



STATE OF ALABAMA DEPARTMENT OF
PUBLIC HEALTH

Donald E. Williamson, MD
State Health Officer

August 29, 2003

TO: Interested Parties

SUBJECT: **Appalachian Regional Commission (ARC) J-1 Physician Waiver Policy and Procedures for Alabama**

Enclosed are the latest policy and procedures for the Appalachian Regional Commission (ARC) J-1 Physician Waiver Program in Alabama. Revisions from the previous September 10, 2002, edition are highlighted in **bold type**. A summary of revisions follows:

1. The revision reinforces the requirement that foreign medical graduates will not be considered for a waiver unless a good faith effort has been made to recruit an American physician. This reinforcement defines acceptable recruitment advertisements as being those which were published in established media and which were specifically tailored to the employment opportunity; i.e., the medical specialty needed, the practice location, practice type, and employer's identification. The change reiterates that generalized advertisements such as used by national recruiting firms, and internet-based media, do not satisfy this requirement.
2. Parameters are established for the sliding fee scale which each employer must adopt for their J-1 physician's practice. Specifically, the payment liability for low income patients must be proportionate to their income level, starting with either a zero or minimum fee for patients with a household income at or below 100 percent of the Federal Poverty Level. Further, payment of the discounted sliding fee must be accepted by the employer as full and final payment by the patient for the services rendered by the employer.
3. The prospective employer is encouraged to include letters of support for the J-1 physician from cognizant medical and community leaders who represent the area to be served.
4. Employment contracts must not contain any provision which allows for dismissal of the J-1 physician without cause, such as by reason of mutual consent.

Any questions about the State's J-1 visa waiver program should be directed to the Alabama J-1 program administration staff, Mr. Charles (Chuck) Lail or Ms. Barbara Mack, at telephone (334) 206-5396, fax (334) 206-5434, or email: clail@adph.state.al.us.

Sincerely,

Clyde Barganier, Dr. P.H.
Director, Office of Primary Care
and Rural Health Development

CB:d

Enclosure

APPLICATION REQUIREMENTS FOR ALABAMA ARC J-1 VISA WAIVER REQUESTS

1. Letter from the Governor to the Federal Co-Chairman.
(The Alabama Department of Public Health (ADPH) is responsible for obtaining this letter.)
2. Letter from the employer to the Federal Co-Chairman, with the prescribed contents (see attached letter outline.) Note the following requirements:
 - a. Employer's Eligibility Requirement: Prospective J-1 physician employers must have operations that are principally engaged in and have an established record of providing primary care medical services or mental health services, respectively. Employer's principally engaged in providing subspecialty medical services are not eligible.
 - b. A justification of need for the J-1 physician must be evidenced by a written analysis and impact statement prepared by the employer. **In addition, letters of support are encouraged from cognizant medical and governmental leaders who represent the community to be served.**
 - c. Forty-hour work week requirement: Travel, on-call time, *scheduled* emergency room coverage, in-patient care and hospital rounds shall not be counted toward the J-1 physician's minimum 40-hour, in-clinic, primary care work week requirement. *Unscheduled* emergency room calls made incidental to and during the physician's regularly scheduled clinic hours will be considered as part of the 40-hour in-clinic obligation, however, such calls are to be considered an exception and shall not be routinely integrated into the physician's regular 40 hour-per-week clinic schedule.
 - d. Sliding fee scale and implementation plan: A commitment must be made by both the employer and the J-1 physician to use a sliding fee scale to progressively reduce the payment obligation of uninsured, medically indigent patients. Use of the sliding fee scale must be detailed in an *implementation plan* which must be developed by the employer and included in the application.
 - e. Certification requirement: The employer must certify that he/she has read and understands the requirements of the J-1 physician's waiver service commitment and that the employer will structure the J-1 physician's practice so as to facilitate the J-1's compliance with these requirements.
3. A copy of:
 - a. **The employer's sliding fee scale showing the proportionate fee discounts applicable to uninsured low income patients, starting with a zero or nominal fee for patients with a household income at or below 100 percent of the Federal Poverty Level;**
 - b. An implementation plan, describing how the employer's staff will apply the sliding fee scale to reduce the payment obligation for uninsured, medically indigent patients with household incomes below 200 percent of the Federal Poverty Level, **and; establishing that payment of this reduced**

fee shall constitute full and final settlement of the patient's payment obligation;

- c. The public notice which the employer is required to post in the patient waiting room, advising patients of the practice site's commitment to serve all patients regardless of their ability to pay or their enrollment in Medicare or Medicaid. A sample notice is attached.

SPECIAL NOTE: Employers and J-1 physicians are hereby put on notice that use of the above referenced sliding fee scale is considered to be an important, integral part of the J-1 physician's waiver service obligation. Compliance with these requirements shall be subject to audit during unannounced site visits and other monitoring methods. Findings of noncompliance may be referred to the Alabama State Board of Medical Examiners and could ultimately lead to invocation of remedies such as legal proceedings for false statements, reprimand, fine, revocation of the State medical license and/or deportation proceedings against the J-1 physician..

