

Colorado CAPS Check Unit (CCU)

Annual Report

Fiscal Year 2020-21

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COLORADO
Adult Protective Services
CAPS Check Unit

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CAPS Check Unit (CCU) Program Overview

The purpose of this report is to provide an overview of the CAPS Check Program and its activity during state fiscal year 2020-21¹. The CAPS Check Unit (CCU) is located in the Colorado Department of Human Services, Office of Adult, Aging and Disability Services, Division of Aging and Adult Services, Adult Mistreatment Prevention and Response Section (AMPRS). The CCU conducts pre-employment searches (CAPS checks) of new employees on behalf of long-term care facilities, health care facilities, home care providers, and other employers that provide direct care to at-risk adults. The CCU utilizes the findings from investigations of abuse, neglect, and exploitation (collectively termed ‘mistreatment’) conducted by the Adult Protective Services (APS) program to determine if an employee has been substantiated in an APS case of mistreatment.

The Colorado APS program was established in 1983 and provides protective services for at-risk adults age 18 and older. APS is charged in statute (Title 26, Article 3.1, C.R.S.) with accepting reports of mistreatment, investigating allegations, assessing the at-risk adult’s needs, and implementing protective services when appropriate.

In 2017, the Colorado General Assembly enacted House Bill 17-1284, a law that requires certain employers to request a pre-employment check of the Colorado Adult Protective Services data system (CAPS) for all new applicants who will be providing direct care² to at-risk adults. The CCU conducts a search of CAPS, to determine whether there is a match between the applicant and a substantiated perpetrator of mistreatment and then the CCU provides the results to the employer. Before this statute went into effect, employers did not have the means to know whether applicants or existing employees had been substantiated of mistreating an at-risk adult in an APS case. Only a small number of perpetrators who mistreat at-risk adults are charged with crimes, and so often will not appear on a criminal background check.

Employer Role

Per statute, the following employers are required to request a CAPS check prior to hiring new employees, including contractors, who will provide direct care to at-risk adults. These employers may also request a CAPS check for current employees and volunteers.

- A health facility licensed pursuant to Section 25-1.5-103, C.R.S., including those wholly owned and operated by any governmental unit;
- An adult day care facility, as defined in Section 25.5-6-303 (1), C.R.S.;
- A community integrated health care service agency, as defined in Section 25-3.5-1301 (1), C.R.S.;
- A community-centered board or a program-approved service agency providing or contracting for services and supports pursuant to Title 25.5, Article 10, C.R.S.;
- A single entry point agency, as described in Section 25.5-6-106, C.R.S.;

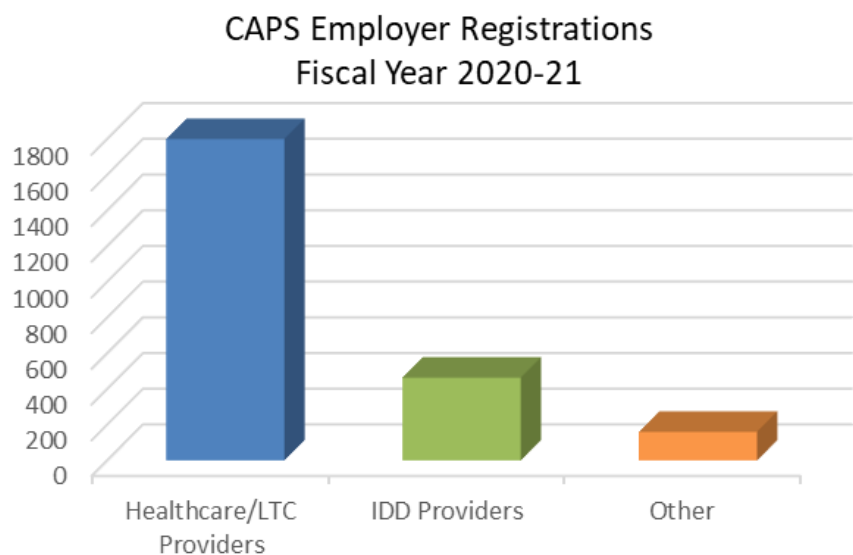
¹ The state fiscal year is July 1 through June 30.

² “Direct care”, pursuant to Section 26-3.1-101(3.5), C.R.S., means services and supports, including case management services, protective services, physical care, mental health services, or any other service necessary for the at-risk adult’s health, safety, or welfare. An employer may identify which employees provide direct care, consistent with this definition, in an internal policy.

- An area agency on aging, as defined in Section 26-11-201 (2), C.R.S., and any agency or provider the area agency on aging contracts with to provide services;
- A facility operated by the state department for the care and treatment of persons with mental health disorders pursuant to Title 27, Article 65, C.R.S.;
- A facility operated by the state department for the care and treatment of persons with intellectual and developmental disabilities pursuant to Title 27, Article 10.5, C.R.S.;
- Veteran’s community living centers operated pursuant to Title 26, Article 12, C.R.S.; and
- The Office of Public Guardianship, pursuant to Section 13-94-105(6), C.R.S.

