



Center for Medicaid and State Operations/Survey and Certification Group

Ref: S&C-04-25

**DATE:** April 8, 2004  
**TO:** State Survey Agency Directors  
**FROM:** Director  
Survey and Certification Group  
**SUBJECT:** Upcoming Criminal Background Checks Pilot

Dear State Official:

Your State may have an opportunity to participate with the Centers for Medicare & Medicaid Services (CMS) in a demonstration project designed to improve safety and quality of care for patients and residents who receive services from long-term care facilities or providers. Federal funding is available to support this project.

The demonstration project will be used to evaluate the effectiveness of conducting background checks on prospective employees of long-term care facilities and providers who have direct access to patients. These facilities and providers include nursing homes, home health agencies, hospices, long-term care hospitals, intermediate facilities for the mentally retarded (ICFs/MR) and other entities that provide long-term care services.

The State Office of the Governor and/or the State Survey Agency may apply for funding under this grant opportunity. Additionally, this opportunity is open to any of the following agencies, provided the agency has an agreement with the State Survey Agency for the conduct of this demonstration:

State Medicaid Agency	State Identification Bureau (SIB)
State Attorney General's Office	State Social Services Block Grant recipients
State Control Terminal Agency (CTA)	State Health Departments

We strongly encourage State agencies work collaboratively to develop one solicitation packet for an individual State. For additional information, please see the description of the demonstration project that is enclosed or send an E-mail to [criminalbackgroundchecks@cms.hhs.gov](mailto:criminalbackgroundchecks@cms.hhs.gov).

Sincerely,

Thomas E. Hamilton  
Director

Enclosure

## **BACKGROUND CHECKS PILOT**

A provision in the Medicare Prescription Drug, Improvement and Modernization Act of 2003 (PL 108-173) permits the Federal government to enter into agreements with up to 10 States to conduct the pilot program, and provides \$25 million in total national funding to conduct the pilot program, including the evaluation portion. The pilot program is funded for FY 2004 through FY 2007.

The Centers for Medicare & Medicaid Services (CMS) is the agency that has lead responsibility to administer the pilot program. CMS anticipates the selection of pilot States to occur on or about October 1, 2004.

### **How will Pilot States be Chosen?**

Pilot states will be selected through a competitive process with other interested States. Selection will be based on the criteria outlined in the statute to ensure: geographic diversity, inclusion of a variety of long-term care facilities or providers, variety of payment mechanisms for covering the cost of conducting the background checks, and a variety of penalties (monetary and otherwise) be used by participating States to enforce the requirements of the pilot program. Additionally, at least one participating pilot State must include patient abuse prevention training for managers and employees of long-term care facilities and providers as part of their program.

### **State Authority**

Most states currently conducting background checks on health care employees have determined they required specific State authority, whether in State statute or regulation. We are providing this letter to advise you of specific requirements in the legislation for States participating in the demonstration. Please note that Section 307 of the Medicare Prescription Drug, Improvement and Modernization Act of 2003 requires a participating pilot state to ensure that a long-term care provider or facility be immune from liability when it relies on the results of the background check to make employment determinations

### **How to Apply**

CMS will send a solicitation inviting states to apply. We expect the solicitation to be sent to States in May 2004, with applications due approximately 60 days after the solicitation is issued.

### **For more information**

To find out more information you may contact Amber Wolfe at 410-786-6773 or send an E-mail to [criminalbackgroundchecks@cms.hhs.gov](mailto:criminalbackgroundchecks@cms.hhs.gov).