



The National Background Check Program: Implementation in Connecticut

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Introduction

For several years prior to 2010, Connecticut State Senator Edith Prague had called for the State's nursing homes and other long-term care (LTC) facilities to check the backgrounds of individuals applying for care-related positions. However, State budget constraints and logistical concerns over such a process presented practical challenges to implementing this type of program. When the Centers for Medicare & Medicaid Services (CMS) announced in 2010 that grants up to \$3 million were available to States to implement the National Background Check Program (NBCP), the Connecticut Department of Public Health (CT DPH) took advantage of the opportunity and was awarded a grant in 2011.

Almost five years later, in October 2015, the State's program became operational, and the first group of applicants¹ for nursing home employment became subject to fingerprinting and a criminal background check using Connecticut State and Federal Bureau of Investigation (FBI) databases. As Connecticut moves toward graduation from the program, it can help other States learn from its experience, including highlighting program achievements, challenges, and lessons learned.

This brief is based on quarterly project narratives, NBCP annual reports, a mid-term evaluation, various project documents, the CMS technical assistance (TA) contractor's direct experience in support of the project, and most importantly, on interviews with the principal staff involved in the creation of the background check program in Connecticut [1-2].

From these sources, the following key lessons surfaced:

- **Frequent communication keeps things moving.** Communication at all levels, early and often, and with all partners, is essential to success. For the regulated community, communication helps to set expectations and ease concerns. For other State agencies, especially the State police, communication helps build strong relationships and keep the background check process moving, and it helps iron out challenges.
- **A background check program cannot be a side project.** Developing and implementing the processes and information technology (IT) infrastructure needed for a modern background check program requires much effort. In Connecticut, the program needed

¹ CT DPH implemented a phased rollout of their program, beginning with background checks for skilled nursing facilities.



considerably more time and effort from CT DPH than expected when starting out, and they discovered that success requires sufficient dedicated resources to make it work. For CT DPH, getting a full-time project manager with IT experience was critical.

- **Learning from other State programs smooths the process.** In a variety of ways, from legislative language to IT infrastructure, building on what other States have done minimizes the learning curve and accelerates progress. For Connecticut, the 2008 *Evaluation of the Background Check Pilot Program* [3] was particularly valuable, along with expert technical assistance provided separately by CMS’s TA contractor.
- **Plan for the future.** CT DPH knew early in their program that State-provided IT support services would be limited. CT DPH started talking about sustainability early on, and they have utilized all available resources to prepare as best they can for a program without TA support and grant funding.

Getting the Grant

As part of the Affordable Care Act, the NBCP was authorized by Congress in 2010 “to establish a national program to identify efficient, effective, and economical procedures for LTC facilities and providers to conduct background checks on a statewide basis for all potential direct access employees” [4]. As part of the program, CMS offers non-competitive grants of up to \$3 million for each State to help offset the costs of implementation.

When CMS sent out the first solicitation for States to apply for grants, it was not a difficult decision for CT DPH to apply. With the encouragement of the Governor, the Connecticut Department of Emergency Services and Public Protection² (CT DESPP), and the Department of Social Services (all of whom wrote letters of support), CT DPH applied for a grant of \$1.9 million and received a positive decision in September 2010. The original grant was intended to run through September 29, 2012. Later, CMS determined that two years was simply not enough time to fully implement the program and extended the base grant to three years, with an additional option of three, no-cost extension years. CT DPH opted to stay in the program for the full six years.

Passing the Legislation

Because the Office of Legal Compliance in CT DPH already managed a background check program for daycare centers, the job of managing the LTC NBCP fell to them. The first major task was for legislation to authorize the program. This process turned out to be fairly straightforward, as there was a legislative champion in Senator Prague, and the reaction of most people was one of surprise that such a background check process was not already required by law.

² Formerly the Connecticut Department of Public Safety.



CT DPH staff reviewed the CMS Evaluation of the Background Check Pilot Program [3] and accessed legislative language used by other States to craft a legislative proposal. The availability of these resources provided the essential elements that Connecticut could adapt to suit their specific needs. When drafted, the proposal was forwarded to CT DPH’s Commissioner for approval and to the State Office of Policy and Management for review and editing. It was then sent to the Governor’s office for review and final approval. This process took a few months to get through the Executive branch; when completed, the draft proposal was sent to Senator Prague, who introduced it to the Public Health Committee of the State Senate.

