

DEPARTMENT OF HUMAN SERVICES
MED-QUEST DIVISION

PROCEDURES FOR PROCESSING EXEMPTION REQUESTS
FROM THE
CRIMINAL HISTORY RECORD AND BACKGROUND CHECK
STANDARDS

The individual requesting an exemption shall forward the following documents to the DHS designee for consideration:

1. Requests for exemptions shall be made in writing by using form DHS 1200, “Request for Exemption (Criminal History Record and Background Check Standards)” within thirty (30) days of applicant’s receipt of fitness determination. The individual seeking the exemption must complete the DHS 1200. A copy of the individual’s current results of a name inquiry into the State criminal history records check must accompany the request, if applicable. Fingerprint and registry check results for MQD providers should already be on file with the DHS designee.
2. The “Checklist for Exemption Request” may be used as a reminder of the documents to be submitted for EACH exemption request. All documents shall be submitted to the DHS designee.
3. Unless an individual is self-employed, the employer agency must be involved in the exemption process to assure the timely submittal of all required documents and appropriateness of the exemption request. Requests for exemptions shall be routed through the prospective employer agency prior to submittal to the designee.
4. All documents shall be submitted to the DHS designee. Upon receipt of the complete written exemption request and other required documents listed on the “Checklist for Exemption Request”, the DHS designee shall convene a panel consisting of three (3) professional level multi-disciplinary team members to review the request. The panel shall include individuals in at least two different professions with backgrounds in criminal justice, legal and/or the therapeutic mental health field.
5. If the request for an exemption is incomplete, inform the employing agency of the individual requesting an exemption or the self-employed individual of the specific information that needs to be forwarded to the DHS designee. Inform the employing agency or the self-employed individual that NO action on the request for an exemption will be taken until ALL required documents are received by the DHS designee.

If the required documents are not received by the DHS designee within twenty-one (21) calendar days of mailing the request for information, the entire packet shall be returned to the employing agency or the self-employed individual with a letter of explanation that required documents are missing and that no action will be taken on the exemption request.

6. The exemption panel shall consider the following:
 1. The relevancy of the individual's conviction record to the qualifications, functions and duties of the direct service provider position the individual wishes to fill;
 2. Passage of time since the crime was committed; and
 3. Any evidence of rehabilitation, such as letters from counselors or therapists attesting to a sustained improvement in the individual's behavior, character references, and activities since conviction, such as employment.
 4. Examples:
 - Consider as Proof of Rehabilitation documents showing **completion** of treatment in a licensed and/or accredited facility or an out-patient treatment program and/or a letter from a licensed or accredited rehabilitation counselor.
 - A certificate of discharge from an out-patient treatment program would be considered Proof of Rehabilitation. A letter from a relative or friend stating that the individual has quit drinking or using drugs would not be Proof of Rehabilitation.
 - Consider as a Professional Reference a positive testimonial from a professional counselor or clergy person with whom the applicant has a professional therapeutic working relationship. Having a personal relationship with the professional counselor or clergy person is not sufficient to be considered as a Professional Reference.
 - A letter from individual's mental health counselor from whom the individual received treatment or a pastor from whom the individual received or is receiving on-going guidance would be considered a professional reference. A letter from the individual's friend would not be considered a professional reference.
6. A single factor may not be evidence of rehabilitation. If necessary, the panel shall request additional information from the individual seeking the exemption.

7. For Driving Under the Influence (DUI), an exemption shall be granted only when the applicant does not drive Medicaid beneficiaries as part of their employment responsibilities.
8. Individuals requesting exemptions shall be informed in writing of the panel's decision within 45 calendar days from the date the panel receives all documents needed for a decision to be made. The panel may extend the 45-day period with cause and a written explanation to the individual seeking the exemption.
8. An exemption may be granted with specified restrictions. For example, someone with a conviction of driving under the influence may be granted an exemption with the condition that they are not allowed at any time to drive clients.
9. Retain a copy of all documents (except for criminal history or registry check results) related to the exemption request for one (1) year. Documents shall be readily accessible to the Department should copies need to be requested.
10. Individuals who are dissatisfied with the panel decisions on their exemption requests may appeal the panel's decision to the Med-QUEST Division within thirty (30) days of receipt of exemption results.