



**COLORADO**

Department of Health Care  
Policy & Financing

# FORMAL RECOMMENDATION RESPONSE SUMMARY

Issued: October 4, 2022

Issued by: Participant Directed Programs Unit

## 1. Background

The Participant Directed Programs Unit received a Formal Recommendation from the Participant Directed Programs Policy Collaborative (PDPPC) regarding Consumer Directed Attendant Support Services (CDASS) on August 21, 2022. This recommendation was submitted after a vote by PDPPC stakeholders on June 22, 2022, supporting proposed changes put forward by the Background Check Workgroup.

The Background Check Workgroup was convened in Fall 2020 and has worked on researching and developing policy and/or operational changes to address stakeholder-identified challenges with recruiting attendants amidst growing workforce shortages.

PDPPC Policy Recommendations:

1. A CDASS employer will have the right to make the final decision about hiring an attendant with a safety check/plan in place.
2. A CDASS employer can choose to run additional background database checks. Employers are responsible for running and paying for the additional checks.
3. A CDASS employer can choose to rerun background checks after an attendant has already been hired. Employers are responsible for running and paying for the additional checks.

PDPPC Operational Recommendations:

1. The Acceptance of Responsibility (AOR) form is sufficient to establish acceptance of risk if an employer chooses to hire an attendant who is initially ineligible.
2. The “Barrier Crimes List” will remain in place but be renamed to: “Background Check Crimes of High Risk: CDASS Employer Hiring Guide”
3. The following changes will be made to the Background Check Crimes of High Risk: CDASS Employer Hiring Guide:
  - a. Time limiting hate crimes, felony arson, and felony fraud.



b. Removing felony theft, felony drug related offenses, and felony DUI

**2. Department Decision**

The Department agrees with PDPPC’s recommendation as outlined in the **Overview of Proposed CDASS Background Check Process and Policy Changes** document developed by the Background Check Workgroup. The direct care workforce shortage continues to impact CDASS and other home and community-based services. Adopting this recommendation will hopefully result in a wider pool of potential attendants from which CDASS employers can choose to hire. Additionally, this change aligns with the principles of self-direction for members who direct and manage their care in CDASS.

In addition to the recommendations proposed by stakeholders, the Department acknowledges that additional components are necessary to implement this process. For example, the training and operations vendor’s materials will require updates to incorporate these changes. Each 1915 (c) waiver application must be amended during the Fall 2022 Waiver amendment process and CDASS regulation 10 CCR 2505-10 section 8.510.8.I must be revised.

While some of the recommendations can be implemented immediately, others will take more time. The Department will pursue policy and operational changes which will conclude by May 2023. In the meantime, the Department agrees to utilize an interim process which permits members to hire individuals with high-risk crimes that were previously prohibited from working as CDASS attendants. The interim process is outlined in the attached **CDASS Background Check Exception, Conditional Hire, and Clarification Process** document.

**3. Department Responsibilities and Timeline:**

<b>Forms</b>	
<i>Create and launch Google forms for the exception and conditional hire request process.</i>	<i>Completed September 2022</i>
Update Attendant Support Management Plan (ASMP) template to add a safety plan for members / ARs. The safety plan will be included in Part Five - Emergency Back Up Planning.	October 31, 2022
<b>Vender Oversight &amp; Training</b>	
Oversee Consumer Direct of Colorado’s implementation of the safety plan within the ASMP.	October 31, 2022



Oversee Consumer Direct, Palco, and PPL’s development and posting of additional resources for CDASS employers to run additional background check reports.	October 31, 2022
Review and approved updated Palco and PPL Acceptance of Responsibility (AOR) forms.	November 30, 2022
Coordinate the development of educational resources to support CDASS employers with their decision making and understanding of the criminal background check process.	January 31, 2023
<b>Communication</b>	
Communicate to current CDASS members / ARs about how to update their current ASMP	October 31, 2022
Update <a href="#">Participant Directed Programs website</a> with background check section that contains the exception and conditional hire process, the Background Check Crimes of High Risk: CDASS Employer Hiring Guide, and location of support resources.	December 31, 2022
<b>Contract and Regulatory Updates</b>	
Modify all vendor contracts to ensure compliance with policy and operational changes.	May 31, 2023
Amend 1915(c) waiver applications to allow for exceptions to the background check process	
<i>Develop language for 2022 Fall Waiver amendments</i>	<i>Complete</i>
<i>Public Noticing period</i>	<i>Complete</i>
Anticipated CMS acceptance	December 31, 2022
Effective date	January 1, 2023
Amend CDASS Regulation 10 CCR 2505-10, 8.510.8.I: “Attendants are not eligible for hire if their background check identifies a conviction of a crime that the Department has identified as a barrier crime that can create a health and safety risk to the Client. A list of barrier crimes is available	January 30, 2023



through the Training and Operations Vendor and FMS vendors.”	
Submit Rule Documents to MSB Coordinator	October 5, 2022
Public Rule Review Meeting	October 19, 2022
Final Version of Rule Prior to MSB Hearing	November 1, 2022
Medical Services Board Initial Approval	November 10, 2022
Medical Services Board Final Adoption	December 9, 2022

*Note: Italicized text means that the task has already been completed.*

**Attachments:**

Background Check Proposed Changes - Data - Workgroup Timeline June 2022  
 CDASS Background Check Exception, Conditional Hire, and Clarification Process  
 PDPPC Formal Recommendation - Background Check Workgroup

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