

J-1 Visa Waiver/Conrad 30 Program

REVIEW AND RECOMMENDATION PROCESS FOR THE STATE OF IOWA



Iowa Department of Public Health, Primary Care Office

Updated August 29, 2012

I. INTRODUCTION

The state of Iowa is committed to ensuring all residents of Iowa have access to quality, affordable health care. Therefore, the Primary Care Office, within the Bureau of Oral and Health Delivery Systems within the Iowa Department of Public Health (IDPH), will consider recommending a waiver of the [foreign residence requirement](#) on behalf of physicians holding J-1 Visas under certain conditions and in accordance with the [Conrad State 30 program](#).

II. DEFINITIONS

1. Health Professional Shortage Area (HPSA) - an area, population group, or facility designated by the U.S. Department of Health and Human Services as having an acute shortage of primary health care professionals. Please refer to the resource at <http://bhpr.hrsa.gov/shortage/> for more information on HPSAs.
2. Medically Underserved Area (MUA) – an area designated by the U.S. Department of Health and Human Services as meeting scoring criteria under the Index of Medical Underservice (IMU) which considers the ratio of primary medical care physicians to population, infant mortality rate, percentage of the population with incomes below the poverty level, and percentage of the population age 65 or over. Please refer to the resource at <http://bhpr.hrsa.gov/shortage/> for more information on MUAs.
3. Medically Underserved Population (MUP) – a designation by the U.S. Department of Health and Human Services which involves application of the Index of Medical Underservice (IMU) to data on an underserved population group within an area of residence to obtain a score for the population group. Please refer to the resource at <http://bhpr.hrsa.gov/shortage/> for more information on MUAs.
4. Primary Care – services provided by physicians in the following specialties: Family Practice, General Surgery, General Internal Medicine (including Hospitalists), Obstetrics/Gynecology, Pediatrics, and Psychiatry.
5. Specialty Care – services provided by physicians in specialties other than those listed above as Primary Care.

III. PROGRAM OVERVIEW

Overall, it is the policy of IDPH that J-1 visa waiver physicians will serve the underserved in Iowa – those patients who lack access to health care due to factors such as insurance status, income, distance to care, or language barriers. To assure this, physicians must plan to practice in a Health Professional Shortage Area (HPSA) appropriate to their specialty or a Medically Underserved Area (MUA) or Medically Underserved Population (MUP). The exception to this is that Iowa may use the option to recommend placement for up to ten waiver slots in facilities located in non-designated areas if the request package meets submission requirements and clearly demonstrates how the physician will fulfill unmet needs in Iowa. Up to three waiver slots may be reserved for the IDPH Director's discretionary targeting of special priority needs.

Employers who are eligible to use the Waiver of the Two-Year Foreign Residency Requirement process through the United States Department of Health and Human Services (available here <http://www.globalhealth.gov/global-programs-and-initiatives/exchange-visitor-program/requirements-waiver-clinical-care.html>) should use that process.

IDPH encourages request packages for physicians planning to practice in the following primary care specialties: **Family Practice, General Surgery, General Internal Medicine (including Hospitalists), Obstetrics/Gynecology, Pediatrics, and Psychiatry**. In the waiver request packet, the employer must report an estimate of the percentages of Medicaid, Medicare, and uninsured patients that will be treated by the primary care specialist.

In addition to primary care, waiver requests may be recommended for specialists and sub-specialists. Again, the employer must demonstrate that the specialty services are essential to the medical needs of the underserved in Iowa and the employer must report the estimated percentages of Medicaid, Medicare, and uninsured patients that will be treated by the specialist.

Note: It is expected that the J-1 physician will serve underserved populations and annual monitoring will require reporting of the J-1's patient base including number of patients and insurance status of patients. Additionally, safety net providers (rural health clinics, community health centers, free clinics) in Iowa will receive information on J-1 physicians employed by facilities in their geographic area.

IV. WAIVER REQUEST CONTENT AND PROTOCOL

Iowa traditionally fills all 30 waiver slot requests. Therefore, it has been necessary to develop a process to ensure all request packages receive a fair and timely review and to ensure that the needs of Iowans are being appropriately served by the program.

A waiver request to IDPH must be submitted by a U.S. health care facility and/or attorney representing a facility on behalf of a J-1 physician and not directly from a J-1 physician. IDPH highly recommends facilities use the services of an experienced immigration attorney.

The facility and/or attorney shall submit two copies of the required information and documentation must be submitted in a single package, tabbed, without staples, with documents presented in the order provided in this policy.

IDPH reserves the right to return any request package which does not include the correct tabs, is labeled incorrectly, is not in the correct order, or fails to include required content as listed in this policy. **It is the responsibility of ALL PARTIES (physician, employer, and attorney) to assure that the request package meets the requirements of this policy at the time it is submitted.** In the event that a request package does not meet requirements, IDPH reserves the right to reject the request package and to inform the physician, the employer, and the attorney.

V. WAIVER REQUEST REVIEW AND DECISION

Review of and decision regarding waiver request packages will be conducted by a team of reviewers. Waiver request review will consist of two Phases.