As part of the legislative review, Senator Prague chaired working group sessions at the Legislative Office Building of the State Capitol to provide an opportunity for input on the proposal. CT DPH prepared a fact sheet to support the review, which outlined the main components of the program [5]. In addition to legislative liaisons from CT DPH and CT DESPP, the working group sessions also included liaisons from the Board of Pardons and Paroles; the Departments of Consumer Protection, Developmental Services, Social Services, Mental Health and Addictions; the Office of Policy and Management; and the State’s LTC Ombudsman. Several representatives of the LTC industry participated, including LTC providers and healthcare-related association leads.

The process of review and testimony did not yield any opposition to the program, but some concerns did surface, mostly involving the time it would take to get applicant information back to the facilities, and the additional costs that would be incurred. CT DPH allocated \$577,000 of the CMS grant to cover the fees associated with having an applicant receive a fingerprint-based background check as a matter of goodwill and to mitigate community concerns of excessive costs to applicants. The legislation passed on the first attempt with broad support.

Implementing the Program

The legislation that the Connecticut State General Assembly passed approving an ABCMS, Public Act 11-242, *An Act Concerning Various Revisions to Public Health Related Statutes* [6], included a provision that “...requires that the DPH develop a plan to create and implement a criminal history and patient abuse background search program in order to facilitate the performance, processing and analysis of such criminal history and patient abuse background searches on prospective employees who may have direct access to residents in LTC settings” [7].

To create this “nuts and bolts” implementation plan for the ABCMS, CT DPH hosted meetings in September and December 2011, to determine the types of background check systems that providers used at the time. Various business processes were being used, none of which involved fingerprinting [7]. CT DPH envisioned the creation of an entirely new database with degrees of automation not previously used in Connecticut. CT DPH estimated that 15,000 applicants would



need to be fingerprinted each year under the new system, so automation was critical to ensure efficiency.

System Development

To create the system they needed, CT DPH explored various vendors and software options that might meet their administrative needs. Cost was also a factor; CT DPH originally budgeted over \$600,000 for anticipated IT contractors, consultants, and vendor services to develop the system. Ultimately, CT DPH turned to CMS's TA contractor to develop the background check system. The implementation of an IT system for the program that had been tried and tested in other States was a major selling point, and, most importantly, the availability of TA at no cost to the State allowed them to reallocate those unused funds back into the grant for potentially unforeseen costs.

CT DPH says that using the TA contractor to develop its ABCMS was a major part of their success. Staff report that it would have been much more difficult, if not impossible, to implement the necessary software if they had had to start from scratch. Additionally, hiring a dedicated IT specialist to manage the implementation of the ABCMS turned a challenging project into one that was manageable.

During the initial first two years of the ABCMS development, CT DPH, along with CT DESPP, hosted several in-person meetings, coordinated and led by the TA contractor. These face-to-face meetings were critical in mapping the anticipated business-process flow of an applicant background check that would inform the development of the ABCMS. Gaps in the current and future IT environments for criminal justice processing were identified, and action plans developed. CT DPH also hosted weekly teleconference calls that included State agency partners, the TA contractor, and other key stakeholders, as the project dictated. Regular communication between the two principal agencies, their technical advisors, and the TA contractor helped to identify, address, and resolve existing and potential issues in a timely way, keeping the project on track to the extent possible.

As the project evolved, a growing of number of system and project documents took shape. The TA contractor established a project SharePoint Extranet site, allowing for all team members to have ready access to project documentation as needed. Today, the site houses over 500 documents and files.

