

Select originating cluster

Catherine Cooper
Authorized Signature

Number: SPD-IM-04-069
Issue Date: 08/06/04

Topic: Provider Information

Subject: Preliminary fitness determinations for providers who are enrolled through local SPD/AAA offices

Applies to (check all that apply):

- | | |
|----------------------------------------------------------------|--------------------------------------------------------------------------|
| <input type="checkbox"/> All DHS employees | <input type="checkbox"/> County Mental Health Directors |
| <input checked="" type="checkbox"/> Area Agencies on Aging | <input type="checkbox"/> Health Services |
| <input type="checkbox"/> Children, Adults and Families | <input checked="" type="checkbox"/> Seniors and People with Disabilities |
| <input checked="" type="checkbox"/> County DD Program Managers | <input type="checkbox"/> Other (please specify): |

Message:

This a clarification about local offices' responsibility to conduct a preliminary fitness determination as described in OAR 410-007-0310 and 411-007-0320. OAR 410-007-0320 states: " (3) Preliminary Fitness Determination. A preliminary fitness determination must be completed prior to allowing a subject individual to be on probationary status. The preliminary fitness determination must be made by an authorized designee, or when allowed by subsection (3)(a) of this rule, by a contact person."

Once a "subject individual" (provider applicant) completes the Criminal History Release authorization form (DHS 0301), the local office responsibility is to review the form and any arrests, convictions and mitigating circumstances the "subject individual" (applicant) has listed. The authorized designee or contact person makes a preliminary determination based on that information whether the "subject individual" (applicant) is "fit" to begin working, on probationary status, prior to the outcome of a final fitness determination. Probationary status is defined in OAR 410-007-0210 (21).

If the "subject individual" (applicant) is determined "unfit", the program manager sends a denial notice to the "subject individual" (applicant) and gives the "subject individual" (applicant) the opportunity to appeal the decision, the first step is an "informal administrative review", as described in 410-007-0330 "Contesting a Fitness Determination." This informal administrative review can be held over the telephone rather than in person. If the "subject individual" (applicant) requests an informal

administrative review, the authorized designee considers the information they provide and makes another decision whether the denial should be maintained or reversed. If the decision is that the "subject individual" (applicant) remains "unfit", the authorized designee notifies the "subject individual" (applicant) of the decision on and gives them an opportunity to file a contested case hearing request on the DHS 229 form. The DHS 229 Hearing Request form should be returned to the local office. The local office would forward the request to the Office of Administrative Hearings and prepare the case for a Contested Case Hearing.

For fitness determinations made at the Criminal Records Unit based on FBI history, hearings requests are returned to the Criminal Records Unit for the appeal process. The Criminal Records Unit hearing representative would represent the Department in these hearings. The Criminal Records Unit also represents the Developmental Disabilities Services cases scheduled for hearing when they only have "contact persons" rather than "authorized designees."

If you have any questions about this information, contact:

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