4. Completed J-1 Visa Data Sheet and pre-assigned, U.S. Department of State (DOS) Case Number on all pages of the application. Also, a copy of the physician's Duration of Status card (I-94), indicating "D/S" status. (For more details, see DOS web site <http://www.travel.state.gov/jvw.html>)
5. Current ARC Federal Co-Chairman's J-1 Visa Waiver Policy (February 2001 edition) and J-1 Visa Waiver Policy Affidavit & Agreement (March 2001 edition). (The Affidavit must be signed by the J-1 and notarized; the Policy must be included in the application but does not need a signature, since it is incorporated by reference in the Affidavit.)
6. Copy of the employment agreement between employer and physician. (Must be signed by both parties.) The employment contract:
 - a. Must contain VERBATIM the J-1 Visa Liquidated Damages Clause which is included in this packet;
 - b. *Must not* contain any non-compete clauses;
 - c. **Must not contain any 'no-cause' termination provisions, such as termination by mutual consent;**
 - d. Must commit the J-1 to at least 40 hours of *in-clinic* primary medical care per week, except for incidental emergency room calls as described above, and must require the physician to provide *unscheduled* emergency room coverage during the day, as well as *scheduled* after-hour coverage, consistent with requirements for other on-staff physicians or as established by community standards;
 - e. Must include a target date for the physician to start work, with the caveat that he/she must start within 90 days after approval of the waiver;
 - f. Must not contain any blanks, subject to later entries;, and,
 - g. *Must not* pre-date any physician recruiting documentation.

7. Curriculum Vitae (CV) of physician, plus letters of recommendation and medical credentials (including Alabama Medical License).
8. All copies of Form IAP-66.
(Physician should not be out-of-status for more than 180 days, as defined by the U.S. Bureau of Citizenship and Immigration Services.)
9. Copies of advertisements and supporting documentation which demonstrate good faith efforts within the previous six months to notify American physicians of this job availability. Advertisements are to include both national (i.e., outside Alabama) and in-state publications. *National publications include newspapers and/or magazines with wide, national circulation.* **All advertising and recruitment must be specifically targeted to the employment opportunity (e.g., practice type, specific location, and specific employer) and must have been accomplished through established publishing media. Generalized advertisements such as are commonly run by recruitment firms on a continuous basis, and internet-only based advertisements do not satisfy this advertising requirement.** In addition, the waiver application must include correspondence with in-state medical schools and residency programs. Hard copies of actual advertisements in medical journals, newspapers, etc., and correspondence with the state's medical schools must be included in the application. Merely stating that advertisements were made is not sufficient. Publication dates of advertisements must be well before any employment contract dates to allow time for any response and consideration of American physicians.) Important note: all recruitment must be done in advance of consummating an employment contract with the J-1 physician.
10. Two complete application packets are to be submitted, with one to be tabbed. Neither packet is to be bound or stapled. All documents must bear the Department of State Case Number.

NOTE: Use of the *exact* forms in this packet will make it more expedient to determine if the application is complete.

Mail application to:

Alabama Department of Public Health
The RSA Tower
Office of Primary Care & Rural Health
Development
Suite 710, Attn: Charles Lail
P.O. Box 303017
Montgomery, AL 36130-3017
Office Phone: (334) 206-5396
FAX: (334) 206-5434
Email: clail@adph.state.al.us

or Courier, UPS, Federal Express, etc. to:

Alabama Department of Public Health
The RSA Tower
Office of Primary Care & Rural Health
Development
Suite 710, Attn: Charles Lail
201 Monroe Street
Montgomery, AL 36104
Office Phone: (334) 206-5396
FAX: (334) 206-5434
Email: clail@adph.state.al.us

**REQUIRED CONTENTS OF
WAIVER REQUEST LETTER FROM EMPLOYER**

The Honorable (Current Chairperson's Name)
Federal Co-Chair
Appalachian Regional Commission
1666 Connecticut Avenue, N.W., Suite 700
Washington, D.C. 20009-1068

Dear (Mr. or Ms. XXXX):

INCLUDE THE FOLLOWING:

1. Name of doctor and medical specialty. Also, for *primary care* physicians, a certification that the physician has not started or completed any subspecialty or fellowship training other than geriatric training, which is recognized as an acceptable primary care credential.
2. Certification that the employer has operations that are principally engaged in and has an established record of providing primary care medical services or mental health services, respectively, and that the employer is *not* principally engaged in providing subspecialty medical services.
3. And analysis and justification of why the physician is needed. This should include but not be limited to an analysis of the supply of primary care or mental health physicians in the proposed service area(s) versus the patient population in the area(s). **In addition, letters of support from cognizant medical and governmental leaders who represent the community are encouraged.**
4. Complete address of the practice location(s), to include name of the facility, street address, city, county, nine digit zip code, telephone number, and (if available) email address. If the physician is to practice at multiple locations, a separate practice (work) schedule is to be provided for each individual practice site.
5. A statement by the head of the health care facility at which the foreign medical graduate will be employed, that the facility is located in an area designated by the Secretary of Health and Human Service as a Primary Medical Care Health Professional Shortage Area (HPSA) or a Mental Health Care HPSA, as applicable, and provides medical care to both Medicaid and Medicare eligible patients and to indigent uninsured patients. The statement shall also list the primary care or mental health HPSA identifier number of the designation as assigned by the Secretary of Health and Human Services and shall include the FIPS county code and census tract or block numbering area number (assigned by the Bureau of the Census) or the 9-digit zip code of the area where the facility is located.
6. Assurance that primary care or mental health physicians will provide in-clinic primary care or mental health care a minimum of 40 hours per week in the HPSA, exclusive of time spent on call, inpatient care, hospital rounds,

scheduled after-hour coverage or travel. The physicians will be expected to provide *unscheduled* emergency room coverage as well as *scheduled* after-hour coverage consistent with requirements for other on-staff physicians or as established by community standards. Time spent on *unscheduled* emergency room calls during the physician's regularly scheduled clinic hours may be counted toward the physician's basic 40 hour per week in-clinic obligation. However, such unscheduled emergency room calls are to be considered an exception and shall not become a routine part of the physician's regularly scheduled, 40 hour-per-week clinical practice.