Figure 1 provides a workflow diagram that describes the operation of the ABCMS. There are three partners in the process, including the facility or provider, CT DPH, and CT DESPP. When a person applies for a position, the provider starts the process and does the first background check using the applicant's name and social security number (SSN) against State and federal, publically-available registries. If no disqualifying convictions come up on the name and SSN check, the applicant is sent for fingerprinting using LiveScan at one of CT DESPP's facilities,

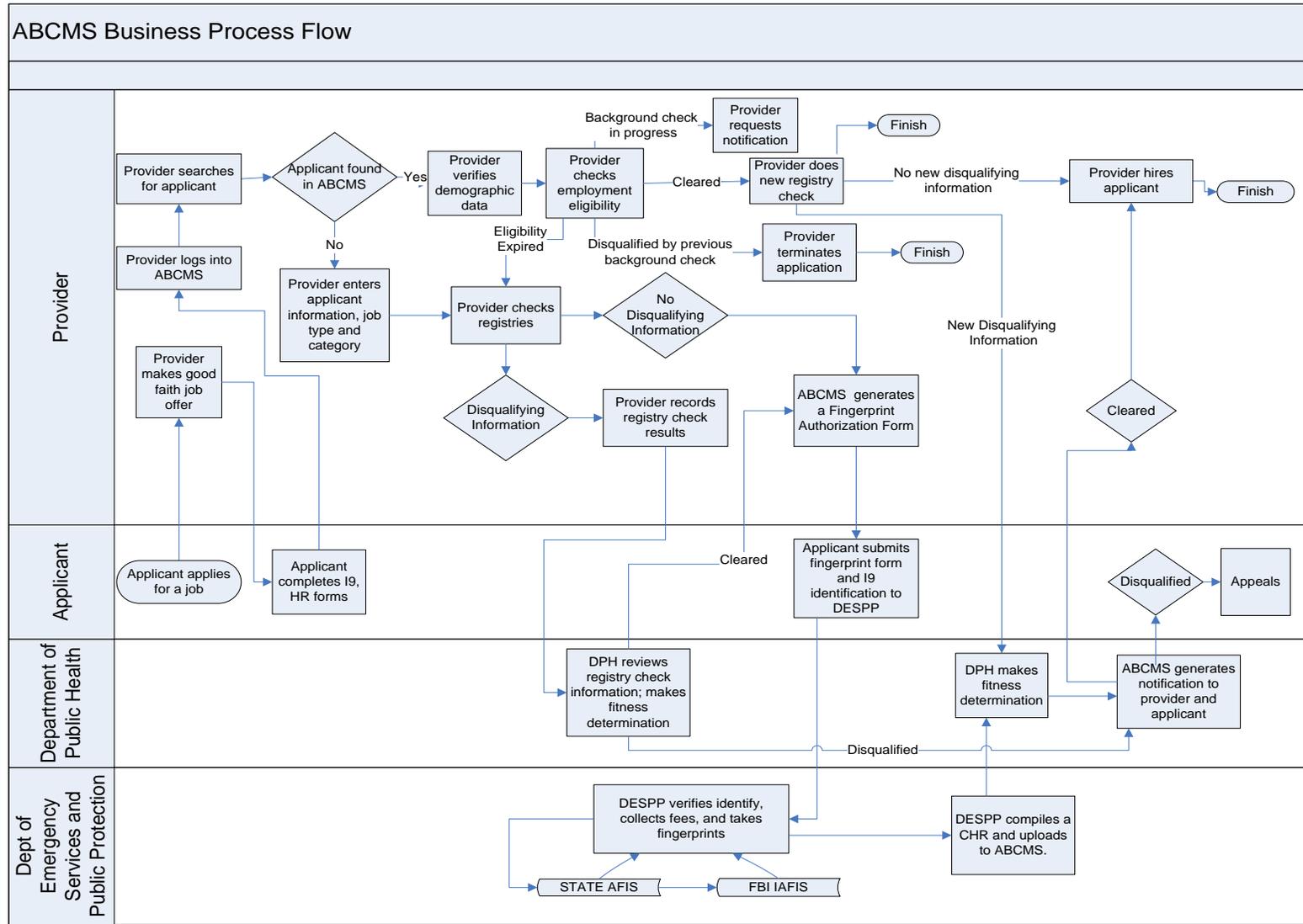


and then to check the prints against State and federal databases. The result of CT DESPP's search is sent on to CT DPH for a determination. If there are no disqualifying convictions, the person is cleared to work. In Connecticut, this information is passed to the provider, along with any convictions. If there are disqualifying convictions, a letter of exclusion is sent to the applicant, with instructions for requesting an appeal or waiver. The applicant can request a waiver for several reasons, including "(A) inaccuracy in the information obtained from the background search; (B) lack of a relationship between the disqualifying offense and employment position; (C) evidence of rehabilitation with respect to the disqualifying offense or (D) that substantial time has elapsed since committing the disqualifying offense" [5].

