

State of Wyoming



Department of Health Rural and Frontier Health Division Office of Rural Health

Rules and Regulations for the Wyoming Physician Recruitment Grant Program

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July 2008

**State of Wyoming
Department of Health**

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Wyoming Physician Recruitment Grant Program**

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Rural and Frontier Health Division
Office of Rural Health

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Chapter 5. The Wyoming Physician Recruitment Grant Program

Emergency Rule

Statement of Reasons

The Wyoming Department of Health proposes the following Emergency Rule to comply with the provisions of the Wyoming Physician Recruitment Grant Program Act which was established in the 2008 Budget Session at House Enrolled Act (HEA) 62. This Act will be codified at W.S. 35-1-1101. This Act, HEA 62, and the Wyoming Administrative Procedures Act at W.S. 16-3-101, *et seq.*, authorize the Department of Health to promulgate a rule to implement the Wyoming Physician Recruitment Grant Program.

This Emergency Rule establishes the Wyoming Physician Recruitment Grant Program.

As required by W.S. 16-3-103(a)(i)(G), the Rule implementing the Wyoming Physician Recruitment Grant Program Act meets minimum substantive state statutory requirements.

THE WYOMING PHYSICIAN RECRUITMENT GRANT PROGRAM

CHAPTER 5

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THE WYOMING PHYSICIAN RECRUITMENT GRANT PROGRAM

CHAPTER 5

Section 1. Authority.

These rules are promulgated by the Department of Health, Rural and Frontier Health Division, pursuant to W.S. 35-1-1101, and the Wyoming Administrative Procedures Act at W.S. 16-3-101, *et seq.*

Section 2. Purpose and Applicability.

(a) These rules implement the Wyoming Physician Recruitment Grant Program which governs the award of grant funds to recruitment entities to recruit physicians.

(b) The Department may issue manuals, bulletins or both to interpret the provision of these rules and regulations. Such provider manuals and provider bulletins shall be consistent with and reflect the policies contained in these rules and regulations. The provisions contained in provider manuals or provider bulletins shall be subordinate to the provisions of these rules and regulations.

(c) The incorporation by reference of any external standard is intended to be the incorporation of that standard as it is in effect on the effective date of these rules and regulations.

Section 3. Severability.

If any portion of these rules is found to be invalid or unenforceable, the remainder shall continue in effect.

Section 4. Definitions.

The following definitions shall apply in the interpretation and enforcement of these rules. Where the context in which words are used in these rules indicates that such is the intent, words in the singular number shall include the plural and visa-versa. Throughout these rules gender pronouns are used interchangeably, except where the context dictates otherwise. The drafters have attempted to utilize each gender pronoun in equal numbers in random distribution. Words in each gender shall include individuals of the other gender.

For the purpose of these rules, the following shall apply:

(a) “Applicant” means a recruitment entity applying for this grant. Eligible applicants are hospitals, physicians, clinics, or other appropriate organizations approved by the Department.

(b) “Contract Agreement” means a legally enforceable binding agreement that describes the terms of the commitment between the Department and the applicant selected to receive a physician recruitment grant.

(c) “Department” means the Wyoming Department of Health, Rural and Frontier Health Division, Office of Rural Health.

(d) “Full-time Equivalency” means “full-time position” as defined by the state of Wyoming Department of Administration and Information, Human Resources Division.

(e) “Grant” means a grant of state funds under a Contract Agreement.

(f) “Grant Amount” means the state program funds identified in the Contract Agreement.

(g) “Grant Term” means a one (1) year Contract Agreement for a recruitment entity to recruit a physician under the terms of this Act. The Contract Agreement Grant Term will run from October 1 to September 30.

(h) “Non-Compete Agreements” means an agreement that does not allow the physician recruited under this Act to practice independently from the recruitment entity.

(i) “Offer of Recruitment” means an offer of full-time employment from a recruitment entity to a specific physician.

(j) “Physician” means an individual who is licensed to practice in the state under Wyoming Statutes, Title 33, Chapter 26, of the Wyoming Medical Practice Act.

(k) “Physician Recruitment Grant” is a grant of state funds from the Department to a recruiting entity which is formalized in a Contract Agreement between the Department and the recruiting entity.

(l) “Private Practice Physicians” means a physician treating patients for a minimum of forty (40) hours per week in a private clinic which is not affiliated or associated with any hospital or government entity.

(m) “Recruited Physician” means a physician recruited by a recruitment entity pursuant to an offer of recruitment.

(n) “Recruitment Contract” means a legally binding agreement between a recruitment entity and a physician requiring the recruited physician to work full-time in a specified geographic area of Wyoming for at least two (2) years.

