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National Background Check Program for Long-Term Care Providers: A Final Assessment



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Why OIG Did This Review

- As many as 70 percent of seniors may need care in long-term care setting at some point in their lives. In 2023, nearly 16 percent of residents living in long-term care settings reported experiencing abuse.
- In 2010, the Patient Protection and Affordable Care Act (the Act) established a National Background Check Program, which provided Federal financial assistance for States (including the District of Columbia and Puerto Rico) to develop or enhance systems for long-term care settings to conduct background checks on prospective employees. The Act mandated OIG to evaluate the program.
- Twenty-nine States participated in the program at various times from 2010 to 2024. The last two States ended participation on May 31, 2024.

What OIG Found

The National Background Check Program was successful in assisting 27 States to develop programs to identify efficient, effective, and economical procedures for conducting background checks on prospective long-term care employees.



The National Background Check Program helped States successfully build systems to disqualify employees with concerning criminal convictions from working in long-term care settings.



States reported two procedures that were appropriate, efficient, and effective for conducting background checks: having an automated system for conducting background checks and having the ability to monitor status changes to a person's background check after the initial background check has been completed.



States rarely reported that conducting background checks resulted in any unintended consequences, such as a reduction in workforce.



The most common challenges that States encountered while in the program were a lack of State legislative authority and difficulty coordinating between State-level departments.



States spent more than \$100 million in combined Federal and State funds to develop or enhance systems to conduct background checks of potential employees of long-term care providers.

What OIG Recommends

OIG issued recommendations during the program that aided the outcomes in this final assessment. OIG does not have further recommendations for [CMS](#).

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BACKGROUND

OBJECTIVES

To evaluate the outcomes of the 29 States that participated in the National Background Check Program.

As many as 70 percent of seniors may need care in a long-term care setting at some point in their lives. In a recent study, nearly 16 percent of residents living in long-term care settings reported experiencing abuse.¹ The Patient Protection and Affordable Care Act (the Act) (P.L. No. 111-148 § 6201) created the Nationwide Program for National and State Background Checks on Direct Patient Access Employees of Long-term Care Facilities and Providers (National Background Check Program) in 2010. This program provided Federal financial assistance to States to develop or enhance programs for conducting background checks of prospective long-term care employees.

CMS was responsible for providing funding, technical assistance, and an assessment of States' progress toward meeting the requirements of the program. CMS provided some of these services through a technical assistance contractor (Contractor). Specifically, the Contractor monitored States' progress by reviewing monitoring documents (i.e., project narratives, Federal Financial Reports (FFRs), cost expenditures, and grantee data files).

National Background Check Program Funding and Design

The Act made up to \$160 million in funds available to the Department of Health and Human Services to carry out the National Background Check Program. The program provided participating States with funding for 3 years to meet program requirements. States were eligible to receive up to \$3 million in Federal funding in total. States were required to cost-share the Federal funding by spending \$1 of their own funds for every \$3 of Federal funds spent and to report these expenditures in FFRs for CMS to review.² Additionally, States were able to request up to 3 1-year extensions for the program, if needed. These extensions did not come with additional Federal funding.³ In 2010, the first set of States began receiving National Background Check Program funds.

States did not start or end their participation in the program at the same time because of the rolling enrollment and the flexibility that allowed each State to request extensions. Twenty-nine States participated in the National Background Check Program. Two States exited before the end of the initial 3-year period. See Appendix

A for a complete list of the dates on which States started and ended their participation in the program.

Program Requirements

Participating States were required to meet broad requirements (referred to as “program requirements”) that guided them in developing systems for conducting background checks. States had some flexibility in how they met program requirements. For example, States could vary their criteria for disqualifying prospective employees from employment with a long-term care provider. Federal law mandates that prospective employees be disqualified for being convicted of certain types of criminal offenses; however, State laws may include other types of offenses that disqualify prospective employees from employment with long-term care providers.

Participating States were also required to have an employee attend a 3-day CMS-sponsored conference following all grant award notifications. In 2016, these conferences grew into the National Background Check Program Forum. The forum was established as a State-led national collaboration forum to continue advancing the initiatives contained in the program.

Required types of background checks

The Act required States to include several types of background checks in their background check program.⁴ The required checks included the following:^{5, 6, 7, 8, 9, 10}

*States use the term Rap Back to describe the ability to monitor any status changes to a person’s background check after the initial background check has been completed.



To conduct the required types of background checks, States may have needed to coordinate with the State's law enforcement agency.