7. If the HPSA designation is based on a special population, the request for waiver should include the sponsor's (employer's) record over the previous three years of serving Medicare, Medicaid and the medically indigent uninsured patients, including the percentage of patients served by the practice who are provided health services at a reduced, or no charge because of an inability to pay, the percentage of patients under Medicare for whom assignment is accepted and the percentage of patients under Medicaid for whom assignment is accepted. Such demonstrations will not be required for Community Health Centers (CHC) and other Federally Qualified Health Centers (FQHC) that are otherwise required to serve the target population. Such sponsors (employers) should submit a copy of their federal Notice of Grant Award instead. To assist in the review of this demonstration of past service, the following National Health Service Corps (NHSC) standards have been adopted to establish non-discrimination among program participants.
 - a. The percentage of patients served by the practice who are provided health services at a reduced, or no charge because of an inability to pay for services is equal to or greater than the percentage of the patients unable to pay for services in the State of Alabama; and,
 - b. The percentage of patients under Medicare for whom assignment is accepted is not less than 80 percent of the percentage of patients under Medicare in the State of Alabama; and,
 - c. The percentage of patients under Medicaid for whom assignment is accepted is not less than the percentage of patients under Medicaid in the State of Alabama.

The above demonstration should at least include the employer's record of meeting these standards over the previous three (3) years. SEPARATE INSTRUCTIONS AND A PAST SERVICE DEMONSTRATION FORM ARE ATTACHED. FAILURE TO MEET THE ABOVE PAST SERVICE STANDARDS WILL RENDER THE EMPLOYER INELIGIBLE FOR THE ARC J-1 WAIVER PROGRAM IN THE STATE OF ALABAMA.

8. Employer identity (e.g., Community Health Center (CHC), Federally Qualified Health Center (FQHC), private for-profit, private not-for-profit).
9. Certification that the practice site(s) will employ a sliding fee scale by which to progressively reduce the customary charges for care provided to the uninsured medically indigent whose household income is less than 200 percent of the Federal Poverty Level. **The sliding fee scale is to include a zero or nominal**

fee for uninsured medically indigent patients with a household income at or below 100 percent of the Federal Poverty Level (FPL), with a proportionate discount between 100 and 200 percent of the FPL. A copy of the sliding fee scale, an implementation plan explaining how the scale will be implemented by clinic staff, and a public notice (see paragraph 10 below) are to be included as attachments to the letter. Note: the scale must be based on the current Federal Poverty Guidelines, which are updated annually and published in the Federal Register in February or March of each calendar year. **The implementation plan must recognize that payment of the reduced fee will constitute full and final settlement of the patient's payment obligation.**

10. Certification that the practice site(s) will post a public notice, announcing: a) the employer's policy to provide medical care to all patients without regard to their ability to pay or their enrollment in Medicaid or Medicare, and; b) that the practice has a sliding fee scale available for those who qualify.
11. Acknowledgment that all the terms and conditions of physician's J-1 Visa Policy Affidavit and Agreement have been incorporated into the employment agreement.
12. Acknowledgment that the employment agreement does not modify or amend any of the terms or conditions of physician's J-1 Visa Policy Affidavit and Agreement.
13. Certification that the employer has read and understands the requirements of the J-1 physician's waiver service commitment, including the ARC J-1 Visa Waiver Policy Affidavit and Agreement, and that the employer will structure the J-1 physician's practice so as to facilitate the J-1's compliance with these requirements.
14. Acknowledgment and agreement that the ADPH will monitor compliance with ARC waiver service requirements by means such as unannounced site visits, periodic reports, including a semi-annual status report (see attached report form) to be submitted by the J-1 physician and the employer, and interviews with clinic staff; that the ADPH will refer any violations it deems to be significant to the Alabama State Board of Medical Examiners for the Board's consideration, and; that such referral could ultimately lead to the invocation of remedies such as reprimands, fines or revocation of the State medical license.
15. Must include statement as follows: "I hereby certify that I have read and fully understand and will comply with the ARC Federal Co-Chairman's J-1 Visa Waiver Policy, and that all of the information contained in this letter is true to the best of my knowledge and belief."

Revised: 8/2003

List of Enclosures
Appalachian Regional Commission (ARC) J-1 Physician Waiver Program
Requirements Applicable to Alabama

1. J-1 Visa Waiver Affidavit and Agreement (Revised February 2001), 2 pages
2. Federal Co-Chairman's J-1 Visa Waiver Policy (Revised March 2001), 2 pages
3. Example of Public Notice, 1 page
4. ARC Mandatory J-1 Visa Liquidated Damages Clause, 1 page
5. Instructions Regarding Department of State *Waiver Review Application Data Sheet*, 1 page
6. Special Instructions for Past Service Demonstration, 3 pages
(Applicable only to Special Population HPSAs)
7. J-1 Physician Practice Status Report, 2 pages
8. J-1 Visa Waiver Application Checklist, 2 pages
9. *ARC J-1 Placement Verification Form*, 1 page
10. ARC Transfer Notification Form, 1 page



J-1 Visa Waiver Affidavit and Agreement

I, _____, being duly sworn, hereby request the Federal Co-Chair of the Appalachian Regional Commission to review my application for the purpose of recommending waiver of the foreign residency requirement set forth in my J-1 Visa, pursuant to the terms and conditions as follows:

1. I understand and acknowledge that the review of this request is discretionary and that in the event a decision is made not to grant my request, I hold harmless the Appalachian Regional Commission (ARC), the Federal Co-Chair, any and all ARC employees, agents and assigns from any action or lack of action made in connection with this request.

2. I further understand and acknowledge that the entire basis for the consideration of my request is the ARC Federal Co-Chair's voluntary policy and desire to improve the availability of primary medical care in regions designated by the United States Public Health Service (USPHS) as Health Professions Shortage Areas (HPSA) in Appalachia.