PHASE 1

1. Waiver request packages will be accepted beginning the first Monday in October and conclude the last Friday in October. The number of request packages received during

this timeframe will be posted to the IDPH website. Decisions on request packages received during this timeframe will be issued on November 30 unless IDPH at its sole discretion extends this date.

Information about the status of request packages, other than the number received, will not be available prior to November 30. Parties must refrain from contacting IDPH during this time. Failure to comply with this requirement may result in disqualification of the request package.

2. Request packages not meeting criteria will be returned with conditional approval and a due date for submission of required materials. If the required materials are received after the due date, the request package will be considered as a new request package and will be reviewed according to the date the resubmission is received.
3. Review of request packages will include the following considerations:
 - a. whether contents are tabbed according to instructions in this policy, and
 - b. the extent to which the required content in each tab is thoroughly addressed, and
 - c. whether the planned employment and practice situation meets requirements of the program.
4. If more than 30 requests are received, reviewers may consider factors such as:
 - a. primary care/specialty care,
 - b. rural/urban location,
 - c. impact on service to Iowa's underserved populations,
 - d. number of recent waivers approved for the applying health care facility/health system, and
 - e. number of recent waivers approved for the applying geographic location within the state(i.e., the goal is that no one facility, city, or shortage area will receive an unbalanced number of approvals).
5. The number of slots used and remaining at the conclusion of PHASE 1 will be posted to the IDPH website on November 30 unless IDPH at its sole discretion extends this date.

PHASE 2

1. Waiver request packages received after the last Friday in October will be considered only if all 30 slots are not already filled in PHASE 1.
2. Request packages will be considered on a first come, first served basis.
3. Review of request packages will include the following considerations:
 - a. whether contents are tabbed according to instructions in this policy, and
 - b. the extent to which the required content in each tab is thoroughly addressed, and
 - c. whether the planned employment and practice situation meets requirements of the program.
4. Request packages not meeting criteria will be returned. Request packages may be resubmitted. Resubmitted request packages will be considered new request packages and will be reviewed according to the date the resubmission is received.
5. IDPH does **not** make assurances regarding the length of time it will take to render a decision in PHASE 2. Information about the status of the request package will not be available until the decision is issued.

The Iowa Department of Public Health’s policy is completely discretionary, voluntary, and may be modified or terminated at any time. The submission of a complete waiver package to IDPH does not ensure that the Department will recommend a waiver. In all instances IDPH reserves the right to recommend or decline any request for a waiver.

VI. EXCEPTIONS

Requests for exception to this policy will require consultation with legal counsel assigned to IDPH. Any party making request for exception to this policy should expect decision no sooner than eight (8) weeks from the time the exception is requested.

WAIVER REQUEST PACKET GUIDELINES

Submit **two** unstapled (1 original/1 copy) copies in a single packet, tabbed with a Table of Contents in the following order. The physician's case number should be on each and every page of the packet.

1. TAB ONE: Letter from legal counsel highlighting the physician's full name, the name of facility at which the physician will work, the facility's address, the HPSA ID#, the physician's date of birth, and the physician's country of origin. (A small two-column table is helpful.) Signature from legal counsel to be in non-black ink.
2. TAB TWO: contact page including names and contact information, including e-mail addresses and phone numbers, for:
 - a. the facility and/or physician human resources specialist,
 - b. the legal counsel,
 - c. the physician, and
 - d. the person who will be responsible for yearly reporting on the physician (see #16).
 - e. Additionally, the contact page should specify:
 - i. which person should be contacted if there are any questions on the waiver packet or if additional information is needed,
 - ii. which person should be contacted when the waiver request is forwarded to USCIS for final approval,
 - iii. which of the contact persons would like a copy of the letter sent to USCIS (copy will be sent as a PDF via e-mail attachment).
3. TAB THREE: DS-3035 Data Sheet, completed and signed by the physician.
4. TAB FOUR: A letter from the health care facility at which the physician will be employed must accompany the request packet. Include these items in the letter:
 - a. A request to the Iowa Department of Public Health to act as an interested government agency in order to recommend a waiver for the J-1-physician;
 - b. A detailed summary of the facility's attempts to locate, interview, and hire qualified U.S. physicians (length of time recruiting, methods of recruitment, inquiries received, etc);
 - c. A description of the physician's qualifications, proposed responsibilities, and how the employment of the physician will satisfy important unmet health care needs of the medically underserved community.
 - d. A statement that the facility is offering the physician at least three years of employment;
 - e. A summary of the facility's policies regarding acceptance of Medicaid/Medicare eligible patients and medically indigent patients;
 - i. Include estimates of the percentages of patients the physician will see that are Medicaid, Medicare, and medically indigent patients.
 - f. A summary of the effect on the population in the geographic area if the waiver is denied.