State legislative authority

To meet the requirements of the National Background Check Program, States were required to take steps toward obtaining any needed State legislative authority.¹¹ States may have required new or amended State legislation to meet program requirements regardless of the level of pre-existing infrastructure that States had when entering the program.¹² To obtain full legislative authority, States may have needed to coordinate efforts among departments within their State. Some State criminal justice agencies have the responsibility to seek legislation for program requirements, such as the collection of applicant fingerprints and the use of a system to monitor status changes to a person's background check after the initial background check has been completed. States had flexibility in determining the appropriate order of seeking legislation and developing their programs.

Required reporting

States were required to submit quarterly reports to CMS's Contractor that included data to track the types and outcomes of background checks that were conducted.¹³ Some States had an existing system for collecting and reporting data, while other States had to establish a system.

In addition to the quarterly reporting of data, States were required to submit final financial reports to CMS 90 calendar days after completing the National Background Check Program. The final financial reports included FFRs or SF-425s and final cost summaries that detailed State spending of Federal and State funds.^{14, 15}

OIG Reporting Mandate and Interim Assessments

In addition to the program requirements, the Act mandated OIG to produce an evaluation of the National Background Check Program within 180 days of its completion. The last two States finished participation on May 31, 2024. The legislation listed topics that should be included in the evaluation to the extent practicable. See Appendix B for the list of reporting requirements.

To better monitor the ongoing participation of various States, OIG conducted a series of assessments of States' implementation of the program. OIG's published reports—five in total—served to improve the program as it was in process. These reports included State-specific reporting on the implementation of select program requirements. Additionally, these reports issued multiple recommendations to CMS regarding the importance of background checks and to improve the program. See Appendix C for additional detail and descriptions of related work.

Methodology

We collected and analyzed CMS's monitoring documents. We also conducted surveys and interviews of select States to address the topics mandated by P.L. No. 111-148 § 6201. The mandated topics include the following:

1. A review of the various procedures implemented by participating States for long-term care facilities or providers, including staffing agencies, to conduct background checks of direct patient access employees under the nationwide program and identification of the most appropriate, efficient, and effective procedures for conducting such background checks.
2. An assessment of the costs of conducting such background checks (including start-up and administrative costs).
3. A determination of the extent to which conducting such background checks leads to any unintended consequences, including a reduction in the available workforce for long-term care facilities or providers.
4. An assessment of the impact of the nationwide program on reducing the number of incidents of neglect, abuse, and misappropriation of resident property to the extent practicable.
5. An evaluation of other aspects of the nationwide program, as determined appropriate by the Secretary.¹⁶

OIG began collecting monitoring documents and conducting exit surveys in August 2017 and continued as each State ended its participation in the program with the final surveys conducted in June 2024.

Standards

We conducted this study in accordance with the *Quality Standards for Inspection and Evaluation* issued by the Council of the Inspectors General on Integrity and Efficiency.

FINDINGS

The National Background Check Program helped States successfully build systems to disqualify employees with concerning criminal convictions from working in long-term care settings

There are several indicators that the National Background Check Program was successful in preventing residents from experiencing abuse, neglect, and misappropriation of their property. One indicator is the number of potential employees disqualified from employment in long-term care settings due to criminal convictions. Another indicator is that several States continued to use the systems they built to protect residents after Federal funding ceased. Additionally, another indicator is that States reported positive experiences while participating in the program.

During the National Background Check Program, States disqualified at least 106,000 individuals with criminal convictions from employment

During participation, 25 of the 29 States collected data and reported on the number of prospective employees who received background checks and were disqualified from employment.¹⁷ Potential employees were disqualified by States on the basis of State-based criteria for disqualifying prospective employees from employment. The disqualifying criminal convictions included offenses such as murder, assault, battery, robbery, theft, fraud, or forgery. States determined that these offenses may be indicators of potential to abuse, neglect, or misappropriate resident property in the future.¹⁸ See Appendix D for the number of prospective employees disqualified by each State during the program.

States continued to disqualify individuals with criminal convictions from employment and participated in the National Background Check Program Forum after finishing the program

Some States continued to use the systems built during the National Background Check program to disqualify individuals with criminal convictions from employment in long-term care settings, even after States completed the program. Seventeen States continued, after completing the program, to report to the Contractor data that showed the disqualification of an additional 254,000 potential long-term care employees from employment.¹⁹ The number of potential employees disqualified from employment after participating States completed the program is likely higher than the

number reported to the Contractor, as 10 additional States continued conducting background checks but did not continue reporting data to the Contractor.