3. I understand and agree that in consideration for a waiver, which eventually may or may not be granted, I shall render primary medical care services to patients, including the indigent, for a minimum of forty (40) hours per week within a USPHS designated HPSA located in the ARC jurisdiction. Such service shall commence not later than 90 days after I receive approval by the United States Citizenship and Immigration Services (USCIS) of my waiver request and shall continue for a minimum of three (3) years or longer, as a specific State policy may require. Any subsequent change in location must be reported immediately to ARC for concurrence.

4. I agree to incorporate all the terms of this J-1 Visa Waiver Affidavit and Agreement into any and all employment agreements I enter pursuant to paragraph 3 and to include in each such agreement the ARC liquidated damages clause, of \$250,000 payable to the employer. (A copy of all employment agreements are attached to this request) This damages clause shall be activated by my termination of employment, initiated by my employer for cause or by me for any reason, only if my termination occurs before fulfilling the minimum three year service requirement.

5. I further agree that any employment agreement I enter pursuant to paragraph 3 shall not contain any provision, which modifies or amends any of the terms of this J-1 Visa Waiver Affidavit and Agreement.

6. I also agree to incorporate all terms of this J-1 Visa Waiver Affidavit and Agreement into any employment agreement I enter pursuant to paragraph 3.

7. I understand and agree that I will provide health services to individuals without discriminating against them because (a) they are unable to pay for those services or (b) payment for those health services will be made under Medicare or Medicaid.

8. I have read and fully understand the "ARC Federal Co-Chair's J-1 Visa Waiver Policy", a copy of which is attached to this request.

9. I expressly understand that this waiver of my foreign residence requirement must ultimately be approved by the USCIS, and I agree to provide written notification of the specific location and nature of my practice to the ARC and the State contact at the time I receive notification from USCIS and I commence rendering services in the ARC jurisdiction.

10. I declare and certify, under penalty of the provisions of 18 U.S.C. 1001, that I do not have pending nor am I submitting during the pendency of this request, another request to any United States Government department or agency or any State Department of Public Health, or equivalent, other than the Appalachian Regional Commission to act on my behalf in any matter relating to a waiver of my two-year home-country physical presence requirement.

11. I understand and acknowledge that if I willfully fail to comply with the terms of this J-1 Visa Waiver Affidavit and Agreement, the Office of the ARC Federal Co-Chair will notify the USCIS and recommend deportation proceedings be instituted against me. Additionally, any and all other measures available to the Office of the ARC Federal Co-Chair will be taken in the event of my non-compliance.

I declare under the penalties of perjury that the foregoing is true and correct.

Subscribed and sworn before me this ____ day of _____, 20 .

_____(Notary Public)

Federal Co-Chairman's J-1 Visa Waiver Policy

The Appalachian Regional Commission (ARC) is committed to assisting all residents of Appalachia to have access to quality, affordable health care. Accordingly, the federal Co-Chairman of the ARC is prepared to consider recommending a waiver of the foreign residence requirement on behalf of physicians holding J-1 Visas under certain conditions. The Federal Co-Chairman's policy is totally discretionary and voluntary and may be modified or terminated at any time without notice. In all instances the Federal Co-Chairman reserves the right at the Federal Co-Chairman's discretion to recommend or decline to recommend any request for a waiver.

These ARC guidelines are the minimum requirements which must be complied with but each State may impose additional requirements as it deems necessary to support its physician recruitment program.

1. Physician requests must be sponsored by a State within the Appalachian Region and will be considered by the Federal Co-Chairman only upon written recommendation of the Governor of the sponsoring State.
2. The physician must agree to provide primary medical care for at least forty (40) hours a week at a site in a Health Professional Shortage Area (HPSA), as designated by the United States Public Health Service, within the legislatively defined ARC service area for a minimum of three years or longer, as a specific State policy may require. Travel or on-call time may not be included in the 40 hours required by this paragraph. However, in appropriate cases the State may make exceptions to allow travel or on-call time for obstetricians.
3. The sponsor must demonstrate that it has made a reasonable good faith effort to recruit a U.S. doctor for the job opportunity in the same salary range without success during the six months immediately preceding the request for waiver. The sponsor shall demonstrate, with such supporting documentation as the Federal Co-Chairman may require, that it has undertaken such recruitment through a reasonable number of appropriate sources including but not limited to advertisements in newspapers and medical journals of national and statewide circulation most likely to bring responses from able, willing, qualified and available U.S. doctors and job opportunity notices placed in appropriate medical schools including all medical schools in the State in which the hospital or clinic is located.
4. The employment contract between the physician and the sponsor may not contain a restrictive covenant or non-compete clause which prevents or discourages the physician from continuing to practice in any HPSA after the period of obligation under this policy has expired.
5. The physician, prior to employment, must be licensed by the State where he or she will practice and must have completed a residency in one of the following specialties: family practice, general pediatrics, obstetrics, general internal medicine or psychiatry.
6. The physician must not have been "out of status" (as defined by the U.S. Bureau of Citizenship and Immigration Services) for more than 180 days since receiving a visa under 8 U.S.C. 1182 (j) of the Immigration and Nationality Act, as amended. The physician shall provide the Federal Co-Chairman all copies of his or her Certificates of Eligibility for Exchange Visitor (J-1) Status, forms IAP-66 and every other document needed to verify status.
7. The facility or practice sponsoring the physician must agree to provide health services to individuals without discriminating against them because (a) they are unable to pay for

those services or (b) payment for those health services will be made under Medicare and Medicaid. The sponsor may charge no more than the usual and customary rate prevailing in the HPSA in which services are provided. In addition, charges must be discounted on a sliding fee scale for persons at or below 200 percent of poverty. Persons with third party insurance may be charged the full fee for service. A notice must be posted in a conspicuous location in the patient waiting area at the practice site notifying patients of the charges for service as required in this paragraph. Such notice must contain at least the information set forth in the sample notice, which is attached to this policy statement. Sponsors seeking a placement in a special population HPSA must demonstrate their recent record of serving Medicare, Medicaid and medically indigent patients as well as their continuing intentions to serve such individuals.

