



Community Health Worker
Collaborative of South Dakota

South Dakota CHW Certification Committee Community Health Worker Grounds for Denial, Revocation or Suspension of CHW Certification or Application.

OVERVIEW

The CHW Certification Committee may deny, revoke, or suspend or cancel an application for certification and take other disciplinary or corrective action the committee considers appropriate upon any one or more of the following grounds:

The certified CHW or applicant has committed:

- a. Fraud, deceit, or misrepresentation in procuring or attempting to practice as a CHW or become certified as a CHW.
- b. Knowingly making a false statement in connection with any application.
- c. Knowingly making a false statement of any form in accordance with the CHW certification committee charter.
- d. Original application content is no longer valid.

The certified CHW or applicant has been convicted during the past five years of a felony (not on the CMS list below). The conviction of a felony shall be the conviction of any offense, which if committed within the state of South Dakota would constitute a felony under the laws.

In addition the Center for Medicare & Medicaid Services (CMS), per <https://www.ecfr.gov/current/title-42/chapter-IV/subchapter-B/part-424/subpart-P/section-424.535> will not allow a CHW provider to have the following criminal background within the past 10 years.

Felonies.

- (i) The provider, supplier, or any owner, managing employee, managing organization, officer, or director of the provider or supplier was, within the preceding 10 years, convicted (as that term is defined in [42 CFR 1001.2](#)) of a Federal or State felony offense that CMS determines is detrimental to the best interests of the Medicare program and its beneficiaries.
- (ii) Offenses include, but are not limited in scope or severity to—
 - (A) **Felony crimes against persons, such as murder, rape, assault, and other similar crimes for which the individual was convicted**, including guilty pleas and adjudicated pretrial diversions.

(B) Financial crimes, such as extortion, embezzlement, income tax evasion, insurance fraud and other similar crimes for which the individual was convicted, including guilty pleas and adjudicated pretrial diversions.

(C) Any felony that placed the Medicare program or its beneficiaries at immediate risk, such as a malpractice suit that results in a conviction of criminal neglect or misconduct.

(D) Any felonies that would result in mandatory exclusion under section 1128(a) of the Act.

(iii) Revocations based on felony convictions are for a period to be determined by the Secretary, but not less than 10 years from the date of conviction if the individual has been convicted on one previous occasion for one or more offenses.

(iv) The individuals and organizations identified in [paragraph \(a\)\(3\)](#) of this section include, but are not limited to, W-2 employees and contracted individuals and organizations of the provider or supplier.

Due to the definition of a CHW as someone who has lived experience with the population they serve, if a felony is found on a criminal background check by the Division of Criminal Investigation, the CHW and one reference (preferably an employer) may put in writing to the certification committee the circumstances as to why this felony occurred and what life changes or recovery has occurred since the conviction that would warrant the CHW Certification process to continue. *In some situations, the conviction may be stricken from the record if a letter is written to the judge explaining the current situation and rehabilitation of the offense origin.

The following guidance for criminal background findings will be utilized by the CHW Certification Committee on approving or denying an initial application or renewal. The committee has the discretion to request further information and consider references regarding the applicant to reach a final determination.

Criminal Charge	Recommended Committee Action
<p>Any felony charge related to:</p> <ul style="list-style-type: none"> • Crimes against persons, such as murder, rape, assault, and other similar crimes • Financial crimes, such as extortion, embezzlement, income tax evasion, insurance fraud and other similar crimes • Any felony that placed the Medicare program or its beneficiaries at immediate risk, such as a malpractice suit • Any felonies that would result in mandatory exclusion under section 1128(a) of the Act. 	<p>Denial for 10 years from the time of the issuance of the conviction.</p> <p>If the applicant has their record expunged due to circumstances related to their actions, i.e. forced upon them by trafficker, abuser, etc., then the applicant can be considered for certification if charge is expunged from their record.</p>
<p>Any other felony not listed above, with the exception of child and/or sexual abuse convictions, please see below.</p>	<p>If the conviction date is over 5 years, no further action is needed, unless the committee requests a reference depending on the type of felony charge found on the applicant's record.</p> <p>If the conviction date is less than five year, the committee will require a reference from the employer stating why the applicant should be approved for CHW certification. Then the committee will consider the charge along with the</p>

	recommendations when make their decision to proceed or deny the application.
Misdemeanor Charge, with the exception of child and sexual abuse, please see below.	No further action is needed, unless the committee requests a reference depending on the type of misdemeanor charge found on the applicant's record.
Child and/or Sexual Abuse Convictions	If the action is over 10 years old, the committee will consider the application on a case-by-case basis only, references will be required.
Sex Offender Registry	The committee will not approve any applicant who is on the sex offender registry.

Other condition which could lead to application denial or revocation:

The applicant or certified CHW is engaged in the practice of Community Health Work under a false or assumed name and has not registered that name pursuant to SDCL chapter [37-11](#), or is impersonating another practitioner of a like or different name; and/or obtaining or attempting to obtain a license, certificate, or renewal thereof by bribery or fraudulent representation.

The applicant or certified CHW negligently, willfully, or intentionally acted in a manner inconsistent with the health or safety of a person entrusted to the applicant's or certified CHW's care; and/or is engaged in unsafe CHW practice, substandard care, or unprofessional, or dishonorable conduct.

The physical or mental condition of the applicant or certified CHW is determined by a competent medical examiner to be such as to jeopardize or endanger the health or safety of a person who is or will be entrusted to the applicant or certified CHW's care. A majority of the board may demand an examination of the applicant or certified CHW by a competent medical examiner selected by the board at the board's expense. If the licensee fails to submit to said examination, this shall constitute immediate grounds for suspension of the CHW's certification or withdrawal of the application for certification.

Exercised influence within the CHW-patient/client relationship for the purpose of engaging a patient/client in sexual activity. For the purpose of this subdivision, the patient/client is presumed incapable of giving free, full, and informed consent to sexual activity with the applicant or certified CHW; or Engaged in gross sexual harassment or sexual contact.

The applicant or certified CHW has had a CHW certification or license in another profession similar to a CHW, denied, revoked, or suspended or had other disciplinary action taken in another state, territory, or foreign country.

The applicant or certified CHW has been found in violation of the CHW Code of Ethics.

The CHW Committee has the authority to consider any situation on a case-by-case basis, except for the felonies outlined by CMS guidance, the committee must follow that guidance.

The CHW or CHW Applicant may appeal any decision by the Committee to deny, suspend or revoke a certification or application to info@chwsd.org.