

# Most States Delayed in Implementing Long-Term Care Background Check Program, OIG Finds

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The ***Office of Inspector General's (OIG's)*** recent report found significant delays in states' implementation of a background check program for long-term care employees. Because the interplay between Ban the Box laws and long-term care background checks can be complex, health care providers should keep a close eye on their states' progress to ensure compliance once fully implemented.

Established by the ***Affordable Care Act (ACA)***, the background check program provides as much as \$160 million in federal funds for states that voluntarily implement the program.

However, the report found that out of the 25 participating states:

- Only six states have submitted sufficient data in order to calculate percentage of prospective employees disqualified because of background checks.
- In the six states that participated, 3 percent of prospective employees were disqualified from employment because of background checks.
- Of the remaining 19 states, 11 states had not yet submitted data reports. Eight of these states had gaps that prevented calculation of disqualification rates.
- Thirteen states were still in the process of obtaining legislation to enable background checks.
- Ten states did not yet have the ability to collect fingerprints.

The stringent requirements of the program may be a cause of the implementation delays. The program requires states to include three types of background checks in their processes:

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1. Search of state-based abuse and neglect registries and databases
  2. Check of state criminal history records
  3. Fingerprint-based check of FBI criminal history records

OIG recommended that CMS should continue working with states to fully implement these programs, and to improve the required reporting.

Another potential cause for delay is that the program may conflict with recent trends in state legislation that require employers to postpone background checks until later in the hiring process. These so-called “ban the box” laws do not prohibit employers from utilizing background checks generally, but delay the time in which an employer is allowed to inquire into an applicant’s background.

Recently, several states have extended these requirements to private employers. In addition, while some jurisdictions exclude health care providers from complying with the laws, others make no such exception. States that have adopted Ban the Box Laws and have not yet submitted data reports or did not submit sufficient data include:

- California
- Connecticut
- Delaware
- Georgia
- Hawaii
- Illinois
- Maryland
- Minnesota
- Ohio
- Oregon
- Rhode Island

To avoid future compliance issues, health care providers, particularly those in the states listed above, should keep abreast of their states’ progress in implementing these long-term care background checks programs.

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