

EOHHS CORI Guidance
Applicability of CORI Regulations at 101 CMR 15.00 to Certain
Types of Vendor Programs
February 23, 2010

EOHHS and its agencies have received some inquiries regarding which types of vendor programs are subject to the EOHHS CORI regulations at 101 CMR 15.00.

In general, the EOHHS CORI regulations apply to the hiring and review of criminal records of candidates for employment in vendor programs that are financed by EOHHS “purchase of service” contracts. Vendor programs subject to these regulations are defined in the regulations at 101 CMR 15.04, as follows:

A program, administered by an individual, corporation, partnership, organization, trust, association, or other entity, that provides services to EOHHS or EOHHS agency clients under a contract issued by EOHHS or an EOHHS agency in accordance with 808 CMR 1.00. An individual or entity will not be considered a vendor program solely because they participate as a MassHealth provider or are licensed by an EOHHS agency or receive a grant from EOHHS or an EOHHS agency.

Provider organizations often operate programs that are funded by multiple sources of revenue. While hiring authorities may choose to follow the EOHHS CORI regulations when hiring and reviewing criminal records of *all* candidates for employment, they are only *required* to follow the regulations at 101 CMR 15.00 in cases where the candidate will be providing services to EOHHS or an EOHHS agency clients under a “purchase of service” contract.

Also, regardless of whether a provider organization is subject to the EOHHS CORI regulations, they may be subject to other CORI-related legal requirements. Some of these requirements are discussed below.

The information provided below concerning specific scenarios is being provided in response to questions that EOHHS and its agencies have received. Any information provided by EOHHS is intended as guidance and not as legal advice.

Which of the following types of agencies would be considered covered by the new regulations?

A) Medicare/Medicaid certified home health agencies?

Answer: Home health agencies that participate in the MassHealth program are not subject to the EOHHS CORI regulations at 101 CMR 15.00 solely by virtue of their status as a MassHealth provider. See 101 CMR 15.03(3) and definition of “vendor program” at 101 CMR 15.04.

A home health agency would only be subject to the EOHHS CORI regulations if they hold a contract under 808 CMR 1.00 to provide services to EOHHS agency clients and are hiring employees who will work, or have the potential to work, under these contracts.

However, legal requirements other than EOHHS CORI regulations may apply to such organizations when they are hiring employees. For example, Massachusetts General Laws, chapter 6, section 172C requires that home health agencies “obtain all available criminal offender record information concerning any such individual from the criminal history systems board prior to employing such individual, accepting such individual as a volunteer or referring such individual for employment to an elderly or disabled person.” Also Department of Public Health (DPH) regulations governing Patient and Resident Abuse Prevention require home health agencies to obtain “all available criminal offender records information from the criminal history systems board of an application an applicant under final consider for a position that involves the provision of direct personal care or treatment to patients or residents.” 105 CMR 155.010(G)(3).

B) DPH-licensed Hospices?

***Answer:** Entities licensed by DPH, including DPH-licensed hospices, are not subject to the EOHHS CORI regulations at 101 CMR 15.00 solely by virtue of their status as a licensee. See 101 CMR 15.03(3) and definition of “vendor program” at 101 CMR 15.04. Further, such entities would not be subject to the EOHHS CORI regulations solely by virtue of their participation as a MassHealth provider. Like home health agencies, however, other legal requirements may exist for hospices, as noted above. For example, see Massachusetts General Laws, Chapter 6, section 173. Also see Department of Public Health regulations at 105 CMR 155.010(G)(3)..*

C) Home care agencies that provide homemaker/personal care aide services under the EOEA-funded home care program?

***Answer:** Yes. These agencies would be subject to 101 CMR 15.00 as they are vendor programs as defined at 101 CMR 15.04. Additionally, see EOEA Program Instruction 09-15 for more information regarding CORI requirements for service providers providing services pursuant to provider contracts with Aging Services Access Points.*

D) Private care agencies licensed by the Division of Occupational Safety as domestic service employment agencies?

***Answer:** Agencies that only provide services that are paid directly by the client are not subject to the EOHHS CORI regulations; however, such agencies would*

be subject to the EOHHS CORI regulations if they hold a contract with EOHHS or an EOHHS agency under 808 CMR 1.00 to provide services to EOHHS agency clients and are hiring employees who will work, or have the potential to work, under these contracts.

Notwithstanding the foregoing, vendor programs that are subject to the EOHHS CORI regulations and use the employment agency's services may place certain requirements upon the domestic service employment agency to ensure that the vendor program is in compliance with the EOHHS CORI regulations.

Like home health agencies, however, other legal requirements may exist for private care agencies, as noted above. For example, see Department of Public Health regulations at 105 CMR 155.010(G)(3).

- E) Temporary staffing agencies that provide nurses or therapists for placement in hospitals or skilled nursing facilities?

***Answer:** Such agencies would be subject to the EOHHS CORI regulations if they have a contract with EOHHS or an EOHHS agency under 808 CMR 1.00 to provide services to EOHHS agency clients and are hiring employees who will work, or have the potential to work, under these contracts.*