

Health Care Worker Waivers

HEALTH CARE WORKER REGISTRY
ILLINOIS DEPARTMENT OF PUBLIC HEALTH
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Topics Covered

- Purpose of Waiver
- Waiver Applications
- IDPH Role

Purpose of Waiver

WHAT IS A HEALTH CARE WORKER WAIVER?

Statutory Requirements

- State law prohibits a person from working:
 - If that person applies for certain health care positions,
 - And that person has convictions for certain criminal offenses,
 - Unless that person has been granted a Health Care Worker Waiver.
- State law determines:
 - Which criminal convictions disqualify a person from working and
 - How waivers are processed, granted, and/or denied.

Disqualifying Offenses

- A list of the disqualifying criminal offenses is found in the HealthCare Worker Background Check Act.
- Each criminal offense is listed by the Illinois Compiled Statutes (ILCS) citation and by the descriptive name of the offense.

Health Care Worker Waiver

- An individual with disqualifying convictions may be eligible to apply for a waiver, depending on the following factors:
 - The number and type(s) of their disqualifying convictions (misdemeanor or felony) and
 - The length of time since the most recent conviction date.
 - The time restrictions are spelled out in the Health Care Worker Background Check Code [77 Ill. Adm. Code 955.270 (d)].

Health Care Worker Waiver (Continued)

- An individual GRANTED a waiver is eligible to work.
- A GRANTED waiver is in effect unless and until that person is convicted of another disqualifying offense. At that time, the waiver will be revoked automatically.
- A waiver does not change the individual's criminal record. Instead, the waiver allows the individual to work in a health care position in spite of having one or more disqualifying convictions.
- Health care employers are not required to hire an individual even if they have a GRANTED waiver.

Waiver Applications

WHAT DOCUMENTATION IS REQUIRED?

Background Checks

- Before applying for a waiver, an individual must have a FEEAPP Fingerprint background check that has been initiated through the Health Care Worker Registry.
- When applying for a health care position, the potential employer will initiate the background check via a Livescan Request Form (LRF).
- The individual must report to a HCWR approved vendor to have his/her fingerprints scanned.
- Can take up to 90 days to return to IDPH HCWR from State Police, but that is the exception.

Background Checks (Continued)

- IDPH HCWR receives the results of the background check automatically from the Illinois State Police (ISP).
- Once an initial background check has been conducted, ISP will notify IDPH HCWR of new criminal activity after that initial background check automatically via a CAAPP.
- If convictions for new disqualifying offenses are reported, any previous waiver will be revoked and the individual will not be allowed to work in a health care position.

Applying for a Waiver

- To be considered for a waiver, an individual must complete the IDPH HCWR waiver application.
- Once complete, the waiver application and supporting documents must be sent to IDPH by one of the following methods:
 - E-Mail to DPH.HCWR@Illinois.gov,
 - Fax to (217) 524-3479, or
 - Mail to HCWR, 525 W Jefferson, 4th Floor, Springfield, IL 62761

Required Information

- Work history:
 - Must include at least 5 years of past work history; may attach resume.
- Description of conviction(s):
 - Must provide a **complete** description for **each** disqualifying conviction. The “Facts and Instructions” document attached to the waiver application explains this requirement in detail. Can attach separate sheet(s). Be sure to include the who, what, when, where and how police got involved in each disqualifying conviction.

Required Information (Continued)

- Court documents:
 - If conviction(s) occurred in last 10 years, must provide the following (as applicable):
 - Proof of completion for probation, conditional discharge, and/or court-ordered treatment;
 - Proof of completion of public service; and
 - Proof that fines and/or restitution have been paid (or that payments are being made).

Optional Information

- In addition to the required information, applicants **may** include other documents, such as the following:
 - Personal character reference(s);
 - Employment reference(s);
 - Certificate(s) of completion for specialized training program(s); or
 - Other information that helps IDPH HCWR understand their situation.

IDPH Role

HOW DOES IDPH PROCESS WAIVER APPLICATIONS?

Waiver Process

- IDPH processes waiver applications in the order received.
- Waivers are reviewed for completeness at the program level.
- Waivers are reviewed by the Waiver Committee and a decision is made whether to GRANT or DENY the waiver.
- The entire waiver process can take between 3 and 4 weeks.
- If application is returned for additional information, the 3 – 4 week “clock” resets once all the information is received.

Waiver Process (Continued)

- IDPH HCWR must consider several factors to determine whether to GRANT a waiver, including the following:
 - The individual's age at the time of the offense,
 - The individual's work history,
 - Criminal history in Illinois and other states,
 - The severity of the criminal offense(s),
 - The circumstances surrounding the conviction(s), and
 - Other evidence provided by the individual.

Types of Waivers

- Rehabilitation (Rehab) waiver:
 - A Rehab waiver is GRANTED automatically at the time IDPH HCWR receives a background check.
 - It can be GRANTED if the applicant has convictions only for certain minor criminal offenses and enough time has passed since the last conviction.
 - If the applicant has convictions for any other criminal offenses (or if not enough time has passed), he/she may still be eligible for a “regular” waiver.

Types of Waivers (Continued)

- “Regular” waiver:
 - Applicants with convictions for most disqualifying criminal offenses will apply for a “regular” waiver.
 - Applicant will submit a waiver application to IDPH HCWR.
 - IDPH HCWR will review the waiver application and GRANT or DENY the waiver.
 - The waiver applicant will be notified of IDPH HCWR Waiver Committee’s decision via the e-mail provided on the waiver application.

Types of Waivers (Continued)

- Appeal:
 - An appeal process is available to individuals who have convictions for more serious criminal offenses that are not waiverable thru the normal waiver committee.
 - The time requirements to be eligible for an appeal are **significantly longer** than for a waiver. These are also found in the Health Care Worker Background Check Code [77 Ill. Adm. Code 955.270 (g)(2)]:
 - Must have met all obligations to the court at least 10 years prior to submitting an appeal.
 - The 10 years begins after the termination of probation, conditional discharge, mandatory supervised release, and/or court-ordered treatment.

Types of Waivers (Continued)

- Appeal (continued):
 - The appeal process requires more levels of review at IDPH; appeals are reviewed by staff at the program level all the way to the IDPH Director.
 - The appeal applicant will be notified by e-mail of the Director's decision.
 - The appeal process can take 3 to 4 months or more to ensure adequate time for the various levels of review.