(o) “Recruitment Entity” means an eligible applicant selected for a physician recruitment grant which is then formalized in a Contract Agreement between the entity and the Department.

(p) “Service Obligation” means professional service rendered at an approved site for a minimum of two (2) years.

(q) “This Act” means W.S. 35-1-1101.

Section 5. Physician Recruitment Grants – Terms and Service.

(a) In July of each year, the Department shall solicit eligible applicants seeking to recruit physicians.

(b) The eligible applicant shall complete and submit an application by the identified deadline for the given year.

(c) In September of each year, the Department shall issue Contract Agreements to the selected recruitment entities. This Contract Agreement authorizes the recruitment entity to make a firm offer of recruitment to a physician incorporating benefits of this Act.

(d) All offers of grant funds to physicians shall be formalized in a written Offer of Recruitment. Any grant funds awarded to a physician shall be reported by the physician on the physician’s federal income tax forms.

(e) The recruitment entity has one (1) year from the effective date of the Contract Agreement to recruit a physician using that year’s grant funds awarded it under the Contract Agreement.

Section 6. Physician Recruitment Program Administration.

(a) The Department shall determine the total amount of the grant authorized for each approved application and shall identify that amount in the Contract Agreement with the recruitment entity. The amount identified in the Contract Agreement is to be used for the specific physician recruitment identified in the Contract Agreement.

(b) The Department shall reimburse the recruitment entity for appropriate costs identified in the Recruitment Contract, not to exceed the amounts identified in the Contract Agreement. The amount reimbursed shall not exceed the following:

(i) Twenty Thousand (\$20,000) in relocation expenses; and

(ii) Twenty Thousand (\$20,000) in malpractice insurance premiums (\$10,000 per year); and

(iii) Thirty Thousand (\$30,000) in a signing bonus.

(c) The Department shall reimburse the recruitment entity for recruitment costs not to exceed the amount identified in the Contract Agreement and shall not exceed Ten Thousand

(\$10,000) allowed by this Act. This applies only to physicians targeted to fill positions specifically identified in the Contract Agreement. Covered costs include:

- (i) Costs associated with hiring a professional recruitment company
- (ii) Interview costs to include hotel, meals, transportation and entertainment for doctors and their immediate family to visit the location and interview at the recruitment entity's offices (maximum of two (2) visits per candidate).
- (iii) Advertising expenses, including marketing and mailings.
- (iv) Other expenses may be approved for reimbursement at the discretion of the Department.
- (v) Salaries of recruitment entity staff are not eligible.
- (vi) Travel expenses, exhibits and displays used to attend and use at professional conferences are not eligible.

(d) The above amounts will be reimbursed once appropriate verification, as determined by the Department, of all costs is received and approved by the Department. Grant monies not used will be retained by the Department for future use in this Program.

Section 7. Recruitment Entity Responsibilities.

(a) An eligible applicant shall complete and submit an application to the Department by the identified deadline for the given year.

(b) Once the application is approved by the Department, the applicant becomes a recruitment entity. The recruiting entity shall enter into a Contract Agreement with the Department. The Contract Agreement will outline the amount the recruiting entity is eligible for and how those amounts are required to be used.

(c) The Contract Agreement is between the Department and the recruitment entity. The recruitment entity will have a separate recruitment contract with the physician.

(d) The recruitment entity must annually submit to the Department verification that the recruited physician treats Medicare, Medicaid and Kid Care insurance eligible patients, and that the physician works full-time in Wyoming in the approved geographic area for a period of two (2) years.

(e) The recruitment entity must ensure the recruited physician does not already practice in Wyoming, including part-time. The only exceptions are physicians completing residency training in Wyoming and military physicians (not practicing in Wyoming other than to fulfill a military obligation) which may still be recruited under this program. The recruited physician must submit a notarized affidavit to the Department stating he does not already

practice in Wyoming, including part-time, and has not done so for a period of twenty-four (24) months prior to any payments to the recruitment entity.

(f) The recruitment entity cannot require that the recruited physician sign any type of “non-compete agreement.”

(g) If the recruitment entity is a hospital, the recruitment entity must ensure that the agreement between the hospital and the recruited physician meet the conditions set forth in 42 C.F.R. 411.357(e) as amended September 5, 2007 (This law provides the exceptions to referral prohibitions related to compensation arrangements, also known as “Stark Amendment”).

(h) The recruitment entity has one (1) year from the effective date of the Contract Agreement to recruit a physician and must keep the Department’s program coordinator updated on its progress.

(i) The recruitment entity shall require that the recruited physician begin full time practice in Wyoming within six (6) months of signing an Offer of Recruitment.