Additionally, States continue to advance the initiatives established in the National Background Check Program by participating in the National Background Check Program Forum. The forum is State-led; hosts quarterly web-based meetings and an annual conference; and provides avenues for States to collaborate on issues as they arise. Although program funding for the forum ended in September 2024, States are working together to find new ways to continue to fund the forum.

States reported that the National Background Check Program had a positive impact on protecting residents in long-term care settings from abuse, neglect, and misappropriation of property

States shared their experiences participating in the program and the positive impact the program had on protecting residents receiving care from long-term care providers. One State reported that the department received a call from a long-term care facility stating that, had it not been for the implementation of Rap Back (i.e., the system to monitor status changes to a person's background check after the initial background check has been completed), the facility would not have known that one of their trusted employees was arrested for exploitation of the elderly. The arrest occurred when the employee was off-duty, and it was not related to their facility. Without Rap Back, the facility would have continued to employ this individual and potentially exposed residents to harm.

Two States reported that the National Background Check Program requirement to have a process to appeal the results of a background check has been beneficial. The appeals process allows potential long-term care employees the opportunity to provide additional evidence that they should not be disqualified. However, the States noted that the appeals process often confirmed the original disqualification.

Additionally, States reported that the National Background Check Program provides checks and balances that ensure that long-term care providers are thoroughly screened. One State reported that background checks have prevented people with criminal offenses from working with vulnerable individuals. Another State shared that the program has had a great impact and has protected vulnerable populations from caregivers with a criminal history that may put residents at risk. The States' experiences and the continued disqualification of potential employees from employment suggest that the program was successful in preventing residents from experiencing abuse, neglect, and misappropriation of their property.

States reported that having an automated system for conducting background checks and having the ability to monitor status changes of completed background checks were appropriate, efficient, and effective procedures for conducting background checks

Although States have their own unique processes, they commonly highlighted two procedures as particularly appropriate, efficient, and effective for conducting background checks. The two procedures States commonly identified were having an automated system for conducting background checks and having the ability to monitor status changes to a person's background check after the initial background check has been completed.

States reported background check procedures that they believed to be appropriate approaches to help protect residents from caregivers that could put them at risk

In response to an open-ended question regarding appropriate, efficient, and effective procedures for conducting background checks, eight States reported on having an automated system for conducting background checks and six States reported on the inclusion of Rap Back into their systems. These approaches are appropriate because States reported that they allow for employers to be notified immediately of a potential employee disqualification.

States reported background check processes that they believed to be efficient and effective to protect residents from caregivers who could put them at risk

States also reported background check processes as efficient and effective procedures for conducting background checks. Specifically, States reported that having an automated case management system allowed them to track the background check process from beginning to end and prevented delays in the hiring process. Further, States reported that implementing Rap Back saved time and costs because determinations of eligibility for employment move with employees as they move between jobs, eliminating the cost of additional background checks.

States rarely reported that conducting background checks resulted in any unintended consequences, such as a reduction in available workforce

Nineteen States reported that the program did not have any unintended consequences, such as a reduction in available workforce. One State commented that before the process started, there were concerns that the workforce would be reduced,

but after the background checks began, more people were cleared than when long-term care providers were trying to interpret the criminal records themselves.

As one State noted, unintended consequences were avoided because of steps taken to mitigate them, in particular the availability of the appeals process. Twenty-five States reported that they had implemented an appeals process for applicants to dispute the accuracy of the information obtained during the background checks. Further, 22 States reported that they implemented a process for provisional employment that allows prospective employees to work until a final determination has been made on their background check. The provisional employment typically occurs after the prospective employee has cleared the name-based checks, thus allowing them to work while waiting for the results of the fingerprint-based checks, which can take significantly longer to process.

Two States reported that they were unsure whether the program had any unintended consequences or that it was difficult to attribute unintended consequences to the program.

However, two States reported that providers did experience unintended consequences. One State reported that there were delays in the fingerprint processing that negatively impacted providers' abilities to hire staff in a timely manner. The other State reported that providers explained that many individuals who may not actually be a risk to the residents are being excluded.

The rest of the States did not report on unintended consequences.

The most common challenges that States encountered while in the National Background Check Program were a lack of State legislative authority and difficulty coordinating between State-level agencies

States entered the National Background Check Program with varying degrees of practical infrastructure and State legislative authority to conduct background checks for prospective long-term care employees. Some States needed to seek legislative authority and coordinate with other State-level departments to meet some program requirements (e.g., conducting the required types of background checks, identifying disqualifying offenses, and reporting disqualifications).