Additionally, a person hiring someone to provide consumer-directed attendant support services pursuant to Title 25.5, Article 10, C.R.S. may request a CAPS check, but is not required to do so.

Only those employers outlined above are permitted to request a CAPS check for their employees and must register their agency or facility with the CCU. Employer registration is completed online, gathering the employer’s business and contact information. Each registration request is reviewed for eligibility by the CCU, and only once approved, can the employer begin requesting CAPS checks. Over 2,500 employers are registered.



Prior to requesting a CAPS check, the employer must have the employee complete and sign the Written Authorization form, which collects information about the employee, such as full name, phone numbers, email, home address history, date of birth, and other information that can be used by the CCU to conduct the search. The employer uses this information to complete the online CAPS checks request form.

CCU Role

The CAPS Check Unit (CCU) manages all steps in the CAPS check process, beginning with employer registration requests. The CCU will evaluate each online registration request to ensure that the employer is named in statute as an agency required to request CAPS checks for their employees. The CCU relies on provider information from other State Departments to confirm the employer is a licensed or approved provider under the various statutes [outlined above](#). Employers are notified by the CCU when the registration process has been approved or denied. Once approved, employers may begin requesting the required CAPS check requests.

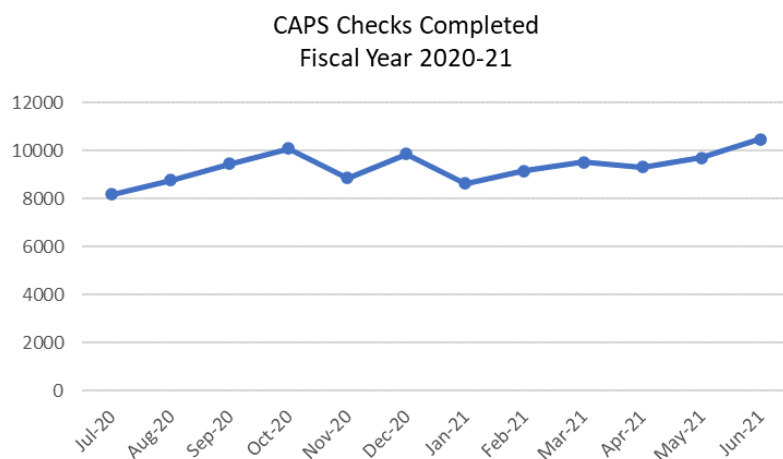
CAPS check requests are submitted online through the [CCU website](#). When a request is received, the CCU staff search the CAPS database for perpetrator records that might match the employee. A minimum of two data points must match, at least one of which must be a personally identifying element, such as name, date of birth, last four digits of their Social Security number, and/or professional license number. In addition to at least one of these personal identifiers, other data elements that may be used are address history, phone number(s), and/or email address(es). If a matching record is found in CAPS the CCU will determine if the individual has any substantiated findings of mistreatment. Findings are reportable to the employer only when the APS investigation determines that:

- Mistreatment occurred (was substantiated by a preponderance of evidence³), and
- The substantiated finding of mistreatment was made on or after July 1, 2018, and
- The perpetrator was 16 years of age or older at the time of the mistreatment, and
- The finding was not successfully appealed.⁴

When the outcome of the search has been determined, the CCU will send an encrypted email a notification to the employer. If no matches are found, the notification will state that the individual has not been substantiated as a perpetrator in an APS Case. If a match is found, it is reviewed by the CCU supervisor, and if confirmed, an email notification is sent to the employer stating that the individual has been substantiated as a perpetrator in an APS case. The notification will contain the name of the perpetrator, the date the finding was made, the county that completed the investigation, the mistreatment type, and the severity level of harm to the adult as a result of the mistreatment. If there are multiple substantiated findings, each reportable finding will appear in the report.

The CCU also conducts a weekly crosscheck of newly substantiated perpetrators to employees who previously had a completed CAPS check. This is called a “flagged check” and there is no additional fee for this service provided by the CCU. If a match is identified during a flagged check the CCU will contact the employer to verify that the employee is still working for the employer, and if so, the employer will receive the encrypted email notification of the newly substantiated finding. The flagged check eliminates the need for the employer to request periodic CAPS checks, saving the employer both time and money.

