

**KMAP GENERAL BULLETIN 16139**

**REMINDER: Implementation of  
Fingerprint-based Criminal Background Checks**

Over the next several weeks, providers enrolled in the Kansas Medical Assistance Program (KMAP) under provider type Durable Medical Equipment (DME) or Home Health Agency (HHA) designated as a “high” category of risk and other providers assigned a high category of risk will receive notification to submit fingerprints and undergo a criminal background check.

<b>Revalidation due date:</b>	<b>FCBC action needed:</b>
Before 11/30/2016	Providers will receive notice in December 2016 to submit fingerprints within 30 days of the letter.
12/1/2016 and after	Providers will submit fingerprints with revalidation following the instructions in the provider revalidation portal.

Providers should not take any action until they receive their letter. It is critical for providers to respond promptly to prevent termination or denial of revalidation. For more information, refer to the frequently asked questions (FAQs) on the following pages and on the [FAQ](#) page of the KMAP website under Provider Enrollment.

**Background and authority**

As part of the application screening process for KMAP, Section 6401 of the Affordable Care Act, Provider Screening and Other Enrollment Requirements through 42 CFR § 455.450(c), requires KMAP to do the following for providers designated as a high category of risk:

- Perform the “limited” and “moderate” screening requirements specified at 42 CFR 455.450(a) and (b)
- Require the submission of a set of fingerprints in accordance with 42 CFR 455.434
- Conduct a criminal background check

Under 42 CFR 455.434(b), the requirement to submit fingerprints applies to both the high risk provider and any person with a 5% or greater direct or indirect ownership interest in the provider, as defined in 42 CFR 455.101.

Under 42 CFR 455.416, a state Medicaid agency must terminate or deny enrollment if the provider or any person with a 5% or greater direct or indirect ownership interest, who is required to submit fingerprints, does any of the following:

- Fails to submit them within 30 days of the Medicaid agency’s request
- Fails to submit them in the form and manner requested by the Medicaid agency
- Has been convicted of a criminal offense related to that person’s involvement with the Medicare, Medicaid, or Children’s Health Insurance Program (CHIP) in the last 10 years

**KMAP**

[Kansas Medical Assistance Program](#)

- [Bulletins](#)
- [Manuals](#)
- [Forms](#)

**Customer Service**

- 1-800-933-6593 (in-state)
- 785-274-5990  
8:00 a.m. - 5:00 p.m.  
Monday - Friday

**Q1: Can local police stations do fingerprints?**

**A1:** Yes, any law enforcement agency authorized to take prints is acceptable.

**Q2: Who mails the fingerprint card to KDHE/DHCF?**

**A2:** The law enforcement agency who takes the prints is responsible for mailing them to KDHE/DHCF in the addressed stamped envelope you provide.

**Q3: Do individuals, who reside outside of Kansas, need to come to Kansas to have fingerprints taken?**

**A3:** No, any law enforcement agency authorized to take prints is acceptable. The law enforcement agency taking the prints is responsible for mailing them to KDHE/DHCF in the addressed stamped envelope you provide.

**Q4: What if the law enforcement agency will not mail the fingerprints to KDHE/DHCF?**

**A4:** Locate another law enforcement agency to take your prints.

**Q5: How long does it take to complete the criminal background check once the fingerprints are received?**

**A5:** The criminal background check will take 5-10 business days.

**Q6: Why does a state Medicaid agency have to conduct FCBCs?**

**A6:** The federal regulation at 42 CFR 455.410(a) provides that a state Medicaid agency must require all enrolled providers to be screened according to the provisions of Part 455 subpart E. These provisions require the agency to screen all provider applications for enrollment, including initial applications, applications for a new practice location, and applications for re-enrollment or revalidation, based on a categorical risk level of "limited," "moderate," or "high" (42 CFR 455.450). The agency must establish categorical risk levels for providers and provider categories who pose an increased financial risk of fraud, waste or abuse to the Medicaid program. When the agency determines that a provider's categorical risk level is "high," or when the agency is otherwise required to do so under state law, the agency must require providers to consent to criminal background checks, including fingerprinting (42 CFR 455.434).

**Q7: Is this mandatory per statutory requirement by regulation?**

**A7:** Yes. CMS implemented provider screening requirements for Medicaid enrollment with federal regulations at 42 CFR Part 455 subpart E and at 42 CFR §457.990, which makes Part 455 subpart E applicable to CHIP. CMS published these regulations as a final rule in the Federal Register, Vol. 76, February 2, 2011, and were effective March 25, 2011.