Seventeen States were not able to obtain State legislative authority to meet National Background Check Program requirements before completing participation in the program

States reported that obtaining State legislative authority to meet all of the National Background Check Program requirements was challenging for a variety of reasons. Some States were unable to get State legislators to support efforts to enact legislation to meet some of the program requirements. Other States were not able to move

through the State legislative process during the period of the program. Examples of States that had difficulties obtaining legislative authority to meet program requirements before completing the program included Maryland, Wisconsin, North Carolina, Georgia, and Hawaii.

- Two States, Maryland and Wisconsin, withdrew from the program early because of a lack of support for efforts to obtain legislative authority to implement any program requirements.
- North Carolina lacked State legislative authority because of a lack of support for legislation to make conducting background checks mandatory for long-term care providers.
- Georgia and Hawaii were not able to move through the States' legislative processes to obtain State legislation to conduct background checks of all long-term care providers and to require that all employees undergo background checks. Hawaii also had other requirements that were unmet because of a lack of State legislative authority.

Some States that sought State legislative authority during the program completed the process after the end of the program

After exiting the program, some States continued working toward meeting program requirements. Some States that obtained State legislative authority after completion of the program included Georgia and Hawaii.

- Georgia obtained legislation to include all but one type of long-term care facility and to require all employees to undergo background checks.
- One month after completing the program, Hawaii was able to obtain legislative authority for three of the four unimplemented requirements of the program.

Seven States that lacked legislative authority to meet National Background Check Program requirements also had difficulty coordinating between State-level departments

All seven States that had difficulty coordinating between State-level departments encountered challenges coordinating with State law enforcement agencies and were not able to secure legislative authority. Most of the coordination challenges were because the State law enforcement agency needed to procure, update, or integrate systems to conduct the background checks. One State experienced a billing issue with the State law enforcement agency, and another State had difficulty coordinating with the State law enforcement agency to obtain legislative authority to conduct background checks.

States collectively spent at least \$111 million in combined Federal and State funds to develop or enhance systems to conduct background checks of long-term care providers

States spent approximately \$55 million in Federal funds of the \$160 million set aside for use in the National Background Check Program. States spent approximately another \$56 million in required matching State funds.

Some States spent funds to build infrastructure to meet program requirements (start-up costs), while other States spent funds to make improvements to existing infrastructure (administrative costs). The program allowed States flexibility in whether they spent funds on start-up costs or administrative costs. See Appendix E for additional information on State start-up and administrative costs.

CONCLUSION

The National Background Check Program was successful in assisting 27 States to develop programs to identify efficient, effective, and economical procedures for conducting background checks on prospective long-term care employees. The program enabled States to disqualify more than 106,000 prospective employees from providing care to residents in long-term care settings. By preventing prospective and current employees with disqualifying convictions from being employed by long-term care providers, State background check programs can help protect residents who rely on these providers from abuse, neglect, and misappropriation of property.

Despite the conclusion of the National Background Check Program, States continued to conduct background checks and participate in the National Background Check Program Forum. The advancement of program initiatives continued to protect residents in long-term care settings from abuse, neglect, and misappropriation of property. States continued to spend State funds, meet program requirements, and disqualify an additional 254,000 prospective employees from being employed by long-term care providers.

OIG issued recommendations during the program that aided the outcomes in this final assessment. CMS concurred with OIG's recommendations and has implemented them. OIG does not have further recommendations; however, CMS may want to consider how to provide support to States that continue to work toward the advancement of National Background Check Program initiatives.

DETAILED METHODOLOGY

Scope

P.L. No. 111-148 § 6201 outlines five topics that the mandated evaluation and report must include within 180 days of program completion. See Appendix B for the reporting mandate.

Data Collection

CMS monitoring documents. We obtained from CMS the reports and documents submitted by States related to their implementation of the program. We collected from CMS and the technical assistance contractor (Contractor) the monitoring documents that they received from each State. We obtained the source amounts for program funding from the final Federal Financial Reports (FFRs), and we obtained program costs from the quarterly cost expenditure reports from each State's final quarter in the program. We followed up with CMS, the Contractor, and States to ensure accuracy.

OIG surveys and interviews of State officials. We conducted surveys of States as they exited the program (from August 2017 through June 2024). We also conducted a group interview in the summer of 2023 with States attending a program forum. Additionally, we followed up in spring 2024 with States that did not meet the requirements of the program during participation to inquire whether the States had made progress in meeting requirements after the program.

