



**STATE OF NEW YORK
DEPARTMENT OF HEALTH**

Corning Tower The Governor Nelson A. Rockefeller Empire State Plaza Albany, New York 12237

Richard F. Daines, M.D.
Commissioner

Wendy E. Saunders
Chief of Staff

October 10, 2008

DAL: DRS: 08-08
**SUBJECT: Criminal History Record Check
Employment Determinations**

Dear Administrator:

This letter emphasizes the importance of reviewing Criminal History Record Check (CHRC) employment determinations. Failure to read these letters has led some providers to continue to employ individuals whose criminal histories render them unsuitable for direct care responsibilities. This letter also addresses the requirement to assign Authorized Persons (AP's) who can carry out this responsibility.

Article 28-E of the Public Health Law requires nursing homes, certified home health agencies, adult day health care programs, licensed home care service agencies, and long term home health care programs to submit criminal history record check requests for non-licensed employees providing direct patient care. Executive Law Section 845-b provides that only Authorized Persons (AP's) are permitted to request and review criminal history information, which is provided by the Department on the HPN in the form of CHRC letters of determination.

In cases where the CHRC Legal Review Unit has issued a Pending Denial, Final Denial or Hold in Abeyance letter for an employee, such employee must be immediately removed from providing direct care or supervision to patients, residents or clients of the provider. It is imperative that providers take such immediate action in order to ensure the health and safety of vulnerable New Yorkers and maintain compliance with the law. Providers who fail to open letters of determination will be referred to the Department's regional office surveyors for issuance of a Statement of Deficiency (SOD).

The Department has modified the HPN so that only AP's designated by the CHRC program can submit a request and review results. Providers should have more than one AP to ensure there is at least one AP available at all times to open and act promptly upon letters of determination.

CHRC program questions may be e-mailed to: CHRC@health.state.ny.us and CHRC legal questions may be e-mailed to CHRCLEGAL@health.state.ny.us. You may also contact the CHRC program at (518) 408-1298.

Sincerely,

Mark Kissinger
Deputy Commissioner
Office of Long Term Care