** LRE will notify the MDHHS Behavioral Health and Developmental Disabilities Administration (BHDDA) Division of Program Development, Consultation and Contracts when disclosures are made by providers with regard to any offenses detailed in sections 1128(a) and 1128(b) (1), (2) or (3) of the Social Security Act, or that have had civil money penalties or assessments imposed under section 1128A of the Act.

C. **Compliance**

Although criminal background checks are required, it is not intended to imply that a criminal record will necessarily bar employment. The verification of these checks and justification for the decisions that are made should be documented in the employee personnel or interview file. Decisions must be consistent with state and federal rules and regulations regarding individuals with a criminal history.

D. **Mandatory and Time-Limited Disqualifications**

The tables below identify disqualifications for participation in a provider capacity in Medicare, Medicaid or any other Federal health care programs.

The following table applies to **LRE Staff, Member CMHSPs, and Network Providers**:

Disqualifications related to the Social Security Act, subsections 1128(a), 1128(b)(1), (2), and (3); 1128A; Title V, XX, XXI, XVII, and XIX; MCL 333.18263; 42 USC 1320a – 7(a); Medicaid Provider Manual (General Information for Providers: Section 6 – Denial of Enrollment, Termination and Suspension)
Mandatory Disqualifications Persons with the following convictions are Excluded from participating in Medicare and State health care programs
1. Any criminal convictions related to the delivery of an item or service under Medicare (Title XVIII), 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).
2. Any criminal convictions under federal or state law, relating to neglect or abuse of patients in connection with the delivery of a health care item or service.

3. Felony convictions occurring after August 21, 1996, relating to an offense, under federal or state law, in connection with the delivery of health care items or services or with respect to any act or omission in a health care program (other than those included in number 1 above) operated by or financed in whole or in part by any federal, state, or local government agency, of a criminal offense consisting of a felony relating to fraud, theft, embezzlement, breach of fiduciary responsibility, or other financial misconduct.
4. Felony convictions occurring after August 21, 1996, under federal or state law, related to unlawful manufacture, distribution, prescription, or dispensing of a controlled substance.
5. The provider is convicted of 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.
6. The provider is excluded from participating in a provider capacity in Medicare, Medicaid or any other Federal health care programs.
7. Termination on or after January 1, 2011 under Medicare or the Medicaid program, or the Children's Health Insurance Program (CHIP) of any other state.
Disqualifications related to the Medicaid Provider Manual (General Information for Providers: Section 6 – Denial of Enrollment, Termination and Suspension)
Time-Limited Disqualifications **Time Requirement*: 10 Years** **The provider has a federal or state felony conviction within the preceding 10 years of their provider enrollment application, including but not limited to, any criminal offense related to:**
1. Murder, rape, abuse or neglect, assault, or other similar crimes against persons
2. Extortion, embezzlement, income tax evasion, insurance fraud, and other similar financial crimes
3. The use of firearms or dangerous weapons
4. 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.
Disqualifications related to the Medicaid Provider Manual (General Information for Providers: Section 6 – Denial of Enrollment, Termination and Suspension)
Time-Limited Disqualifications **Time Requirement*: 5 Years** **The provider has a federal or state misdemeanor conviction within the preceding five years oftheir provider enrollment application, including but not limited to, any criminal offense related to:**
1. Any misdemeanor crime listed as a permissive exclusion in 42 USC 1320a-7(b);
2. Rape, abuse or neglect, assault, or other similar crimes against persons;
3. Extortion, embezzlement, income tax evasion, insurance fraud, or other similar financial crimes;
4. Any misdemeanor 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.

The following tables apply to staff working in a **Specialized Residential Setting** (adult foster care homes). That includes an individual that has direct access, or provides direct services, to program participants in a prescribed setting and the individual has received a criminal history screening indicating a time-limited disqualifying conviction for which the time limitation has not yet been satisfied.

Disqualifications related to MCL 333.20173a, MCL 330.1134a and MCL 400.734b
Time-Limited Disqualifications **Time Requirement*: 15 years**
1. A felony that involves the intent to cause death or serious impairment of a body function, that results in death or serious impairment of a body function, that involves the use of force or violence, or that involves the threat of the use of force or violence
2. A felony involving cruelty or torture.
3. A felony under chapter XXA of the Michigan penal code, 1931 PA 328, MCL 750.145m to 750.145r (Vulnerable Adults chapter). https://www.legislature.mi.gov/(S(sigap145p0xoam2bb0t0kxrp))/documents/mcl/pdf/mcl-328-1931-XXA.pdf
4. A felony involving criminal sexual conduct.
5. A felony involving abuse or neglect.
6. A felony involving the use of a firearm or dangerous weapon.
7. A felony involving the diversion or adulteration of a prescription drug or other medications.
Time-Limited Disqualifications **Time Requirement*: 10 years**
1. Convicted of a felony or attempt or conspiracy to commit felony, other than those described under the mandatory and the 15-year time limited disqualifications sections.
Time-Limited Disqualifications **Time Requirement*: 10 years**
1. A misdemeanor involving the use of a firearm or dangerous weapon with the intent to injure, 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.
2. A misdemeanor under chapter XXA of the Michigan penal code, 1931 PA 328, MCL 750.145m to 750.145r (Vulnerable Adults chapter).
3. A misdemeanor involving criminal sexual conduct.
4. A misdemeanor involving cruelty or torture unless otherwise provided under the 5-year time limited disqualification section.
5. A misdemeanor involving abuse or neglect.
Time-Limited Disqualifications **Time Requirement*: 5 years**
1. A misdemeanor involving cruelty if committed by an individual who is less than 16 years of age.