**Q8: When a state Medicaid agency designates a provider or provider category as "high" risk, what is state Medicaid agency required to do?**

**A8:** Under 42 CFR 455.450(c), when a state Medicaid agency designates a provider as a "high" categorical risk, the agency must:

- Perform the "limited" and "moderate" screening requirements specified at 42 CFR 455.450(a) and (b);
- Require the submission of a set of fingerprints in accordance with 42 CFR 455.434; and
- Conduct a criminal background check.

**Q9: What provider categories are "high" risk?**

**A9:** DME or Home Health Agency providers enrolled after March 2011 are designated a "high" category of risk. In addition, the state Medicaid agency must adjust the category of risk level to "high" when the following occurs: imposition of a payment suspension due to credible allegation of fraud; the provider has an existing Medicaid overpayment; or the provider has been excluded by the OIG or another Medicaid program in the previous 10 years.

**Q10: Who is required to submit fingerprints?**

**A10:** If a state Medicaid agency designates a provider as a “high” risk, as described in Q9, the provider, and any person with 5 percent or more direct or indirect ownership interest in the provider, must submit fingerprints and undergo a criminal background check, per 42 CFR 455.434(b). 42 CFR 455.101 defines an “ownership interest” as the possession of equity in the capital, the stock, or the profits of the provider. An “indirect ownership interest” means an ownership interest in an entity that has an ownership interest in the provider.

**Q11: In the case of a “high” risk provider enrolled in Medicare, is the state Medicaid agency required to conduct an FCBC if the provider wants to enroll (or re-enroll) in Medicaid or seeks to revalidate its current enrollment?**

**A11:** Not if the State Medicaid Agency is able to rely on Medicare’s screening by confirming the provider or organization is a positive match. The State Medicaid Agency will compare minimum required data elements through PECOS to verify a match between Medicaid and Medicare. Under 42 CFR 455.410(c), state agencies may rely on a provider’s Medicare enrollment even if Medicare has not conducted an FCBC with respect to that provider.

**Q12: What if a provider or an owner of 5 percent or more doesn’t submit fingerprints when requested to do so by a state Medicaid agency?**

**A12:** Under 42 CFR 455.416, a state Medicaid agency must terminate or deny enrollment of a provider if the provider, or any person with a 5 percent or greater direct or indirect ownership interest, who is required to submit fingerprints:

- fails to submit them within 30 days of the Medicaid agency’s request; or
- fails to submit them in the form and manner requested the Medicaid agency.

In both cases, the agency may allow the provider to enroll if the agency determines that termination or denial of enrollment is not in the best interests of the Medicaid program and documents that determination in writing.

**Q13: What if the results of a FCBC indicate that a provider or 5 percent owner has a criminal record?**

**A13:** Under 42 CFR 455.416, a state Medicaid agency must terminate or deny enrollment of a provider if the provider, or any person with a 5 percent or greater direct or indirect ownership interest, who is required to submit fingerprints has been convicted of a criminal offense related to that person’s involvement with the Medicare, Medicaid or CHIP program in the last 10 years. The types of convictions that warrant denial of enrollment are at the discretion of the agency. The agency may allow the provider to enroll if the agency determines that termination or denial of enrollment is not in the best interests of the Medicaid program and documents that determination in writing that is available to CMS or OIG upon request.

**Q14: Who is responsible for the cost of conducting FCBCs for “high” risk providers?**

**A14:** The “high” risk provider is responsible to pay the costs associated with obtaining fingerprints. Under 42 CFR 455.460(a), state Medicaid agencies must collect application fees prior to executing a provider agreement and this application fee is intended to cover the costs associated with a state’s Medicaid provider screening program, including the costs of conducting an FCBC on “high” risk providers.

**Q15: Do the FCBC requirements that apply to state Medicaid programs also apply to CHIP programs?**

**A15:** Yes. Under 42 CFR 457.990(a), the Medicaid provider screening and enrollment rules at Part 455, subpart E, including the FCBC requirements discussed in these FAQs, apply to a state CHIP program just as they apply to the state’s Medicaid program.

**Q16: When are individuals required to submit fingerprints to have a FCBC conducted?**

**A16:** Any person with 5 percent or more direct or indirect ownership interest in the provider designated with a “high” category of risk, must submit fingerprints and undergo a criminal background check at initial enrollment, re-enrollment, and revalidation of enrollment.

*If you have additional questions, please contact HPE Provider Enrollment at 1-800-933-6593, option 3.*