

**MEMORANDUM REPORT ON REVIEW OF
APPALACHIAN REGIONAL COMMISSION
J-1 VISA WAIVER PROGRAM**

**REVIEW OF SELECTED HEALTH PROVIDERS
AND J-1 VISA WAIVER PHYSICIANS IN ALABAMA**

Period of Random Site Visits: January 15, 2008 through January 17, 2008

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Report Number: 08-06

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TO: Appalachian Regional Commission (ARC)
Office of Inspector General (OIG)

FROM: Tichenor & Associates, LLP
Louisville, Kentucky

REPORT FOR: The Federal Co-Chairman
ARC Executive Director
OIG Report Number: 08-06

SUBJECT: Memorandum Review Report on Appalachian Regional
Commission (ARC) J-1 Visa Waiver Program – Review of
Selected Health Providers and J-1 Visa Waiver Physicians in
Alabama.

PURPOSE: The purpose of our review was to determine the compliance with ARC J-1 Visa Waiver program requirements and that J-1 physicians perform primary care services in an Appalachian HPSA for 40 hours per week.

BACKGROUND: This review was undertaken as part of a review of J-1 Visa Waiver program operations in the Appalachian Region.

The J-1 Visa Waiver program provides a waiver of the requirement for a foreign physician to return to his/her home country after completion of medical training in the United States. The ARC participates as a Federal Entity sponsor to assist Appalachian Region communities in providing health care services to medically underserved areas. The applicable ARC policies and procedures require J-1 physicians to practice 40 hours of primary care per week in a designated Health Profession Shortage Area (HPSA) in the Appalachian Region. The ARC program requires the physician to serve at least 3 years (unless the state has a longer period). There is no prohibition on J-1 physicians working extra hours or practicing subspecialties after fulfilling primary care requirements

Although preliminary responsibilities for reviewing J-1 Visa Waiver requests, including supporting documentation, justifications of need, program oversight, and reporting have been delegated to the state health agencies, ARC retains the authority to act on waiver requests and to ensure compliance with program objectives and requirements.

SCOPE: We performed a review of the program as described in the Purpose above. Our review was based on the terms of the ARC Federal Co-Chair's J-1 Visa Waiver Policy and on the application of certain agreed-upon procedures previously discussed with the ARC OIG. Specifically, we determined if the physicians were providing medical care in line with the approved practices. Our results and recommendations are based upon those procedures. These review procedures were performed in accordance with applicable Government Auditing Standards.

RESULTS: During the period January 15, 2008 through January 17, 2008, unannounced visits to eight physicians at seven locations in Alabama were performed (two of the physicians were in the same location). The purpose of the visits was to verify the practices and locations of the physicians with J-1 Visa Waivers. The results of the visits were as follows:

1. Lack of Notice Posted in Patient Waiting Area of Availability of Service to Medicare, Medicaid, and Medically Indigent Patients

The ARC Federal Co-Chair's J-1 Visa Waiver Policy states that 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 or Medicaid; and, a notice must be posted in a conspicuous location in the patient waiting area at the practice site notifying patients of the charges for services as required in this policy.

Of the seven locations we visited where the J-1 physicians are currently providing services, all of the employers had sliding fee scales for indigent patients; however, three of the locations had no notice posted in the patient waiting area regarding the availability of service to Medicare, Medicaid, and medically indigent patients, as required. Additionally, in two locations there were notices concerning medically indigent patients, but no notice of the availability of service to Medicare and Medicaid patients. (See Appendix B – Summary of Findings)

Recommendation:

We recommend that ARC, in conjunction with Alabama state officials, ensure that the above employers properly post notices of the availability of service to Medicare, Medicaid, and medically indigent patients in a conspicuous location in the patient waiting area in compliance with the ARC Federal Co-Chair's J-1 Visa Waiver Policy.

ARC's Response:

In response to our recommendation ARC contacted state officials in Alabama. As a result, the State has contacted all J-1 Visa Waiver sponsors in Alabama to ensure that they properly post notices that 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. ARC also noted that several sponsors claim they have continually posted the required notices. (See Appendix C – ARC’s Response)

Auditor’s Comment:

ARC, in conjunction Alabama state officials, has taken steps to ensure that all J-1 Visa Waiver sponsors in Alabama properly post notices of the availability of treatment to Medicare, Medicaid, and medically indigent patients in a conspicuous location in the patient waiting area in compliance with the ARC Federal Co-Chair’s J-1 Visa Waiver Policy. As a result, the recommendation is considered closed.

2. Physician not Providing Approximately 40 Hours of Primary Medical Care Per Week

The ARC Federal Co-Chair’s J-1 Visa Waiver Policy states that the physician must agree to provide primary medical care for at least forty hours per week in a designated HPSA in the Appalachian Region.

At one of the locations we visited, the physician stated that she worked at the clinic from 8:00am to 5:00pm Monday through Friday for three weeks in a row and was then on-call at the local hospital for seven days during the fourth week, instead of being at the clinic. (At the time of our visit the physician was not at the clinic, as she was on-call at the hospital, and the auditor had to speak with her by telephone.)

The ARC Federal Co-Chair’s J-1 Visa Waiver Policy states that on-call time may not be included in the forty hours of primary medical care per week requirement.

Recommendation:

We recommend that ARC, in conjunction with Alabama state officials, review the status of the physician and determine if the physician is in compliance with the ARC Federal Co-Chair’s J-1 Visa Waiver Policy.

ARC’s Response:

In conjunction with Alabama state officials, ARC reviewed the current work schedule for the physician and determined that the physician is in compliance with ARC policy. (See Appendix C – ARC’s Response)

Auditor’s Comment:

ARC has determined that the physician is in compliance with the ARC Federal Co-Chair’s J-1 Visa Waiver Policy. As a result, this recommendation is considered closed.

CONCLUSION: All of the eight physicians we contacted were satisfied with the program and practices and they generally expressed interest in staying in the area upon completion of their waiver period. (See Appendix A – J-1 Physician Visits in Alabama)

Tichenor & Associates LLP

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Louisville, Kentucky

January 17, 2008