8. The physician must sign and have notarized the Federal Co-Chairman's "J-1 Visa Waiver Affidavit and Agreement" prior to consideration by the Federal Co-Chairman of the request and must comply with the terms and conditions set forth in that document.

9. All requests approved initially by the Federal Co-Chairman and approved subsequently by the U.S. Bureau of Citizenship and Immigration Services will be subject to review by ARC's Inspector General for compliance with this policy statement and other applicable laws. A sponsor's failure to comply in good faith with this waiver policy will be considered in the evaluation of other applications involving the same sponsor.

Revised: February 2001

N O T I C E

THIS PRACTICE HAS ADOPTED THE FOLLOWING POLICIES FOR CHARGES FOR HEALTH CARE SERVICES

We will charge persons receiving health services at the usual and customary rate prevailing in this area. Health services will be provided at no charge, or at reduced charge, to persons unable to pay for services. In addition, persons will be charged for services to the extent that payment will be made by a third party authorized or under legal obligation to pay the charges.

We will not discriminate against any person receiving health services because of his her inability to pay for services, or because payment for the health services will be made under Part A or B of Title XVIII ("Medicare") or Title XIX ("Medicaid") of the Social Security Act.

We will accept assignment under the Social Security Act for all services for which payment may be made under Part B of Title XVIII ("Medicare") of the Act.

We have an agreement with the State agency which administers the State plan for medical assistance under Title XIX ("Medicaid") of the Social Security Act to provide services to persons entitled to medical assistance under the plan.

J-1 VISA LIQUIDATED DAMAGES CLAUSE

Any breach or non-fulfillment of conditions will be considered a substantial breach of this agreement by you. If there is such a breach (NAME OF EMPLOYER) may, at its option, terminate this agreement immediately. In addition, it is agreed that (NAME OF EMPLOYER) will be substantially damaged by your failure to remain at (NAME OF EMPLOYER) in the practice of medicine for a minimum of three years and that, considering that precise damages are difficult to calculate, you will agree to pay to (NAME OF EMPLOYER) the sum of \$250,000.00 for failure to fulfill your minimum three-year contract. In addition to liquidated damages, (NAME OF EMPLOYER) will recover from you any other consequential damages, and reasonable attorney's fees, due to the failure to provide services to (NAME OF EMPLOYER) for a minimum of three years, EXCEPT THAT, the full-time practice of medicine at another licensed medical facility, in a Health Professional Shortage area (as defined by United States Public Health Service) within the Appalachian Region (as defined by ARC) shall be considered the same as full time practice of medicine at (NAME OF EMPLOYER) for purpose of this paragraph. In the event of a dispute under this paragraph, either party may submit this matter to binding arbitration.

Re: Additional Liquidated Damage Clauses

Any other clause mandating consequential or liquidated damages being paid to the employer must be separate from the ARC clause. ARC takes no position with respect to the inclusion of such an additional contractual agreement.

U. S. DEPARTMENT OF STATE
DATA SHEET

THE LATEST U.S. DEPARTMENT OF STATE (DOS) *DATA SHEET* AND RELATED INSTRUCTIONS FOR OBTAINING THE REQUIRED DOS "CASE NUMBER" MAY BE FOUND AT DOS WEB SITE <http://www.travel.state.gov/jvw.html>.

Special Instructions for Past Service Demonstration

August 2003

To Whom It May Concern

Subject: Demonstration of Past Medical Service to Special Population Groups

Placement of J-1 physicians to practice primary care or mental health care under the Appalachian Regional Commission (ARC) program or the Alabama State-30 program requires proof of past service to Medicaid, Medicare and uninsured medically indigent patients when the medically underserved area is a *special population* Health Professional Shortage Area (HPSA) and the employer is not a Federally Qualified Health Center. This letter further explains this requirement and elaborates on the kind of documentation that is needed from the employer in order to determine the employer's eligibility to sponsor a J-1 physician waiver.

Special population HPSAs are areas which generally have enough primary care physicians but lack physicians who serve the low income/medically indigent. The specific objective of placing a J-1 physician in such an area is to accentuate the services available to this underserved group. Therefore, the application cover letter from the prospective J-1 employer must include a demonstration attesting to the employer's past three year's of service to this special population. The enclosed form and instructions have been developed to assist in providing this past service record.

As noted on the demonstration form, evidence of past service is required for *each* of the past three years, for three categories of patients: Medicaid, Medicare, and uninsured medically indigent. The service standards against which these categories are to be compared are also shown on the form and explained in the additional enclosure. Please note that supporting documentation is also required from the employer, substantiating how the employer's past service percentages were calculated. *In order to be eligible for a J-1 physician waiver, the employer must be in substantial compliance with the past service standards for all three patient categories.*

The past service demonstration is an essential prerequisite to any J-1 waiver application for a special population HPSA and must be included with the employer's cover letter to the ARC Co-Chairman or the State Health Officer, depending upon which J-1 waiver program is being used.

Any questions about the past service demonstration should be directed to the Alabama J-1 program administrator at telephone 334-206-5396 or email clail@adph.state.al.us.

