
Abuse and Neglect of Vulnerable Populations Widely Recognized: Mandatory National Background Checks for Direct Support Professionals Needed

In support of its voluntary national background checks program for states, the Centers for Medicare & Medicaid Services (CMS), noted that “long term care (LTC) patient abuse, neglect and misappropriation of funds have been identified as a widespread problem for millions of Americans receiving LTC services.”

<https://www.cms.gov/Medicare/Provider-Enrollment-and-Certification/SurveyCertificationGenInfo/BackgroundCheck.html>

Reports from federal agencies and news media have raised continuing serious concerns about the quality of LTC services.

In 2003, the Government Accountability Office report “Long Term Care: Federal Oversight of Growing Medicaid Home and Community-Based Waivers Should Be Strengthened”, found that *more than 70 percent of the programs it reviewed had problems with quality of care.* <https://www.gao.gov/new.items/d03576.pdf>

In 2012, a report entitled “General Oversight of Quality of Care in Medicaid Home and Community-Based Services Waiver Programs”, from the Department of Human Services, Office of Inspector General states that adequate systems to ensure quality of care are lacking in many states. <https://oig.hhs.gov/oei/reports/oei-02-08-00170.pdf>

In 2018, a joint report, “Ensuring Beneficiary Health and Safety in Group Homes Through State Implementation of Comprehensive Compliance Oversight”, issued by the U.S. Department of Health and Human Services, Office of Inspector General (OIG); Administration for Community Living (ACL); and Office for Civil Rights (OCR) states “OIG found that health and safety policies and procedures were not being followed. These are not isolated incidents but a systemic problem – 49 States had media reports of health and safety problems in group homes.”

<https://oig.hhs.gov/reports-and-publications/featured-topics/group-homes/group-homes-joint-report.pdf>

The opportunity for caregiver abuse has grown along with the numbers of individuals with intellectual and developmental disabilities (I/DD) receiving Medicaid home and community-based (HCBS) supports. According to the 2018 report “In-Home and Residential Long-Term Supports and Services for Persons with Intellectual or Developmental Disabilities: Status and Trends” nearly half of the 807,462 current Medicaid HCBS Waiver recipients with IDD receive supports from non-family caregivers. The report also states that between 1977 and 2016, the number of non-family IDD settings increased from 11,008 to 229,076 settings. <https://risp.umn.edu/>

Another report shows that abuse is widespread, including at the hands of caregivers. A 2016 report reviewing the Medicaid Personal Care Services program exposes fraud and abuse of elderly persons and persons with disabilities. <https://khn.org/news/seniors-suffer-amid-widespread-fraud-by-medicaid-caretakers/>

VOR is grateful to Congress for its past support of national background checks. The 2003 Medicare Modernization Act (Section 307) provided for a demonstration program, and the 2010 Affordable Care Act’s national background check grant program was even more robust.

The CMS voluntary national background check program for states is only as good as the number of states that receive grant money. Currently, only 26 states receive these funds.¹ An April 2019 report by the Office of Inspector General, U.S. Department of Health and Human Services, entitled “National Background Check Program for Long-Term-Care Providers: Assessment of State Programs Concluded 2017 and 2018” reviews the progress of these grants. <https://oig.hhs.gov/oei/reports/oei-07-18-00290.pdf>

Until every state participates, however, there are opportunities for “bad apples” to be employed or re-employed by other providers and continue working with vulnerable populations in non-participating states.

Building on the existing voluntary program and existing state law, a mandatory national background check program for all direct care workers of all Medicaid long-term care homes would help ensure consistent staffing expectations across all care settings and states, making residents living in LTC homes safer. The State of Ohio offers a good model for a state background program. https://www.vor.net/images/stories/2019-2020/Ohio_Background_Checks.pdf

¹ <https://www.cms.gov/Medicare/Provider-Enrollment-and-Certification/SurveyCertificationGenInfo/Downloads/NBCP-State-Award-Chart.pdf>