Because of the complexities involved, CT DPH decided to implement one category of LTC facilities at a time. The first category implemented was skilled nursing facilities; the second category was home health agencies.



Figure 1. Work flow of Connecticut's Applicant Background Check Management System





Fingerprinting and Criminal History

When CT DPH applied for a grant from CMS in 2010, they anticipated that the LTC program would essentially be an extension of their background checks for daycare workers, though with digital fingerprinting instead of ink-and-roll fingerprinting. At the time CT DPH applied for the grant, wait times on applicant fitness determinations for the daycare program could be up to four months. Under the process for daycare determinations, applicants were fingerprinted by use of ink-and-roll; fingerprint cards were then batched and sent to CT DESPP for electronic scanning and checked against State and federal criminal databases. Results were then sent to the CT DPH daycare program, which then made a fitness determination on applicants.

In contrast to ink-and-roll, which may have upwards of a 30-percent return, or error rate, LiveScan technology has a return rate of potentially less than one percent. In addition, because it is digital, it can be automated and thus reduce the time to get applicant information back to facilities. A significant advantage in moving to the new ABCMS was that it was much more automated than the daycare system once the fingerprints were scanned [8].

A challenge arose, however, in moving to a completely digital system because the CT DESPP's secure system required an expensive upgrade to be compatible. Fortunately, because CT DPH had not requested or allocated the full \$3 million available from CMS, there was space available for the \$860,000 that CT DESPP needed. CT DPH requested and CMS approved the additional funds, along with a grant extension to complete the upgrade.

The additional funds were a pass-through to CT DESPP and necessitated a Memorandum of Understanding between the two agencies regarding financial reporting, which was signed on January 17, 2013. Though a purchase order was issued to CT DESPP's criminal history system vendor on February 21, 2013, integration testing between CT DPH's system and CT DESPP's upgrade did not start until June 2014 because of problems with product update. These tests were successful with no outstanding issues. During the implementation process, CT DPH set up weekly conference calls, which staff felt were essential to making progress and maintaining accountability for successfully completing any outstanding deliverables.

Training

Following system testing for several months and following CT DESPP LiveScan training in September 2014, the system was ready for training sessions with LTC facility administrators, which took place on six occasions in March and May 2015. About 200 organizations participated in these training sessions, with up to 80 people in a session. CT DPH staff decided not to create webinars so that trainers would have the trainees' full attention. At each session, IT support was provided to ensure that participants did not become frustrated while trying to connect to CT DPH's systems. A common comment, which CT DPH takes as a sign of success, is that the training sessions were too long—the interface was easy enough to use that a full day of training



was not needed. Another concern participants expressed was a worry that errors would unfairly keep suitable applicants from being able to obtain a position with their organization.

To support training, CT DPH developed training manuals and a series of videos covering each step that facilities would need to conduct a background check for an applicant [9]. The videos were fairly short and covered the following topics:

- How to Login to the ABCMS
- How to Enter a New Applicant
- How to View Determinations In-Process
- How to View Determinations when Available
- How to Enter an Application for an Applicant Already in the System
- How to Utilize the “Flagged for Review” Feature
- How to Review Reports
- Administrator Training.

On October 19, 2015, the ABCMS became fully operational and became a requirement for hiring at skilled nursing facilities. For home health agencies (the second category selected for program implementation), the system went live on February 8, 2016. CT DPH hired three office assistants to support roll-out of the ABCMS by phone and email; this proved invaluable in getting help to facilities for a smooth roll-out.

Next Steps

Implementing Rap Back

The NBCP grant solicitation states that “each participating State is required to develop and test a rap back system that allows its State Criminal Justice Information Services (CJIS) agency to immediately inform the grantee State agency of any criminal history record information (CHRI) against the employee that occurs following the pre-employment background check” [10]. A State rap back system under NBCP is a mechanism that allows a State’s CJIS agency to immediately inform the NBCP grantee’s State agency of any new CHRI against an employee that arises after the employee’s pre-employment background check has been completed. CT DPH originally planned for rap back as a part of program implementation, but ultimately learned that the system infrastructure at CT DESPP could not effectively support the reporting requirements to the ABCMS. CT DPH anticipates further evaluating the integration of a rap back process into the ABCMS once all provider types have been phased into the program and additional details are released concerning Next Generation Identification Program (NGI) Rap Back Service [11].