Data Analysis

CMS grant monitoring documents. We reviewed the documents that we obtained from CMS and the Contractor to evaluate States' progress in the program during participation. We also reviewed the number of background checks that States conducted and analyzed the rates of determinations of ineligibility for prospective employees. Additionally, we reviewed the financial reports, including FFRs and quarterly cost expenditure reports, to identify the overall program costs, including start-up costs, administrative costs, and total costs.

OIG surveys and interviews of State officials. We reviewed the surveys to determine whether States experienced unintended consequences, including a reduction in the available workforce for long-term care providers. We also reviewed the surveys and interviews to determine whether the program impacted the reduction of the number of incidents of abuse, neglect, and misappropriation of resident property, and to examine the long-term impact of the program.

APPENDICES

Appendix A: Beginning and Ending Dates of States' Respective National Background Check Programs

State	Grant Award Date	Grant End Date
Delaware	9/30/2010	9/29/2013
Maryland*	1/31/2013	6/30/2014
Illinois	12/31/2010	12/30/2014
Alaska	9/30/2010	9/29/2016
Connecticut	9/30/2010	9/29/2016
Florida	9/30/2010	9/29/2016
Missouri	9/30/2010	9/29/2016
Rhode Island	9/30/2010	9/29/2016
District of Columbia	12/31/2010	12/30/2016
New Mexico	12/31/2010	12/30/2016
California	2/1/2011	1/31/2017
Oklahoma	4/5/2011	4/4/2017
Kentucky	5/20/2011	5/19/2017
Michigan	5/20/2013	5/19/2017
Utah	7/11/2011	7/10/2017
North Carolina	7/13/2011	7/12/2017
Maine	10/1/2011	9/30/2017
Nevada	10/1/2011	9/30/2017
West Virginia	10/1/2011	9/30/2017
Georgia	7/25/2012	7/24/2018
Minnesota	8/30/2012	7/31/2018
Hawaii	12/17/2012	12/16/2018
Ohio	4/22/2013	4/21/2019
Oregon	7/29/2013	7/28/2019
Puerto Rico**	12/17/2012	12/16/2019
Wisconsin*	6/1/2018	6/26/2020
Kansas	7/1/2015	6/30/2021
Idaho	6/1/2018	5/31/2024
Mississippi	6/1/2018	5/31/2024

Source: CMS Notice of Award and the CMS technical assistance contractor (Contractor) website.

* Maryland and Wisconsin withdrew from the program early.

** Puerto Rico was awarded a 1-year extension in 2018 because of natural disasters experienced by the State.

Appendix B: Mandate for National Background Check Program Evaluation and Reports

P.L. No. 111-148, § 6201(a)(7)

§ 6201(a)(7) EVALUATION AND REPORT.—

(A) EVALUATION.—

(i) IN GENERAL.—The Inspector General of the Department of Health and Human Services shall conduct an evaluation of the nationwide program.

(ii) INCLUSION OF SPECIFIC TOPICS.—The evaluation conducted under clause (i) shall include the following:

(I) A review of the various procedures implemented by participating States for long-term care facilities or providers, including staffing agencies, to conduct background checks of direct patient access employees under the nationwide program and identification of the most appropriate, efficient, and effective procedures for conducting such background checks.

(II) An assessment of the costs of conducting such background checks (including start up and administrative costs).

(III) A determination of the extent to which conducting such background checks leads to any unintended consequences, including a reduction in the available workforce for long-term care facilities or providers.

(IV) An assessment of the impact of the nationwide program on reducing the number of incidents of neglect, abuse, and misappropriation of resident property to the extent practicable.

(V) An evaluation of other aspects of the nationwide program, as determined appropriate by the Secretary.

(B) REPORT.—Not later than 180 days after the completion of the nationwide program, the Inspector General of the Department of Health and Human Services shall submit a report to Congress containing the results of the evaluation conducted under subparagraph (A).

Appendix C: Related OIG Reports

National Background Check Program for Long-Term-Care Providers: An Interim Assessment (OEI-07-20-00181)

In May 2022, OIG published an evaluation of the last two States that continued participation in the National Background Check Program. During their first years of participation in the program, the two States were unable to implement some program requirements and did not consistently report Federal and State funds. In addition, one of the States did not report data accurately to assess program outcomes.

In this evaluation, OIG recommended that CMS ensure that participating States submit accurate quarterly reports. CMS concurred with this recommendation.