Sincerely,

Charles S. Lail
J-1 Program Administrator

CL:cl

2 Enclosures

Alabama Statewide Patient Statistics

The following percentages are to be used as a baseline for comparison with prospective J-1 employer's past service, where such a comparison is required as part of a J-1 visa waiver application.

1. Approximate Percentage of Uninsured in Alabama: (Source: Current Population Survey at http://www.census.gov/hhes/www/cpstc/cps_table_creator.html.)

| <u>Year</u> | <u>Population</u> | <u>Uninsured</u> | <u>Percentage</u> |
|-------------|-------------------|------------------|-------------------|
| 2005 | 4,537,299 | 657,000 | 14.5% |
| 2006 | 4,587,564 | 689,000 | 15.0% |
| 2007 | 4,626,595 | 549,000 | 11.9% |

2. Approximate Percentage of Medicaid Eligibles in Alabama: (Source: Alabama Medicaid Statistics on-line for 2005, 2006, and 2007.)

| <u>Year</u> | <u>Population</u> | <u>Eligibles</u> | <u>Percentage</u> |
|-------------|-------------------|------------------|-------------------|
| 2005 | 4,537,299 | 963,151 | 21.2% |
| 2006 | 4,587,564 | 988,677 | 21.6% |
| 2007 | 4,626,595 | 932,521 | 20.2% |

3. Approximate Percentage of Medicare Enrollees in Alabama: (Source: Centers for Medicare & Medicaid Services, Medicare Enrollment Reports on-line for 2005, 2006, and 2007.)

| <u>Year</u> | <u>Population</u> | <u>Enrollees</u> | <u>Percentage</u> |
|-------------|-------------------|------------------|-------------------|
| 2005 | 4,537,299 | 740,214 | 16.3% |
| 2006 | 4,587,564 | 765,618 | 16.7% |
| 2007 | 4,626,595 | 785,814 | 17.0% |

POPULATION SOURCE: Table 1: Annual Estimates of the Resident Population for the United States, Regions, States, and Puerto Rico: April 1, 2000 – July 1, 2008 (NST-EST 2008-01), Population Division, U.S. Census Bureau, Release Date: December 22, 2008.

DEMONSTRATION OF PAST SERVICE TO SPECIAL POPULATION

(Required if employer proposes to hire a Primary Care or Mental Health J-1 Physician for a special population Health Professional Shortage Area)

PROPOSED J-1 PRACTICE COUNTY: _____ EMPLOYER: _____
 EMPLOYER'S STATUS: FOR-PROFIT ENTITY _____ NOT-FOR-PROFIT ENTITY: _____
 ENROLLED IN MEDICAID PATIENT 1ST PROGRAM? YES _____ NO _____ (If yes, attach copy of agreement with Medicaid)

| Year | Patient Category | Statewide Percentage | County Percentage (Optional, see instructions below) | Employer's Past Service (Year & Percentage) (Attach Explanation) | Difference (Service Standard % Minus Employer's %) |
|------|------------------------------|----------------------|--|--|--|
| 2005 | Uninsured Medically Indigent | 14.5 | | | |
| 2006 | " | 15.0 | | | |
| 2007 | " | 11.9 | | | |
| 2005 | Medicaid | 21.2 | | | |
| 2006 | " | 21.6 | | | |
| 2007 | " | 20.2 | | | |
| 2005 | Medicare | 16.3 | | | |
| 2006 | " | 16.7 | | | |
| 2007 | " | 17.0 | | | |

Instructions for completing form:

- Use the formulae exhibited on the enclosed *Alabama Statewide Patient Statistics* to compute entries for the column labeled 'Employer's Past Service Percentage.' Also, attach documentation explaining the source of data used by the employer to compute the percentages. Entries also need to be computed and entered in the 'County Percentage' column where the county percentages differ significantly from the statewide percentages.
- In the last column labeled 'Difference', show the + or - difference between the column labeled 'ARC or State Service Standard' and 'Employer's Past Service Percentage.'
- Any negative (-) difference between the Service Standard and Employer's Percentages would indicate the employer has not provided a proportionate share of medical care to the medically underserved population and is, therefore, not eligible to sponsor a physician. The burden of proof rests on the employer to provide documented evidence and justification to the contrary. This explanation may include a comparison of the employer's service record against county percentages if they differ significantly from statewide percentages.

POPULATION SOURCE: Table 1: Annual Estimates of the Resident Population for the United States, Regions, States, and Puerto Rico: April 1, 2000 – July 1, 2008 (NST-EST 2008-01), Population Division, U.S. Census Bureau, Release Date: December 22, 2008; Uninsured: Current Population Survey at http://www.census.gov/hhes/www/cps/cps_table_creator.html.

ALABAMA J-1 PHYSICIAN PRACTICE STATUS REPORT

Applicable to Physicians With Approved J-1 Visa Waivers Under the Alabama State-30 and ARC Waiver Programs
(Form Revised August 2003. Previous editions are obsolete and should not be used.)

This report is to be completed by each physician approved under Alabama's State-30 Visa Waiver Program or the Appalachian Regional Commission's (ARC) Visa Waiver Program. The report must be completed when the physician first starts work and each 6 months thereafter, until the physician completes his/her 3 year waiver service obligation.

Please type or print all entries except signatures.

PART 1 - TO BE COMPLETED BY REPORTING PHYSICIAN:

Physician's Name: _____
(First Name) (Middle Initial) (Last Name)

Type Service (Circle One): Primary Care Clinical Practice *Primary Care Emergency Department
Psychiatrist *Sub-specialist in _____ (* Not Applicable to ARC)

During this report period, I have practiced medicine at a total of _____ practice sites, as named below.

