

**441—119.4 (135C) Completion of evaluation.**

**119.4(1) Considerations.** The department shall consider the following when conducting a record check evaluation:

- a.* The nature and seriousness of the crime or founded child or dependent adult abuse in relation to the position sought or held.
- b.* The time elapsed since the commission of the crime or founded child or dependent adult abuse.
- c.* The circumstances under which the crime or founded abuse was committed.
- d.* The degree of rehabilitation.
- e.* The likelihood that the person will commit a crime or founded child or dependent adult abuse again.
- f.* The number of crimes or instances of founded child or dependent adult abuse committed by the person involved.

**119.4(2) Evaluation conclusions.**

- a.* The department may determine the following:
  - (1) The person may be employed by the entity or enroll in the training program with no restrictions.
  - (2) The person may be employed by the entity or enroll in the training program with restrictions.
  - (3) The person may be employed by the entity or enroll in the training program with restrictions specific to a position within the program.
  - (4) The person may not be employed by the entity or enroll in the training program.

*b.* Restrictions on a person's employment or enrollment status shall be based upon what is necessary for the protection of the person or persons receiving care.

*c.* Medicaid waiver consumer-directed attendant care evaluations shall determine that either the person may work or the person may not work pursuant to Medicaid law.

**119.4(3) Notice of decision.** The department shall issue a notice of decision in writing to the requesting entity. The requesting entity is responsible for providing a copy of the notice to the prospective employee or student.

*a.* The notice shall be valid only for employment with the employer or enrollment in a training program that requested the record check evaluation.

*b.* The notice shall not be valid for employment with any other prospective employer or enrollment in another training program.

*c.* Record check evaluations are valid for 30 days from the date the notice of decision is issued. If the person does not start employment or attend the training program within the 30-day time period, the requesting entity shall request another evaluation. "Start employment or attend the training program" means to begin to receive a salary or take classes.

*d.* The notice of decision shall contain the notice of right to appeal.