National Background Check Program for Long-Term-Care Providers: Assessment of State Programs Concluded in 2019 (OEI-07-20-00180)

In September 2020, OIG published an evaluation of the four States that concluded program participation in late 2018 or 2019. These four States varied as to the degree to which they were able to implement program requirements. One State had existing legislative authority and implemented all 13 selected program requirements. Three States did not fully implement program requirements. These States had varying degrees of State-level legal requirements and practical infrastructure for conducting background checks that affected their ability to implement select program requirements. Primarily, these States lacked legislative authority and encountered challenges in coordinating between State-level departments.

In this evaluation, OIG recommended that CMS continue to implement OIG's prior recommendation that CMS take appropriate actions to encourage States to obtain the necessary legislative authority to fully implement program requirements. Given this report's findings, CMS should assist participating States to address the challenge of coordinating between State-level departments and require participating States to consistently submit data that allow CMS and each State to calculate determinations of ineligibility. CMS concurred with both recommendations and has implemented the first recommendation.

National Background Check Program for Long-Term-Care Providers: Assessment of State Programs Concluded in 2017 and 2018 (OEI-07-18-00290)

In August 2019, OIG published an evaluation of 11 States that concluded program participation in 2017 and 2018. These 11 States varied as to the degree to which they were able to implement program requirements. Two States implemented all selected program requirements. Nine States did not implement all the selected program requirements, primarily because of a lack of legislative authority for certain program requirements. We encouraged CMS to implement an open recommendation from the April 2019 report—namely, to take appropriate actions to encourage States to obtain the necessary legislative authority to fully implement program requirements. We did not offer any new recommendations.

National Background Check Program for Long-Term-Care Providers: Assessment of State Programs Concluded Between 2013 and 2016 (OEI-07-16-00160)

In April 2019, OIG published an evaluation of the National Background Check program for Long-Term-Care Providers for the 10 States that concluded their participation by 2016. These 10 States varied as to the degree to which they implemented program requirements. Seven of the States implemented all or most of the selected requirements. Three States did not have the necessary authority through State legislation and could not fully implement background check programs.

In this evaluation, OIG recommended that CMS take appropriate action to encourage participating States to obtain necessary authorities to fully implement program requirements. CMS concurred with this recommendation; CMS continues working to implement this recommendation by providing supporting pre-legislative research and assisting States in developing revised legislative language, and has provided technical assistance to develop and promote effective legislation.

National Background Check Program for Long-Term-Care Employees: Interim Report (OEI-07-10-00420)

In 2016, OIG published an evaluation of the National Background Check Program for Long-Term-Care Employees that described the overall State implementation status during the first 4 years of the program. The 25 States then participating in the program reported having achieved varying levels of implementation. Fifteen States did not conduct continuous monitoring of criminal convictions. Thirteen States did not obtain legislation that would enable them to conduct background checks. Ten States had not implemented processes to collect fingerprints. The study provided CMS with information to assist in its ongoing administration of the program.

In this evaluation, OIG recommended that CMS continue working with States to fully implement their background check programs. Additionally, OIG recommended that CMS continue working with participating States to improve the quality of their required data reporting to ensure that CMS can conduct effective oversight of the program. CMS concurred with both recommendations and implemented the first recommendation by providing States with individual technical assistance, data review, and data validation. CMS implemented the second recommendation by providing States with assigned project officers, a technical assistance contractor (Contractor), teleconferences, and a website.

Nationwide Program for National and State Background Checks for Long-Term-Care Employees—Results of Long-Term-Care Provider Administrator Survey (OEI-07-10-00421)

In 2012, OIG conducted an evaluation of the nationwide Program for national and State background checks that surveyed long-term-care provider administrators. We found that 94 percent of administrators conducted background checks on prospective employees. Twenty-three percent of surveyed administrators believed that their organizations' background check procedures reduced the pool of prospective employees.

Appendix D: Determinations of Ineligibility During the National Background Check Program

State	Completed Checks	Checks with Determinations of Ineligibility
Alaska	45,511	3,646
California	15,395	113
Connecticut	14,406	53
Delaware	28,546	29
District of Columbia	30,054	162
Florida	1,175,691	64,717
Georgia	3,201	52
Hawaii	820	12
Idaho	5,286	70
Illinois	210,656	7,533
Kansas*	No data	No data
Kentucky	23,468	546
Maine	6,206	0
Maryland*	No data	No data
Michigan	396,376	13,355
Minnesota	281,652	7,748
Mississippi**	NA	NA
Missouri**	NA	NA
Nevada	57,294	968
New Mexico	102,341	3,051
North Carolina**	NA	NA
Ohio**	NA	NA
Oklahoma	86,215	844
Oregon	31,499	0
Puerto Rico*	No data	No data
Rhode Island	6,238	32
Utah	41,764	1,577
West Virginia	57,666	1,587
Wisconsin*	No data	No data

Source: OIG analysis of State background check data submitted while States were in the program.