Practice Site(s): _____
(Practice Site(s) Name)

Practice Address(es) _____
During Report (Street)
Period: (If additional practice sites, list on separate sheet of paper) _____
(City) (County) (State) (Zip Code)
Practice Telephone #(s): ____ - ____ - _____

Report Number (circle one):

Initial Report: I began practicing at this location(s) on (insert date): _____
6 Month Report: I have been practicing at the above location(s) for 6 months, from _____ to _____
12 Month Report: I have been practicing at the above location(s) for 12 months, from _____ to _____
18 Month Report: I have been practicing at the above location(s) for 18 months, from _____ to _____
24 Month Report: I have been practicing at the above location(s) for 24 months, from _____ to _____
30 Month Report: I have been practicing at the above location(s) for 30 months, from _____ to _____
Final Report: I have completed 36 months service at the above location(s), from _____ to _____, and:
_____ I intend to remain at this location
_____ I do not intend to remain at this location

My typical work schedule during this reporting period has been as follows: (Example of entry: From 8 AM to 5 PM, less 1 hour for meal break = 8 actual work hours.)

| | |
|------------|--|
| Monday: | From _____ to _____ less _____ hour meal break = _____ actual in-clinic work hours |
| Tuesday: | From _____ to _____ less _____ hour meal break = _____ actual in-clinic work hours |
| Wednesday: | From _____ to _____ less _____ hour meal break = _____ actual in-clinic work hours |
| Thursday: | From _____ to _____ less _____ hour meal break = _____ actual in-clinic work hours |
| Friday: | From _____ to _____ less _____ hour meal break = _____ actual in-clinic work hours |
| Saturday: | From _____ to _____ less _____ hour meal break = _____ actual in-clinic work hours |
| Sunday: | From _____ to _____ less _____ hour meal break = _____ actual in-clinic work hours |

Total Hours Worked Each Week: _____

(Continued on reverse)

PART 1 - CONTINUED

The number of patients I have treated during this reporting period were as follows:

| | <u>Number</u> | <u>Percentage</u> |
|---|---------------|-------------------|
| a. Total number of patient office visits (do not include telephone consultations or hospital visits): | _____ | 100 % |
| b. Number of patient visits for whom a <i>Medicare</i> claim was submitted: | _____ | _____ % |
| c. Number of patient visits for whom a <i>Medicaid</i> claim was submitted: | _____ | _____ % |
| d. Number of patients wherein services were rendered at a rate less than the usual and customary fee under a sliding fee scale: | _____ | _____ % |
| e. Number of patient visits for which no charge was made (based on inability to pay): | _____ | _____ % |
| f. Number of patient visits covered by private insurance: | _____ | _____ % |
| g. Number of uninsured, self-pay patients who paid full charges: | _____ | _____ % |

My *Medicare* Provider Number(s) is (are): _____

My *Medicaid* Provider Number(s) is (are): _____

Number of Alabama Medicaid Patient 1st participants which I have agreed to accept: _____

I hereby certify *under penalty of licensure action and possible revocation of my J-1 waiver* that I, the undersigned physician, personally delivered the type of health care services for which my J-1 waiver was approved at the above address at least 40 hours per week. I further certify that my practice is using the sliding fee scale or 'no-pay' policy submitted with my J-1 waiver application for uninsured patients with household incomes at or below 200 percent of the Federal Poverty Level. All the information reported on this form is true to the best of my knowledge and belief.

(Physician's Signature) (Date) (Telephone #) (Email Address)

PART 2 - TO BE COMPLETED BY SPONSOR/EMPLOYER:

I hereby certify *under penalty of licensure action and other liability for fraudulent claims* that the information provided on this report is true and correct to the best of my knowledge and belief. I further certify that this organization uses the sliding fee scale or 'no-pay' policy submitted with the above J-1 physician's waiver application to discount payment fees for uninsured patients with household incomes at or below 200 percent of the Federal Poverty Level.

Organization: _____

Employer's Signature

Date

Printed/Typed Name

Telephone #: ____ - ____ - _____

Title

Email Address: _____

Please return this completed form to:

Alabama Office of Rural Health
RSA Tower
Suite 840, ATTN: Charles Lail
P.O. Box 303017
Montgomery, AL 36130-3017

If you have questions about completing this form, call: Telephone: (334) 206-5396 or Fax: (334) 206-5434 or email clail@adph.state.al.us

J-1 VISA WAIVER APPLICATION CHECKLIST

August 2003

Physician Name: _____ Employer: _____

Underserved Type: _____ Site: _____

J-1 Waiver Program: State (ADPH) _____ ARC _____

- _____ G-28(s) if attorney used
 - _____ For J-1 physician, if attorney so representing
 - _____ For employer, if attorney so representing.

