

Information in State statutes and regulations relevant to the National Background Check Program: Mississippi

This document describes what was included as of January 2011 in Mississippi statutes and regulations relevant to the Centers for Medicare & Medicaid Services' National Background Check Program. Mississippi has 12 relevant statutes and regulations, all of which were used in gathering information for this document, and which are listed below in the State Statutes and Regulations section.

Key Feature	Description
Specific facility and provider types	The State covers six of the long term care (LTC) facility and provider types named in the Patient Protection and Affordable Care Act of 2010 (Affordable Care Act), namely: skilled nursing facilities, nursing facilities, home health agencies, hospice care providers, LTC hospitals, and residential care providers.
Registry checks	Not addressed.
Fingerprinting	All applicants for employment with one of the six listed facility or provider types are fingerprinted.
Rap back	Not addressed.
Provisional employment	Statutes and regulations indicate that the State allows for provisional employment, but do not clarify the provisional employment period.
Definition of direct patient access employee	Mississippi does not have a definition of direct patient access employee. However, in Mississippi, every employee of an LTC facility or provider is required to have a background check and everyone who is contracted through an entity that provides direct patient care is required to have a background check. For contract staff, "direct patient care" means direct hands-on medical patient care and services provided by an individual in a patient's, resident's, or client's room, treatment room, or recovery room.
Provision of criminal background check results to employee	Not addressed.
Expiration of criminal history background check results	State statutes and regulations indicate that criminal history background check results expire after two years.

Key Feature	Description
<p>Inclusion of disqualifying crimes specified in section 6201 of the Affordable Care Act:</p> <ol style="list-style-type: none"> 1. Medicare/Medicaid program-related crimes (42 U.S.C § 1320a-7(a)(1)) 2. Convictions related to patient abuse/neglect (42 U.S.C § 1320a-7(a)(2)) 3. Felony convictions related to health care fraud (42 U.S.C § 1320a-7(a)(3)) 4. Certain felony convictions related to controlled substances (42 U.S.C § 1320a-7(a)(4)) 	<ol style="list-style-type: none"> 1. Not addressed. 2. Not addressed. 3. Not addressed. 4. State statutes and regulations may bar LTC employment for convictions of some of these federally mandated disqualifying crimes, but do not cover all possible such crimes.
<p>State-identified convictions</p>	<p>See Appendix A – State-identified Disqualifying Convictions. Mississippi identifies various disqualifying convictions. More information on the disqualifying convictions can be found in Appendix A.</p>
<p>Opportunity to contest accuracy of background check findings</p>	<p>The State provides a way to contest the accuracy of background check findings.</p>
<p>Ability to remove hiring prohibition based on rehabilitation factors</p>	<p>Not addressed.</p>
<p>Rehabilitation/mitigation process for negative fitness determinations</p>	<p>The State’s process takes into account the following: elapsed time since the disqualifying conviction took place, extenuating circumstances, rehabilitation, and relevance of the conviction to the job in question.</p>
<p>Independence of appeal or review process</p>	<p>There is independence of the appeal or review process.</p>

State Statutes and Regulations

Citation	Description
Mississippi Code Annotated § 43-11-13(5)	This has to do with the criminal background check requirement for new employees of hospitals, nursing homes, personal care homes, home health agencies, hospices, and health care professional staffing agencies, as well as for employees who have been disciplined.
Mississippi Code Annotated § 37-115-41	This is about the criminal history record checks and fingerprinting required for new employees who will provide direct patient care at the University of Mississippi Medical Center.
Mississippi Code Annotated § 37-29-232	This has to do with criminal history record checks and fingerprinting for health care professional/vocational technical students.
Mississippi Code Annotated §§ 43-47-7(6) and (7)	This has to do with the duty of entities providing care to, supervision of, or treatment of vulnerable persons to obtain criminal background checks on "each new employee of the entity who provides, and/or would provide direct patient care or services to adults or vulnerable persons."
Mississippi Code Annotated §§ 73-25-3 (physicians), 73-27-5 (podiatrists), 73-26-3(7) (physician assistants), 73-81-75(4) (pharmacists), 73-15-19 (registered nurses), 73-15-21 (licensed practical nurses), 73-23-43(1)(r) (physical therapists), 73-21-111 (pharmacy technicians)	This has to do with the criminal history record checks and fingerprinting required for the licensure or registration of physicians, podiatrists, physician assistants, pharmacists, registered nurses, licensed practical nurses, physical therapists, and pharmacy technicians.
Mississippi Code Annotated § 45-27-11	This is about challenging State criminal records for accuracy.
15 Code of Mississippi Rules (Code Miss. R.) 45.115.03	This has to do with criminal history record checks for hospital, nursing home, personal care home, home health agency, hospice, and health care professional staffing agency employees.
15 Code Miss. R. 45.101.05	This contains definitions relevant to the preceding.
15 Code Miss. R. 46.126.03 and 46.101.11	The first citation is about criminal history record checks for home health agency staff; the second includes relevant definitions.
15 Code Miss. R. 01.111.03 and 01.101.18	The first citation is about criminal history record checks for hospice staff; the second includes relevant definitions.

Citation	Description
15 Code Miss. R. 41.105.18 and 41.105.17	The first citation is about criminal history record checks for hospital staff; the second includes relevant definitions.
15 Code Miss. R. 47.110.05 and 47.103	The first citation is about criminal history record checks for assisted living and personal care home staff; the second includes relevant definitions.

Key

§ - Section

§§ - Sections

Appendix A – State-identified Disqualifying Convictions

The State-identified disqualifying convictions include, but are not limited to:

- possession or sale of drugs,
- murder,
- manslaughter,
- armed robbery,
- rape,
- sexual battery,
- a sex offense listed in Mississippi Code § 45-33-23(g),
- child abuse,
- arson,
- grand larceny,
- burglary,
- gratification of lust or aggravated assault, and
- felonious abuse and/or battery of a vulnerable adult.