2. A misdemeanor involving home invasion.
3. A misdemeanor involving embezzlement.
4. A misdemeanor involving negligent homicide or a violations of section 601d (10 of the Michigan vehicle code, 1949 PA 300, MCL 257.601d.
5. A misdemeanor involving larceny unless otherwise provided under the 1-year time limited disqualification section.
6. A misdemeanor of retail fraud in the second degree unless otherwise provided in the 1-year time limited disqualification section.
7. Any other misdemeanor involving assault, fraud, theft, or the possession or delivery of a controlled substance unless otherwise provided in the 1, 3, and 10-year time limited disqualifications sections.
Time-Limited Disqualifications **Time Requirement *: 3 years**
1. A misdemeanor for assault if there was no use of a firearm or dangerous weapon and no intent to commit murder or inflict great bodily injury.
2. A misdemeanor of retail fraud in the third degree unless otherwise provided under the 1-year time limited disqualification section.
3. A misdemeanor under part 74 (MCL 333.74- offenses related to controlled substances) unless otherwise provided under the 1-year time limited disqualification section.
Time-Limited Disqualifications **Time Requirement*: 1 year**
1. A misdemeanor under part 74 (MCL 333.74 – offenses related to controlled substances) if the individual, at the time of conviction, is under the age of 18.
2. A misdemeanor for larceny of retail fraud in the second or third degree if the individual, at the time of the conviction, is under the age of 16.
3. A misdemeanor under part 74 (MCL 333.74- offenses related to controlled substances) unless otherwise provided under the 1-year time limited disqualification section.
Time-Limited Disqualifications **Time Requirement*: 1 year**
1. A misdemeanor under part 74 (MCL 333.74 – offenses related to controlled substances) if the individual, at the time of conviction, is under the age of 18.
2. A misdemeanor for larceny of retail fraud in the second or third degree if the individual, at the time of the conviction, is under the age of 16.

* Time requirement means the time required for completing all terms and conditions of sentencing, parole, and probation for the conviction prior to the date of application for employment or clinical privileges

III. APPLICABILITY AND RESPONSIBILITY

This policy applies to LRE Staff, Member CMHSPs, and Network Providers.

IV. MONITORING AND REVIEW

The LRE CEO, or designee, will review this policy on an annual basis.

V. DEFINITIONS

Conviction: For the purpose of the laws mentioned above, an individual or entity is considered to have been convicted of a criminal offense when:

1. A judgment of conviction has been entered against the individual or entity by a federal, state or local court, regardless of whether there is an appeal pending or whether judgment of conviction or other record relating to the criminal conduct has been expunged,
2. A finding of guilt against the individual or entity by a federal, state or local court,
3. A plea of guilty or nolo contendere by the individual or entity has been accepted by a federal, state, or local court or
4. An individual or entity that has entered into participation in a first offender, deferred adjudication, or other arrangement or program where judgment of conviction has been withheld.

Direct Access: Access to a consumer or a consumer's property, financial information, medical records, treatment information, or any other identifying information.

Employee/Staff: An individual who is directly engaged by LRE, a member CMHSP or network provider including employees, contractors, volunteers, interns, and any other staff.

Member CMSHPs: A Community Mental Health Service Program within the Lakeshore Regional Entity (The ENTITY is a seven-county region for whom the ENTITY is the acting PIHP).

Network Provider: Any provider, group of providers, or entity that has a provider agreement with Member that receives Medicaid funding directly or indirectly to order, refer or render covered services as a result. A network provider is not a subcontractor by virtue of the network provider agreement, unless the network provider is responsible for services other than those that could be covered in a network provider agreement related to the delivery, ordering, or referring of covered services to a beneficiary.

VI. RELATED POLICIES AND PROCEDURES

- LRE Compliance Policy and Procedures
- LRE Corporate Compliance Plan
- LRE Human Resource Policy and Procedures

VII. REFERENCES/LEGAL AUTHORITY

- 42 U.S.C. 1320a-7
- 42 U.S.C. 1320a-7a
- 42 U.S.C. 1320a-7b
- MCL 333.1134a
- MCL 400.734b
- MCL 333.20173a
- MCL 333.18263

- 42 CFR 441.570
- MDHHS-PIHP Contract
- Michigan Medicaid Provider Manual, Section 6, Denial of Enrollment, Termination and Suspension

I. **CHANGE LOG**

Date of Change	**Description of Change**	**Responsible Party**
06/26/2014	New Policy	Chief Compliance Officer
7/22/2022	Annual Policy Update	Chief Compliance Officer
7/22/2023	Annual Policy Update	CEO and Designee
6/7/2025	Added definitions, updated Monitoring and Review and legal citations	Compliance Officer
7/20/2026	Annual review	Compliance Officer