Expanding Applicant Background Checks

As CT DPH plans for the rollout of the ABCMS for the remaining categories of LTC providers, they are also thinking about next steps for the future of the applicant background checks in the State. Recent federal legislation requiring the fingerprint-based background check of persons with direct access to children will require a similar business process. Meeting the mandate within federal timelines for implementation—while streamlining the already long and human resource-intensive process currently in place for daycare providers—would represent a win-win for the Connecticut Office of Early Childhood, which has assumed the responsibilities for processing daycare background checks, as well as for the State of Connecticut, in general. However, this will still have challenges. CT DESPP remains concerned that its current LiveScan locations at State Police Barracks are overburdened with the current volume of applicant fingerprints, and CT DPH is not yet finished phasing in provider types, which is expected to conclude during the course of the 2017 fiscal year.



REFERENCES

- [1] Antonetti, Matthew, Principal Attorney, Office of Legal Compliance, Applicant Background Check Management Program, Connecticut Department of Public Health, July 28, 2016 and August 11, 2016.
- [2] Trella, Patricia, Health Program Associate, Office of Legal Compliance, Applicant Background Check Management Program, Connecticut Department of Public Health, July 28, 2016.
- [3] White, Alan, Donna Hurd, Victoria Shier, Rebecca Sweetland, Tiffany A. Radcliff, David R. West, Monica McNulty, Debbie Liebricht, Betsy Hubbard, Andrew Kramer, and Dee Smyth. 2008. *Evaluation of the Background Check Pilot Program: Final Report*. Abt Associates Inc. Accessed August 10, 2016. <https://www.cms.gov/Research-Statistics-Data-and-Systems/Statistics-Trends-and-Reports/Reports/Downloads/White8-2008.pdf>.
- [4] The Centers for Medicare & Medicaid Services. January 2014. *National Background Check Program (NBCP) For Long Term Care Facilities and Providers: Frequently Asked Questions (FAQ)*. Accessed August 2, 2016. <https://www.cms.gov/Medicare/Provider-Enrollment-and-Certification/SurveyCertificationGenInfo/Downloads/backgroundcheckqanda.pdf>.
- [5] Connecticut Department of Public Health. n.d. *Department of Public Health's Proposed Criminal History and Patient Abuse Background Check Program*. Fact Sheet.
- [6] Connecticut General Assembly. 2011. *An Act Concerning Various Revisions to Public Health Related Statutes*. Public Act 11-242: Health Care Institutions, Sections 19a-419c. Accessed August 11, 2016. https://www.cga.ct.gov/2014/sup/chap_368v.htm.
- [7] Connecticut Department of Public Health. 2012. *Long-Term Care Criminal History and Patient Abuse Background Search Program: Report to the General Assembly*. Accessed August 11, 2016. http://www.ct.gov/dph/lib/dph/DPH_ABCMS_Legislative_Report.pdf.
- [8] CNA. February 8, 2012. *Connecticut Background Check Program: Functional Software Requirements For Applicant Background Check Management System: Version 3.0*.
- [9] Applicant Background Check Management System Training Videos. Connecticut Department of Public Health. Accessed August 12, 2016. <http://trainingcalendar.ct.train.org/Documents/ABCMS/ABCMS.htm>.
- [10] The Centers for Medicare & Medicaid Services. *Nationwide Program for National and State Background Checks for Direct Patient Access Employees of Long Term Care Facilities and Providers, Ninth Announcement CFDA #93.506*. Accessed August 11, 2016. <http://bgcheckinfo.cna.org/?q=node/917>.
- [11] U. S. Department of Justice, Federal Bureau of Investigation, Criminal Justice Information Services Division. *Next Generation Identification Program (NGI) Rap Back Service. Version 2.1. June 1, 2014*. Accessed August 11, 2016. http://bgcheckinfo.cna.org/sites/default/files/public/NGI_Rap_Back_Non-Criminal_Justice_Policy_and_Implementation_Guide_Version_2-1_2014_06_01.pdf.