* Kansas, Maryland, Puerto Rico, and Wisconsin did not report data during the program.

** Mississippi, Missouri, North Carolina, and Ohio data were missing the variables needed to calculate total number of completed checks and determinations of ineligibility.

Appendix E: Overview of Start-Up and Administrative Costs by State During the National Background Check Program

State	Start-Up Costs	Administrative Costs
Alaska	\$0	\$1,998,933
California	\$534,609	\$2,403,628
Connecticut	\$4,098,481	\$1,330,375
Delaware	\$3,151,153	\$488,608
District of Columbia	\$269,520	\$3,668,646
Florida	\$2,385,547	\$4,709,656
Georgia	\$1,462,944	\$1,063,730
Hawaii	\$1,124,741	\$0
Idaho	\$0	\$1,214,424
Illinois	\$0	\$1,825,447
Kansas	\$0	\$675,839
Kentucky	\$3,510,380	\$0
Maine	\$3,193,032	\$503,115
Maryland	\$105,032	\$0
Michigan	\$142,536	\$1,638,494
Minnesota	\$3,000,000	\$28,582,117
Mississippi	\$0	\$4,164,556
Missouri	\$3,610,208	\$0
Nevada	\$1,433,000	\$0
New Mexico	\$1,482,810	\$451,972
North Carolina	\$2,828,551	\$0
Ohio	\$65,787	\$1,690,076
Oklahoma	\$306,679	\$4,033,779
Oregon	\$1,666,172	\$2,204,036
Puerto Rico	\$4,310,708	\$0
Rhode Island	\$1,728,402	\$0
Utah	\$2,086,207	\$2,611,023
West Virginia	\$934,574	\$3,795,393
Wisconsin*	NA	NA
Total	\$43,431,074	\$69,053,847

Source: OIG analysis of quarterly cost expenditure reports for each State's final quarter of participation in the program.

Notes: Start-up and administrative costs were reported to CMS before the submission of the final Federal Financial Reports and do not reflect revisions submitted by States after the program. Results are rounded.

*Wisconsin did not receive Federal funds and did not spend State or Federal funds during the program.

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ENDNOTES

¹ Seniorliving, *Elder Abuse Statistics for 2024*. Accessed at [Elder Abuse Statistics for 2024 | SeniorLiving.org](#) on July 26, 2024.

² P.L. No. 111-148, § 6201(a)(5). CMS, *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 (CMS-1A1-13-002), May 2013, p. 19.

³ CMS states that a grantee may request a no-cost grant extension for the National Background Check Program if the grantee requires additional time beyond the established expiration date to fully complete the program plan and objective proposed in its original grant application, or to accomplish orderly phase-out of the project. Accessed at <https://web.archive.org/web/20240616111352/https://www.bgcheckinfo.org/grant-extension-process> on October 24, 2024.

⁴ P.L. No. 111-148, § 6201(a)(3)(A).

⁵ The grant solicitation document that CMS published defines “registries” as any State-based databases and nurse aide registries that identify those who have been approved under State requirements to provide care to residents or patients in long-term-care facilities or by providers of long-term-care services. These registries may include—but are not limited to—registries that list physicians, nurses, psychologists, and other professionals who are considered direct patient access employees. Other registries or databases may include the Medicare Exclusion Database, the Fraud Investigation Database, the Healthcare Integrity and Protection Data Bank, or the National Practitioner Data Bank. CMS, Ninth Announcement CFDA #93.506 (CMS-1A1-13-002), May 2013, p. 50.

⁶ CMS established regulations that prohibit long-term-care facilities and providers from employing individuals found guilty of abuse, neglect, or misappropriation of patient funds. 42 CFR § 483.12(a)(3). “In 1998, Congress enacted [P.L.] 105-277, which allows long term care facilities to request the [FBI] search its fingerprint database for criminal history matches.” CMS, Ninth Announcement CFDA #93.506 (CMS-1A1-13-002), May 2013, p. 5.

⁷ 42 U.S.C. § 1320a-7. Under this statute, the Secretary must exclude individuals from participation in Federal health care programs on the basis of convictions of program-related crimes; patient abuse; and felony convictions related to health care fraud and controlled substances. Other convictions may lead to “permissive” exclusion—allowing the Secretary discretion as to whether to exclude the person even if he or she has a conviction. These apply to both Federal and State convictions. Under 42 U.S.C. § 1320a-7a, civil monetary penalties and other sanctions may be imposed on facilities that receive Federal health care dollars and that employ or contract with individuals whom the facilities know or should know are excluded by the Secretary.

