

Title 19 – DEPARTMENT OF HEALTH AND SENIOR SERVICES
Division 10 – Office of the Director
Chapter 4 – Coordinated Health Care Services

PROPOSED RULE

19 CSR 10-4.020 J-1 Visa Waiver Program

PURPOSE: This rule outlines the Department of Health and Senior Services' J-1 visa waiver recommendation process in accordance with section 214(l) of the Immigration and Nationality Act.

(1) The following definitions shall be used in the interpretation of this rule:

(A) Department means the Missouri Department of Health and Senior Services;

(B) Director means the director of the Missouri Department of Health and Senior Services; and

(C) Health professional shortage area (HPSA) means a geographic area, population group, or individual facility designated by the United States Department of Health and Human Services, Health Resources and Services Administration as having a shortage of physicians.

(2) A waiver request must come from a Missouri health care facility on behalf of a J-1 Visa physician. All of the required information and documentation, as required by the United States Department of State, J-1 Visa Waiver Program, must be submitted in a single application package with the documents presented in the order as prescribed in paragraphs (2)(A) – (H). Waiver requests that do not comply with these requirements will not be considered. The required documents include:

(A) A completed Form DS-3035, J-1 Visa Waiver Recommendation Application;

(B) An employment contract between the physician and the health care facility employing the physician named in the waiver application that includes the following:

1. The name and address of the health care facility;
2. A statement that the physician agrees to begin employment with the employer within 90 days of receiving the waiver;
3. A statement that indicates the physician's specialty;
4. The specific geographical area or areas where the physician will practice medicine;
5. A statement by the physician that he or she agrees to meet the requirements set forth in the Immigration and Nationality Action, Section 214(l);
6. An employment period of at least three years in a designated HPSA; and
7. A full-time schedule of at least 40 hours per week in direct patient care in the HPSA.

(C) Proof that the location where the physician will practice medicine is in a designated HPSA;

- (D) Copies of all Forms IAP-66 or DS-2019, Certificate of Eligibility for Exchange Visitor (J-1) Status;
- (E) A copy of the physician's curriculum vitae;
- (F) Proof of eligibility for licensure with the Missouri Board of Healing Arts;
- (G) A copy of the statement of no objection from the physician's country of nationality or last residence, if the physician is contractually obligated to return to the home country; and
- (H) An original and one (1) unbound copy of the entire application package shall be included.

(3) Application packages will be accepted between October 1 and November 30 of the current year. Each application package received by the department will be reviewed for completeness. Complete applications are those which include all required documentation, as listed in section (2)(A) – (H). Complete applications will be forwarded for approval by the director or his/her designee in the priority as outlined in section (4)-(6). Upon approval, the department will send the request to the appropriate federal authorities.

(4) The department's J-1 Visa Waiver Program will give priority to those physicians in one (1) of the following specialties: Family Practice, General Practice, General Pediatrics, Obstetrics/Gynecology, or Psychiatry. If the department receives more than 30 completed application packages between October 1 and November 30, application packages will be prioritized in the following order:

- (A) Primary Care physicians will be prioritized before other specializations
- (B) Primary Care HPSA score of the location of the health care facility employing the physician; higher HPSA scores will be prioritized before lower HPSA scores.
- (C) The date the application package was received by the department; applications received earlier will be prioritized before applications received later.
- (D) In the event that there are fewer remaining waivers than applicants, and with all of those applicants having equal status in priority, remaining waiver(s) will be recommended by lottery.

(5) In addition to the eligible physicians set forth in section (4), waivers may be recommended for other specialties and subspecialties.

(A) Physicians trained in other specialties may be considered for recommendation for a J-1 Visa Waiver based on the following criteria:

1. Vacant slots must be available; and
2. The specialty physician's application must comply with all other requirements of the J-1 Visa Program.

(B) The number of specialty recommendations in any given program year will be determined by the number of available slots after all application packages for primary care physicians as outlined in section (4) are reviewed. If more application packages are received for specialists than the department has slots available, priority will be determined by Primary Care HPSA score of the location of the health care facility employing the physician; i.e. higher Primary Care HPSA scores will be assigned higher priority.

(6) If the department recommends less than 30 physicians for J-1 Visa Waivers for application packages received between October 1 and November 30 of the current year, application packages will continue to be accepted, reviewed for completeness and recommended in the order of the date they are received for any specialty until all available slots are filled.

(A) In the event that there are fewer remaining waivers than applicants, and with all of those applicants having equal status in priority, remaining waiver(s) will be recommended by lottery.

(7) It is the responsibility of the physician and the employer to meet Missouri's licensing and credentialing requirements as delineated by the Missouri Board of Healing Arts.

(8) A physician who is practicing under a J-1 visa in another state who wishes to practice in a HPSA in Missouri and obtain a J-1 visa waiver may do so only under the following conditions:

(A) The physician must complete the J-1 visa waiver application process in Missouri and obtain a Missouri medical license prior to commencing practice;

(B) The physician should make no plans for the transfer or to move personal possessions until the department has approved the request. The physician retains sole responsibility for notifying the employer of the intent to transfer, and payment of any financial penalty caused by a breach of contract, as determined by the employer; and

(C) All other J-1 visa waiver requirements remain in effect.

(8) A physician with a J-1 visa waiver who is practicing in Missouri who wishes to transfer to another HPSA in Missouri may do so under the following conditions:

(A) At least sixty (60) days in advance of the proposed change, the physician must notify the department of the new practice site address, telephone number, site director and the effective date of the proposed change;

(B) The reason for the transfer must be explained in the written notice;

(C) A new J-1 visa waiver employer contract must be submitted to the department prior to approval of the transfer; and

(D) The physician should make no plans for the transfer or moving of personal possessions until the department has issued written approval of the transfer. The physician retains sole responsibility for notifying the employer of the intent to transfer and payment of any financial penalty caused by a breach of contract, as determined by the original employer.

(9) The department is not responsible for exceptions to or interpretations of these policies which have occurred without the written approval of the director of the department or his/her designee.

(10) The department is not responsible for any practice arrangements or contractual obligations entered into by the physician prior to approval of a J-1 visa waiver request.

AUTHORITY: section 191.411.1, RSMo Supp. 2001. Emergency rule filed April 17, 1995, effective April 27, 1995, expired Aug. 24, 1995. Original rule filed April 17, 1995, effective Oct. 30, 1995. Changed to 19 CSR 10-4.020 July 30, 1998. Emergency amendment filed Sept. 19, 2000, effective Sept. 29, 2000, expired March 27, 2001. Amended: Filed Sept. 19, 2000, effective Feb. 28, 2001. Emergency amendment filed Dec. 16, 2002, effective Dec. 26, 2002, expired June 23, 2003. Amended: Filed Dec. 16, 2002, effective May 30, 2003.*

**Original authority: 191.411, RSMo 1993, amended 2001.*

PUBLIC COST: This proposed rule will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed rule will not cost private entities more than five hundred dollars (\$500) in the aggregate.

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with P.O. Box 570, Jefferson City, MO 65102-0570. To be considered, comments must be received within thirty (30) days after publication of this notice in the **Missouri Register**. No public hearing is scheduled.*