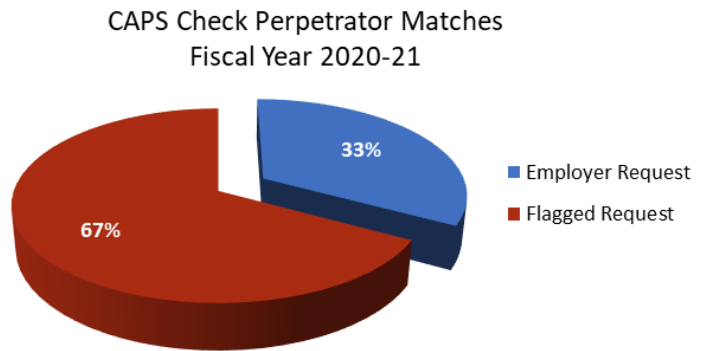
In FY 2020-21, the CCU received 113,153 CAPS check requests by registered employers.



³ “Preponderance of Evidence” means credible evidence that a claim is more likely true than not.

⁴ Substantiated perpetrators are entitled to due process, which is managed by [Child and Adult Mistreatment Dispute Review Section \(CAMDRS\)](#).

When completing the CAPS check on these requests, the CCU identified 445 potential employees who had a reportable substantiated finding of mistreatment. Of the 445 identified perpetrators of mistreatment, 149 (33%) were identified during the initial CAPS check and 296 (67%) were identified through the flagged check process.



CCU Priorities

The CCU's top priority is the safety of Colorado's vulnerable adults. The CCU is responsible for ensuring the integrity of the CAPS check process through responsive customer service, including timeliness and accuracy of the results provided by the CCU. Therefore, each CAPS check request must be completed accurately and the results sent to the employer within the five business days allowed by rule⁵.

Customer service begins by having a well versed and accountable team. Every CCU technician and supervisor must successfully complete training to ensure a comprehensive understanding of the statute, rules, and practices governing the CCU program implementation. Training for technicians involves a combination of knowledge development, computer navigation training, job shadowing experienced peers, and personalized coaching from the supervisor.

Accountability is also a high priority for the CCU. CCU technicians are expected to complete their CAPS checks timely and with a high level of accuracy. Per rule,⁶ results must be provided to the employer no later than five (5) business days after the request was submitted. In FY 2020-21, the average completion time for a CAPS check was 2.3 business days. The CCU's minimum standard for accuracy of the results provided to employers is 99.75%. A statistically valid sample of the total CAPS checks completed in the prior month are reviewed each month for accuracy. Any errors and inconsistencies that may be identified during the review process are used as training opportunities for the CCU technicians. In FY 2020-21, this review process established that the CCU technicians achieved 100% accuracy in the results provided to employers.

CCU Funding

The CAPS check fee fully funds the CCU's costs, which includes employee salary and benefits, operating expenses, and the CAPS data system licensing fees and maintenance costs. The CAPS check fees also funds the cost of providing substantiated perpetrators their due process rights, which is managed by the Colorado Department of Human Services, Administrative Review Division, Child and Adult Mistreatment Dispute Review Section (CAMDRS). Additionally, the one-time fee covers the cost of the initial check and

⁵ 12 CCR 2518-1, Volume 30.960.H

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covers the flagged check process that ensures that employers are notified of any future substantiated finding after the employee is hired.

From the beginning of the program in January 2019, the volume of CAPS check requests has far exceeded the estimates, thus also increasing the revenue that was generated. Per statute⁷, fees collected for CAPS checks and administrative appeals cannot exceed the direct and indirect costs of the CCU and due process proceedings. Another state law⁸ regulates the amount of uncommitted funds that can be maintained in a cash fund created by fees. Because the revenue collected by the CCU has been significantly greater than the expenses for the CCU and due process, the CCU reduced its fee to \$9.00 beginning in January 2020.

Progress

The CCU is always looking for ways to improve the program and create a better experience for employers. During Fiscal Year 2020-21, the CCU implemented a noteworthy improvement for employers who are required to request CAPS checks.

First, the CCU redesigned the CAPS check request community to provide new functionality and improved efficiency for employers when requesting a CAPS check for an employee. The CAPS check request online form was redesigned to be more user friendly and provide features that have not previously been available. A new CCU community page for the employer was implemented that allows the employer to view new information, such as:

- CCU messages for employers.
- A list of all paid requests that have been submitted by the employer, along with the real time status of the request, e.g., received, pending, completed.
- A list of requests requiring payment before they can be processed.
- A list of requests that were paused and must be completed and paid before they can be processed.

Future Developments

The CCU plans to transition from providing results through individual encrypted emails to providing the results through the CCU community page for the employers. The email encryption process only saves results for 14 days for security purposes. If the employer doesn't retrieve their results in that time, they're no longer available to them and must be resent by the CCU. When this change is completed, employers will be able to find and download their results whenever needed, creating efficiencies for both the employer and the CCU. A time certain for this transition has not yet been determined.

CCU Contacts

For more information visit the CAPS Check Unit website at ccu.colorado.gov.

If you have questions concerning the CAPS check program, please email us at cdhs_ccu@state.co.us.

⁷ §26-3.1-111(9), C.R.S.

⁸ §24-75-402, C.R.S.