

## 1915(i) PROVIDER ENROLLMENT AND CRIMINAL BACKGROUND SCREENING

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### **PURPOSE**

This policy explains the criminal screening background process and how it affects applicants seeking to enroll with ND Medicaid to provide 1915(i) services and supports, effective November 20th, 2024.

### **APPLICABILITY**

This policy applies to all 1915(i) providers.

A provider who has been enrolled with 1915(i) prior to the effective date of this policy, who has been found guilty of, pled guilty to, or pled no contest to, an offense considered to have an effect on the provider's ability to be enrolled with the 1915(i) program may continue to be enrolled if the individual has had no subsequent offenses and the department was aware of the criminal offense and approved enrollment as a 1915(i) provider prior to the effective date of this policy.

### **DEFINITIONS**

*Conviction* – means found guilty in a court of law of a criminal offense.

*Direct bearing conviction* – means a felony conviction listed in this policy that directly relates to the potential provider's fitness or ability to perform one or more duties or responsibilities necessary to the position.

*Provider enrollment* – means the process of applying with ND Medicaid to become a provider of Medicaid services.

*Screening* – means the process of reviewing an applicant or provider's criminal background or history.

### **CRIMINAL CONVICTION DISCLOSURE REQUIREMENTS**

Provider applicants are required to disclose all felony convictions.

### **CRIMINAL BACKGROUND SCREENING**

A criminal background screening will be conducted for all 1915(i) provider applicants enrolling with ND Medicaid. If undisclosed criminal convictions are discovered during the screening process, the provider applicant may be denied enrollment.

### **RESULTS OF CRIMINAL BACKGROUND SCREENING**

Convictions are either considered direct bearing or non-direct bearing as described below.

**DIRECT BEARING CONVICTIONS**

Convictions involving an act or threat of harm against another individual have a direct bearing on the fitness or ability of the applying provider to serve 1915(i) members. These criminal convictions pose a reasonable threat to public safety, health, or welfare.

The following **felony convictions** are considered direct bearing offenses:

- Murder, N.D.C.C. 12.1-16-01
- Manslaughter, N.D.C.C. 12.1-16-02
- Negligent Homicide, N.D.C.C. 12.1-16-03
- Simple Assault, N.D.C.C. 12.1-17-01
- Assault, N.D.C.C. 12.1-17-01.1
- Aggravated Assault, N.D.C.C. 12.1-17-02
- Domestic Violence, N.D.C.C. 12.1-17-01.2
- Reckless Endangerment, N.D.C.C. 12.1-17-03
- Terrorizing, N.D.C.C. 12.1-17-04
- Stalking, 12.1-17-07.1
- Kidnapping, N.D.C.C. 12.1-18
- Felonious Restraint, N.D.C.C. 12.1-18-02
- Gross sexual imposition, N.D.C.C. 12.1-20-03
- Continuous sexual abuse of a child, N.D.C.C. 12.1-20-03.1
- Sexual imposition, N.D.C.C. 12.1-20-04
- Corruption or solicitation of minors, N.D.C.C. 12.1-20-05
- Luring minors by computer or other electronic means, N.D.C.C. 12.1-20-05.1
- Sexual abuse of wards, N.D.C.C. 12.1-20-06
- Sexual assault, N.D.C.C. 12.1-20-07
- Indecent Exposure, N.D.C.C. 12.1-20-12.1
- Surreptitious intrusion, N.D.C.C. 12.1-20-12.2
- Sexual extortion, N.D.C.C. 12.1-20-12.3
- Sexual performances by children, N.D.C.C. chapter 12.1-27.2 offenses
- Robbery, N.D.C.C. 12.1-22-01
- Burglary, N.D.C.C. 12.1-22-02
- Criminal Trespass, N.D.C.C. 12.1-22-03
- Theft, N.D.C.C. 12.1-23-05 and related statutes under chapter 12.1-23-05
- Promoting prostitution, N.D.C.C. 12.1-29-01
- Facilitating prostitution, N.D.C.C. 12.1-29-02
- Trafficking an individual, N.D.C.C. 12.1-41-02
- Force labor, N.D.C.C. 12.1-41-03
- Sexual servitude or activity, N.D.C.C. 12.1-41-04
- Patronizing a minor for commercial sexual activity, N.D.C.C. 12.1-41-06
- Corruption or solicitation of minors, N.D.C.C. 12.1-20-05
- Endangering an eligible adult, N.D.C.C. 12.1-31-07
- Exploitation of an eligible adult, N.D.C.C. 12.1-31-07.1
- Fraudulent insurance acts, N.D.C.C. 26.1-02.1-02.1