12. TAB TWELVE: A complete curriculum vitae of the physician.
13. TAB THIRTEEN: Two letters of recommendation related to the physician's medical training and future employment in Iowa specifically. Letters should be from individuals who have worked with the physician in a professional setting and should not be from the facility hiring the physician currently.
14. TAB FOURTEEN: The completed, signed and notarized **J-1 Visa Waiver Policy Affidavit and Agreement** form (Attachment 1). Sign in non-black ink.
15. TAB FIFTEEN: The completed, signed and notarized **J-1 Visa Waiver Agreement of Non-Involvement in Other Waiver Processes** form stating that he/she is not involved in other waiver processes while this request package is pending (Attachment 2). Sign in non-black ink.
16. TAB SIXTEEN: A statement that the healthcare facility will submit an annual report to the Primary Care Office monitoring the physician's compliance with the three-year service obligation. The name and contact person who will submit the report should be included on this page.
 - a. Once a waiver is approved by IDPH and final approval is received from USCIS, IDPH will send the facility an initial reporting form to document the physician's start date.
 - b. Annual reports will be sent to the contact person listed on the second page of the request packet. Reports will require information on the physician's patient base – including number of patients and insurance status of patients treated by the provider. Additionally, IDPH may use waiting times for referrals from safety net providers if necessary to monitor access concerns.
17. All pages of the request package must contain the DOS case file number.

WAIVER REQUEST PACKAGE CHECKLIST

Please submit waiver request with **one original + one copy of entire package** to:

Michelle Holst
Primary Care Office
Iowa Department of Public Health
Lucas State Office Bldg.
321 East 12th Street
Des Moines, IA 50319-0075

Use a table of contents and tab the following documents with DOS case number on all pages:

1. LEGAL COUNSEL LETTER WITH BASIC INFORMATION
2. CONTACT PAGE
3. DS-3035 DATA SHEET (barcode page)
4. FACILITY LETTER
5. DETAILED FACILITY DESCRIPTION
6. EMPLOYMENT CONTRACT
7. LICENSURE INFORMATION
8. FORM DS-2019
9. FORM I-94
10. EXAMINATION PASSAGE
11. SIX MONTH RECRUITMENT EFFORTS
12. PHYSICIAN CV
13. RECOMMENDATION LETTERS
14. WAIVER POLICY AFFIDAVIT AND AGREEMENT
15. WAIVER AGREEMENT OF NON-INVOLVEMENT
16. REPORTING COMPLIANCE

J-1 VISA WAIVER POLICY AFFIDAVIT AND AGREEMENT

I _____, being duly sworn, hereby request the Iowa Department of Public Health to review my request package for the purpose of recommending waiver of the foreign residence requirement set forth in my J-1 visa, pursuant to the terms and conditions as follows:

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 State of Iowa, the Iowa Department of Public Health, any and all State of Iowa employees, agents and assigns from any action or lack of action made in connection with this request.

I further understand and acknowledge that the entire basis for the consideration of my request is the Iowa Department of Public Health’s voluntary policy and desire to improve the availability of primary medical care in medically underserved regions.

I understand and agree that in consideration for a waiver, which eventually may or may not be granted, I shall render primary medical services to patients, including the indigent, for a minimum of forty (40) hours per week within an U.S. Public Health Services designated shortage area. Such service shall commence not later than ninety (90) days after I receive notification of approval by both U.S. Department of Labor and shall continue for a period of at least three (3) years.

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 4.

I further agree that any employment agreement I enter pursuant to paragraph 4 shall not contain any provision which modifies or amends any of these terms of this J-1 Visa Waiver Affidavit and Agreement.

I understand and agree that my primary medical care services rendered pursuant to paragraph 4 shall be in a Medicare and Medicaid certified facility which has an open, non-discriminatory admissions policy and that will accept medically indigent patients.

I have read and fully understand the “Waiver Request Guidelines,” a copy of which is attached hereto and is specifically incorporated by reference.

I expressly understand that this waiver of my foreign service requirement must ultimately be approved by the United States Citizenship and Immigration Services, and I agree to provide written notification of the specific location and nature of my practice to the Iowa Department of Public Health, at the time I commence rendering services, and on an annual basis to the Iowa Department of Public Health, thereafter.

I understand and acknowledge that if I willfully fail to comply with the terms of this J-1 Visa Affidavit and Agreement, the Iowa Department of Public Health will notify USCIS. Additionally, any and all other measures available to the Iowa Department of Public Health will be taken in the event of non-compliance.

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

(Physician’s Signature)

Subscribed and sworn to before me

This _____ day of _____, 20__

Notary Public

**J-1 VISA WAIVER AGREEMENT OF NON-INVOLVEMENT
IN OTHER WAIVER PROCESSES**

I, _____, hereby declare and certify that:

1. I have requested that the **Iowa Department of Public Health** consider recommending waiver of the foreign residence requirement set forth in my J-1 visa.

2. I do not now have pending, nor will I submit during the pending of this request, another request to any U.S. Government department or agency equivalent to act on my behalf in any matter relating to a waiver of my two-year home residence requirement.

Signature

Date

Subscribed and sworn to before me

This ____ day of _____, 20 ____.

Notary Public