**Section 350.625 Determination of Need Screening** **and Request for Resident Criminal History Record Information**

a) For the purpose of this Section only, a facility is any location certified to participate in the Medicare program under Title XVIII of the Social Security Act or Medicaid program under Title XIX of the Social Security Act.

b) *All persons seeking admission to a facility must be screened to determine the need for facility services prior to being admitted, regardless of income, assets, or funding source.* (Section 2-201.5(a) of the Act) A screening assessment is not required provided one of the conditions in Section 140.642(c) of the rules of the Department of Healthcare and Family Services titled Medical Payment is met.

c) *Any person who seeks to become eligible for medical assistance from the Medical Assistance program under the Illinois Public Aid Code to pay for* active treatment *services while residing in a facility* shall *be screened* in accordance with 89 Ill. Adm. Code 140.642(b)(4). (Section 2-201.5(a) of the Act)

d) *Screening for facility services shall be administered through procedures established by administrative rule* by the agency responsible for screening. (Section 2-201.5(a) of the Act) The Illinois Department of Human Services is responsible for the screening required in subsection (b) for all individuals 18 through 59 years of age and for individuals 60 years of age or older who are developmentally disabled or have a severe mental illness. The Illinois Department of Healthcare and Family Services or its designee is responsible for the screening required in subsection (c).

e) *In addition to the screening required by* Section 2-201.5(a) of the Act and this Section, *a facility shall, within 24 hours after admission* of a resident*, request a criminal history background check pursuant to the Uniform Conviction Information Act* *for all persons seeking admission to the facility. Background checks shall be based on the resident's name, date of birth, and other identifiers as required by the Department of State Police.* (Section 2-201.5(b) of the Act)

f) The facility shall check for the individual's name on the Illinois Sex Offender Registration website at www.isp.state.il.us and the Illinois Department of Corrections sex registrant search page at www.illinois.gov/idoc/Pages/default.aspx to determine if the individual is listed as a registered sex offender.

g) *If the results of the background check are inconclusive, the facility shall initiate a fingerprint-based check, unless the fingerprint check is waived by the Director of Public Health based on verification by the facility that the resident is completely immobile or that the resident meets other criteria related to the resident's health or lack of potential risk,* such as the existence of a severe, debilitating physical, medical, or mental condition that nullifies any potential risk presented by the resident. (Section 2-201.5(b) of the Act) The facility shall arrange for a fingerprint-based check or request a waiver from the Department within 5 days after receiving inconclusive results of a name-based background check. The fingerprint-based background check shall be conducted within 25 days after receiving the inconclusive results of the name-based check.

h) *A waiver issued pursuant to* *Section* 2-201.5(b) of the Act *shall be valid only while the resident is immobile or while the criteria supporting the waiver exist.* (Section 2-201.5(b) of the Act)

i) *The facility shall provide for or arrange for any required fingerprint-based checks. If a fingerprint-based check is required, the facility shall arrange for it to be conducted in a manner that is respectful of the resident's dignity and that minimizes any emotional or physical hardship to the resident.* (Section 2-201.5(b) of the Act) If a facility is unable to conduct a fingerprint-based background check in compliance with this Section, then it shall provide conclusive evidence of the resident's immobility or risk nullification of the waiver issued pursuant to Section 2-201.5*(b)* of the Act.

j) The facility shall be responsible for taking all steps necessary to ensure the safety of residents while the results of a name-based background check or a fingerprint-based background check are pending; while the results of a request for waiver of a fingerprint-based check are pending; and/or while the Identified Offender Report and Recommendation is pending.

(Source: Amended at 46 Ill. Reg. 10519, effective June 2, 2022)