⁸ P.L. No. 111-148, § 6201(a)(3)(A). Participating States must ensure that background checks include checks of (1) State criminal history records for relevant States; and (2) the records of any proceedings that may contain disqualifying information, such as the proceedings of licensing and disciplinary boards and State Medicaid Fraud Control Units.

⁹ Criteria for disqualification are based on Federal and State laws. Federal regulations prohibit Medicare and Medicaid nursing facilities from employing individuals who have been found guilty by a court of law of abusing, neglecting, exploiting, or mistreating residents or misappropriating residents’ property; who have had a finding entered into the State nurse aide registry concerning abuse, neglect, exploitation, or mistreatment of residents or misappropriation of residents’ property; or who have had a disciplinary action in effect against their professional license as a result of a finding of abuse, neglect, exploitation, or mistreatment of residents or misappropriation of residents’ property (42 CFR § 483.12(a)(3)). State laws vary with regard to the types of convictions that disqualify prospective employees from employment in long-term care.

¹⁰ P.L. No. 111-148, § 6201(a)(4)(B)(viii). States are required to describe and test methods that reduce duplicative fingerprinting, including providing for the development of “Rap Back” capability such that, if a direct patient access employee of a long-term care facility or provider is convicted of a crime following the initial criminal history background checks conducted with respect to such employee, and the employee’s fingerprints match the prints on file with the State law

enforcement department, the department will immediately inform the State and the State will immediately inform the long-term care facility or provider that employs the direct patient access employee of such conviction.

¹¹ P.L. No. 111-148, § 6201(a)(4). CMS, *Notice of Award Patient Protection and Affordable Care Act Sec. 6201 – Idaho*, May 2018, p. 41. CMS, *Notice of Award Patient Protection and Affordable Care Act Sec. 6201 – Mississippi*, May 2018, p. 41.

¹² CMS, *Availability of Technical Assistance for Grantee States*. Accessed at <https://web.archive.org/web/20200918164324/https://www.bgcheckinfo.org/about-nbcp/technical-assistance-overview> on October 24, 2024.

¹³ CMS, *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 (CMS-1A1-13-002), May 2013, pp. 19-20. National Background Check Technical Assistance, *Quarterly Report Forms*. Accessed at <https://web.archive.org/web/20201025013054/https://www.bgcheckinfo.org/resources/useful-references-and-templates/quarterly-reports-forms> on October 24, 2024. CMS, *Notice of Award Patient Protection and Affordable Care Act Sec. 6201 – Idaho*, May 2018, p. 42. CMS, *Notice of Award Patient Protection and Affordable Care Act Sec. 6201 – Mississippi*, May 2018, p. 42.

¹⁴ Per the Terms and Conditions of the grant, CMS will specify the format and content of the quarterly reports (including the SF-425 and Federal Financial Report (FFR) forms). On the technical assistance website for the program, CMS has indicated that the four sections of the quarterly reports include the FFR, cost expenditure report, grantee data file, and project narrative (new as of October 5, 2021). The quarterly reports, FFRs, and grantee data files were accessed at <https://web.archive.org/web/20220125174507/https://www.bgcheckinfo.org/resources/useful-references-and-templates/quarterly-reports-forms> on October 24, 2024.

¹⁵ CMS, *Notice of Award Patient Protection and Affordable Care Act Sec. 6201 – Idaho*, May 2018, p. 46. CMS, *Notice of Award Patient Protection and Affordable Care Act Sec. 6201 – Mississippi*, May 2018, p. 46.

¹⁶ OEI engaged with CMS on this mandated topic in a consultation process consistent with the principles of independence under the Inspector General Act, and CMS did not identify any additional topics to evaluate.

¹⁷ Twenty-five States reported data to the Contractor; however, four States did not include the variable needed to conduct this analysis, so any disqualifications these States made are not included in the total.

¹⁸ United States Sentencing Commission, *The Past Predicts the Future: Criminal History and Recidivism of Federal Offenders*, March 2017. Accessed at https://www.ussc.gov/sites/default/files/pdf/research-and-publications/research-publications/2017/20170309_Recidivism-CH.pdf on June 13, 2024.

¹⁹ Seventeen States continued to report data to the Contractor; however, three States did not include the variable needed to conduct analysis, so any disqualifications these States made are not included in the total.

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