- _____ Letter from Employer to Federal Co-Chairman or State Health Officer.
 - _____ Date employment is to begin and the employment duration.
 - _____ Statement of need for physician, including a physician-to-population ratio analysis and other relevant critical health indicators.
 - _____ **Includes letters of support from health and government leaders in the community.**
 - _____ Name of physician, medical specialty, and date license awarded.
 - _____ Certification that primary care physicians have not started or completed any fellowship or subspecialty training other than geriatrics. (Note: Not applicable to psychiatrists.)
 - _____ Certification that the employer is principally engaged in and has an established record of providing primary care or mental health care, respectively, and that the employer is not principally engaged in providing subspecialty medical services.
 - _____ Employer's business type (e.g. private for-profit, private non-profit, Community Health Center, or Federally Qualified Health Center).
 - _____ Address of practice geographic location. If multiple, need locations, addresses, phone numbers & work schedule.
 - _____ Certification that physician will practice primary care 40 hours per week excluding time for travel, inpatient care, on-call, scheduled emergency room coverage, or hospital rounds, AND that the physician will provide after-hour coverage consistent with other staff physicians or requirements in the community.
 - _____ If special population HPSA, 3-year demonstration of service to the poor, Medicaid and Medicare. (N/A to FQHC/CHC, but they must provide evidence of status)
 - _____ Copy of sliding fee scale, implementation plan, and public notice, plus written commitment to their use. **(Scale must begin discounting service to patients w/incomes below 200% of FPL and must provide nominal fee at 100% and below.)**
 - _____ Shortage area ID # & nine-digit zip code
 - _____ Certification that service will be provided to those on medicaid, medicare, & indigent uninsured patients.
 - _____ Acknowledgment that the ADPH will monitor compliance with waiver program requirements and will refer significant violations to the Alabama State Board of Medical Examiners for consideration. Further, that such violations could ultimately lead to remedies such as revocation of the J-1 visa waiver, reprimand, fine, and/or revocation of State medical license.
 - _____ Acknowledgment that all terms and conditions of physician's J-1 Visa Policy Affidavit and Agreement are incorporated into the employment agreement.
 - _____ Acknowledgment that employment does not modify or amend any terms or conditions of physician's J-1 Visa Policy Affidavit and Agreement.
 - _____ Certification of truth statement.

_____ J-1 Visa Data Sheet & Duration of Status Card (I-94), Showing "D/S"

- _____ J-1 Visa Waiver Policy (N/A for State (ADPH) Program)
- _____ J-1 Visa Waiver Policy Affidavit and Agreement
 - _____ Signed by J-1 and notarized
 - _____ Signed by employer (State-30 applications only)
- _____ Contract between employer and physician
 - _____ Contains J-1 Visa Liquidated Damages Clause
 - _____ Contains no non-compete clause
 - _____ **Contains no 'no cause' termination clauses**
 - _____ All terms and conditions of physician's J-1 Visa Policy Affidavit and Agreement
- _____ Physician CV, Medical Credentials, and Residency Letters of Recommendation
- _____ USMLE Certification of Completion (For Part 1, Part 2, and Part 3)
- _____ IAP 66 Forms
 - _____ No time gaps between forms
 - _____ Physician not out of status for more than 6 months (ARC) or 45 days (State)
 - _____ Physician not obligated to return to home country
 - _____ Forms do not evidence past or present enrollment in subspecialty or fellowship training
- _____ Copies of recruiting advertisements and supporting documentation
 - _____ Publication dates in advance of employment contract date
 - _____ Ads targeted to specific locale/specialty & cite salary range \geq J-1's pay
 - _____ Evidence of coordination with state medical schools
 - _____ **Contains no 'general' or internet recruitment ads**
- _____ *Letter from Governor/Health Officer to Federal Co-Chairman/Dept of State, Waiver Review Div.
- _____ *Proof of HPSA (State only)
- _____ *Letter to employer notifying submission to ARC/Dept of State, Waiver Review Division
- _____ *Record entered into database

* These items to be completed by the Alabama Department of Public Health (ADPH)



APPALACHIAN
REGIONAL
COMMISSION

J-1 Placement Verification Form

Physician Name: _____

INS J-1 Visa Waiver Approval Date: _____

H-1(b) Visa Approval Date: _____

Employment Start Date: _____

Home Address:

Street: _____

City: _____ State: _____ Zip Code: _____

Home Phone: _____

Type of Medical Practice: _____

Location of Medical Practice:

Street: _____

City: _____ State: _____

County: _____

HPSA: _____

Phone: _____

Fax: _____

Additional locations (if applicable):

I HEREBY CERTIFY THAT I, THE UNDERSIGNED, DO PROVIDE PRIMARY HEALTH CARE SERVICES AT THE ABOVE STATED LOCATION(S) A MINIMUM OF 40 HOURS PER WEEK.

Physician Signature
(Notary)

Date

I HEREBY CERTIFY THAT DOCTOR _____ PROVIDES A MINIMUM OF 40 HOURS PER WEEK OF PRIAMRY HEALTH CARE IN THE ABOVE LISTED ARC HPSA LOCATION(S).

Sponsor Signature
(Notary)

Date

RETURN THIS FORM TO:
Deann Reed Fairfax, J-1 Program Specialist
Appalachian Regional Commission
1666 Connecticut Avenue, N.W., Suite 700
Washington, D.C. 20009-1068

SEND COPY TO ARC J-1 STATE CONTACT
List available at www.arc.gov



TRANSFER NOTIFICATION FORM

Physician Name: _____

Home Address:

Street: _____

City: _____ State: _____ Zip Code: _____

Home Phone: _____

Sponsor Name: _____

Present Location of Medical Practice:

Street: _____

City: _____ State: _____

County: _____

HPSA: _____

Phone: _____

Date of Transfer: _____

Sponsor Name: _____

New Location of Medical Practice:

Street: _____

City: _____ State: _____

County: _____

HPSA: _____

Phone: _____

I HEREBY CERTIFY THAT I, THE UNDERSIGNED, DO PROVIDE PRIMARY HEALTH CARE SERVICES AT THE NEW LOCATION A MINIMUM OF 40 HOURS PER WEEK.

Physician Signature
(Notary)

Date

I HEREBY CERTIFY THAT DOCTOR _____ PROVIDES PRIMARY HEALTH CARE SERVICES AT THE NEW ARC HPSA LOCATION A MINIMUM OF 40 HOURS PER WEEK.

Sponsor Signature
(Notary)

Date

RETURN THIS FORM TO:
Ms. Deann Reed, Program Specialist
Appalachian Regional Commission
1666 Connecticut Avenue, N.W., Suite 700
Washington, D.C. 20009-1068

SEND COPY TO ARC J-1 STATE CONTACT
List available at www.arc.gov