



Question: What information does the Department of Human Services (DHS) review when conducting a background study?

Answer:

- Criminal conviction records maintained by the Bureau of Criminal Apprehension. Generally, these records include felonies, gross misdemeanors and misdemeanors.
- Records of substantiated maltreatment of vulnerable adults and minors, including:
 - All substantiated perpetrators from DHS investigations
 - All substantiated perpetrators from investigations that resulted in negative licensing actions against family day care providers, family foster care providers and adult foster care providers
 - All substantiated perpetrators in the same facilities who were disqualified by the county and who asked for reconsideration of their disqualification
 - All substantiated perpetrators of maltreatment reported to DHS from the counties and the Department of Health (MDH).
- When DHS has reasonable cause to believe there is additional information, the study may be expanded to include records from police departments, courts, other states and the FBI.

Question: Who needs a DHS background study?

Answer:

- Employees and contractors providing direct contact services in facilities licensed by DHS, MDH, programs serving youth and children licensed by the Department of Corrections (DOC) and non-licensed Personal Care Provider Organizations (PCPO)
- All employees of MDH-licensed nursing homes and boarding care homes. If the employee is disqualified, s/he may not provide direct contact services or have access to residents or patients, or their personal belongings
- Volunteers in licensed facilities IF they are providing direct contact services AND they will not always be within sight or hearing of a staff person
- People who are placed in licensed facilities to provide direct contact services by educational programs, temporary personnel agencies professional service agencies and supplemental nursing services agencies
- People applying for a license
- Owners and managerial officials of home care agencies and PCPOs.

Question: What does "direct contact" mean?

Answer: "Direct contact" means providing face-to-face care, training, supervision, counseling, consultation or medication assistance to the people being served by the facility.

Question: When must a study be initiated?

Answer: A background study must be initiated by the facility **BEFORE** a person begins providing direct contact services, or for nursing homes and boarding care homes, **BEFORE** a person has access to clients or residents or their belongings.

Question: How often must a study be initiated?

Answer:

- Employees and contractors must be studied at the time of hire. A study should not be repeated UNLESS there is a break in the person's affiliation with the facility. EXAMPLES:
- If a person quits and then is rehired, a new study must be done.
- If a person is employed on an intermittent basis, such as a college student working during breaks, a new study must be done whenever that person returns to work.
- If a person is continuously affiliated with a facility as a substitute staff, NO NEW STUDY is required.
- If a program discontinues operations for a period of time (for example, during the summer), a new study must be submitted for all returning employees when the program operation resumes.
- Students from educational programs and employees of temporary personnel agencies, professional service agencies and supplemental nursing services agencies **must have a study every year.**

Note: When students from education programs and employees of temporary agencies provide direct contact services in licensed programs, the license holder must obtain a copy of the background study notice for the individual before the individual provides direct contact services. A copy of the individual's background study notice must be maintained in the license holder's files. If the background study notice is more than one year old, the background study notice is not valid, and the program must initiate a new background study on the student or the employee from the temporary agency.

Question: If a person commits a crime after they've passed the background study, how will DHS know if they should be disqualified?

Answer: When a person is convicted of a disqualifying crime and they are working in a facility that requires a DHS background study, that person's probation officer will report the crime to DHS. DHS will then disqualify that individual by the same process used when a background study form is received on a new employee.

In addition, if an employer has information about an employee that could lead to disqualification, they must report that information to DHS for further investigation.

Question: Does a person who works in more than one facility that is owned by the same license holder need a separate study done for each facility?

Answer: Only one background study is required for individuals who provide direct contact services in multiple facilities owned by the same license holder, or for individuals who transfer from one site to another site owned by the same license holder, IF BOTH OF THE FOLLOWING CONDITIONS ARE MET:

- The license holder maintains all background study results at a central location. DHS encourages license holders to send a copy of the background study notification from DHS to the actual facility where the person is working.
- The license holder designates one person with one address and one telephone number as the background study contact person (person designated to receive sensitive information) for all their licensed facilities. If any information on that contact person changes, the license holder must submit the updated information to the Division of Licensing, Background Studies Unit, immediately.

Unless both of the above conditions are met, the license holder must initiate separate background studies for each facility where the individual is providing direct contact services.

Note: If a license holder has more than one licensed program and submits background studies under a single license and that license is subsequently closed, the license holder must submit new background studies under an active license. All staff persons who had background studies previously submitted under the closed license who transfer to other locations owned by the license holder must have new studies submitted under an active license.

Question: What causes a person to be disqualified?

Answer:

- A person can be disqualified if s/he is substantiated as a perpetrator of serious and/or recurring maltreatment of a vulnerable adult or a minor; and/or
- A person can be disqualified if s/he is convicted of, admits to or there is a preponderance of evidence that s/he committed certain crimes. A list of disqualifying crimes or conduct can be found in [Minnesota Statutes, Section 245C.15](#).

Question: What happens when a person is disqualified?

Answer: When a background study subject receives a notice of disqualification, s/he is also informed of how to request reconsideration of the disqualification. If the person does submit a reconsideration request, it will be reviewed to determine whether the information used to disqualify the person was correct and/or whether the person has demonstrated that s/he does not pose a risk of harm to the persons being served by the facility that submitted the background study.

If the study was submitted by a DHS-licensed facility or a PCPO, DHS will do the review and make the determination whether or not the person's disqualification should be "set aside" for working in that facility; if the study was submitted by a DOC or MDH program, those agencies will do the review and make the determination.

If the disqualification is "set aside" the facility may allow the person to work. If the disqualification is "not set aside" or if the person does not request reconsideration of the

disqualification within the required time, the person and the facility will be notified that the person has to be removed from any direct contact position (and a position allowing access if working in a nursing home or boarding care home).

Question: What is a "yellow mailer"?

Answer: A yellow mailer is sent to acknowledge that DHS received the background study form and that more time is needed to complete the study. The person may continue to provide direct contact services while the study is being completed. DHS will follow up by sending either a clearance or further correspondence to both the facility and the study subject.

Question: What is a "blue mailer"?

Answer: A blue mailer (Background Study Clearance) is sent to acknowledge that the study subject may provide direct contact services (and have access if working in a nursing home or boarding care home) for the facility that submitted the study.