- Unauthorized use of personal identifying information, N.D.C.C. 12.1-23-11
- Forgery or Counterfeiting, N.D.C.C. 12.1-24-01
- Deceptive writings, N.D.C.C. 12.1-24-03
- Human trafficking, N.D.C.C. 12.1-41-02, or
- Any felony offense under the laws of this or another jurisdiction which requires proof of substantially similar elements as required for conviction under any of the enumerated North Dakota statutes.

**SUFFICIENTLY REHABILITATED**

An applicant is sufficiently rehabilitated if there are no subsequent felony direct-bearing convictions occurring during a five-year period after final discharge or release from any term of probation, parole, or other form of community corrections, or imprisonment for a direct-bearing felony conviction as listed above. Applicants with a subsequent direct-bearing felony conviction will be denied enrollment until they are sufficiently rehabilitated per this policy. If an applicant has multiple direct-bearing convictions, the date of rehabilitation is determined based on the most recent direct-bearing conviction.

**NON-DIRECT BEARING CONVICTIONS**

For any other felony convictions, not identified in this policy, where a provider applicant has been found guilty of, pled guilty, or pled no contest to, ND Medicaid will determine the applicant has been sufficiently rehabilitated after final discharge or release from any term of probation, parole, or other form of community corrections or imprisonment. Subsequent non-direct bearing felony convictions do not impact rehabilitation. The date of rehabilitation is determined based on the most recent non-direct bearing conviction.

**ENROLLED PROVIDER CONVICTIONS**

Criminal background screenings may be conducted by ND Medicaid on enrolled providers and applicants.

Providers must report to ND Medicaid any direct-bearing convictions that occur during the provider enrollment period. Failure to report or disclose a direct-bearing conviction to ND Medicaid will result in termination of provider enrollment.

If an enrolled provider is convicted of any direct-bearing crime as listed in this policy during the provider enrollment period, the enrollment will be terminated by ND Medicaid. A terminated provider will have an opportunity to reenroll with ND Medicaid if deemed sufficiently rehabilitated under this policy.

**DENIAL OF ENROLLMENT APPLICATION**

The Department of Health and Human Services may decline an application to become a Medicaid 1915(i) provider for reasons listed in [North Dakota Administrative Code section 75-02-05-04.1](#).

**ND MEDICAID PROVIDER ENROLLMENT APPEALS**

North Dakota Administrative Code section 75-02-05-09(4)

<https://www.legis.nd.gov/information/acdata/pdf/75-02-05.pdf>, says a provider may appeal a decision to deny enrollment or terminate provider enrollment by filing a written appeal with the Department of Health and Human Services within fifteen days of the date of the written notice of the denial or termination.

Upon receipt of a timely appeal, an administrative hearing may be conducted in the manner provided in NDAC Chapter 75-01-03 [Appeals and Hearings](#). A provider who receives notice of denial and requests a timely review of that decision is not eligible to provide services until a final decision has been made by the Department that reverses the decision denying the application.

**FAQs**

Q: What if a provider has multiple felony convictions?

A: First, determine if the provider applicant has any direct-bearing felony convictions as these convictions have the longest period of sufficient rehabilitation under this policy. If there are multiple direct-bearing felony convictions, look to the most recent conviction and determine whether there has been a five-year period after final discharge or release from any term of probation, parole, or other form of community corrections, or imprisonment for any direct-bearing felony conviction.

If five years have elapsed with no direct-bearing felony convictions, then verify that there no non-direct bearing convictions for which the provider applicant has not finished their term of probation, parole, or other form of community corrections or imprisonment.

If there are no direct-bearing felony convictions within a five-year period since final discharge or release as described under “SUFFICIENTLY REHABILITATED” and there are no non-direct bearing felony convictions for which the provider applicant is not sufficiently rehabilitated per the “NON-DIRECT BEARING CONVICTIONS” section, then the provider applicant would be deemed sufficiently rehabilitated per this policy.