Section 8. Department Responsibilities.

(a) The Department may use ten percent (10%) of the recruitment program budget to advertise the Physician Recruitment Grant Program.

(b) To verify the payment amounts, the Department shall demand appropriate documentation including receipts, vouchers, premium documentation, etc. Payments will only be made after the recruited physician relocates their practice to Wyoming and begins full-time practice in the geographic area identified in the Contract Agreement.

(c) The Department shall notify both recruitment entities and recruited physicians of any changes in the Contract Agreement or Program in a timely fashion.

(d) The Department shall verify the eligibility of recruitment entity prior to the Contract Agreement.

(e) The Department may request information from the recruitment entity to verify progress in the recruitment process and must be given a copy of the recruited physician’s affidavit required in Section 7 (e) within ten (10) business days of the Offer of Recruitment.

Section 9. Eligibility Criteria for Recruitment Grant Applicants.

(a) For-profit and non-profit hospitals, physicians, and healthcare clinics in Wyoming, and other appropriate Wyoming organizations (including county, and city government agencies, non-profit organizations, and in-state physician recruitment agencies) are eligible to apply for grants under this program.

(b) Physicians may not recruit themselves, nor may they be recruited by their immediate family members.

(c) The recruitment entity may recruit more than one (1) physician per application period. A separate recruitment grant application is required for each physician.

(d) Except for psychiatrists, recruitment entities may not recruit physicians to geographic areas exceeding the United States average physician to population ratio.

(e) The recruited physician cannot already practice in Wyoming, including part-time. The only exceptions are physicians completing residency training in Wyoming and military physicians (not practicing in Wyoming other than to fulfill a military obligation) which may still be recruited under this program.

(f) Physicians relocating to Wyoming to become employed by the state or by the United States are not eligible.

(g) An organization recruiting a physician to treat that organization's employees, family members, or former employees is not eligible. An organization is eligible if the recruited physician's practice is "open to the public" and patient access is not in any way limited to a relationship with the organization.

Section 10. Selection Process.

(a) The Department will make selections based on:

(i) The Department's determination of priority of the various geographic areas of Wyoming; and

(ii) The Department's determination of priority of the medical specialty need of the various geographic areas of Wyoming; and

(iii) The Department may use other relevant information submitted on the application.

(b) The Department shall attempt to issue at least one-half (1/2) of all grants for physicians whose practice in Wyoming would be with a for-profit business enterprise.

(c) The Department shall give priority to recruitment of private practice physicians.

(d) The Department shall give higher priority to direct patient care providers over physicians that provide indirect patient care.

(e) The Department will not award grants if applicants are not recruiting for geographic areas demonstrating substantial need in the physician to population ratio.

Section 11. Physician Recruitment Grant Termination Breach, Repayment and Penalties.

(a) The Department is contracting with the recruitment entity. If the recruited physician fails to meet the requirements of the statute and rules, the recruitment entity must repay the entire amount of grant funds awarded. The recruitment entity is not precluded from recovering these repayments from the recruited physician.

(b) If the recruitment entity is unable to recruit a physician within one (1) year of the effective date of the Contract Agreement, the contract terminates without penalty.

(c) If the recruited physician fails to relocate and begin full-time practice in Wyoming within six (6) months as required by Section 7 (i), the Contract Agreement terminates and the Department will not make any grant payments to the recruitment entity.

(d) If the recruitment entity fails to provide required information in Section 7, it may be required to repay any monies granted under this section to the state.

(e) Repayments include:

(i) The total amount of the grant identified in the Contract Agreement;

(ii) Interest at the rate of ten percent (10%) per annum; and

(iii) The Department may also recover costs and expenses incurred in collection and attorney fees.

(iv) The amount to be repaid shall be determined from the end of the month in which the grant recipient breached the contract agreement as if the recipient had breached at the end of the month.

(f) Amounts recovered and damages collected under this section shall be deposited into the General Fund.

(g) The Department may cancel or release, in full or in part, a recruitment entity from the service obligation under the contract agreement without penalty:

(i) If the recruited physician is unable to fulfill the service obligation due to permanent disability that prevents her from performing any work for remuneration or profit;

(ii) If the recruited physician dies;

(iii) If the recruited physician or a family member for whom the recruited physician is the principal caregiver has a chronic life threatening illness or a severe chronic medical circumstance that requires relocation as documented by a physician and is approved by the Department.

Section 12. Coordination with W.S. 9-2-118, the Wyoming Healthcare Provider Loan Repayment Program.

(a) The Department will determine if benefits under W.S. 9-2-118, the Wyoming Healthcare Provider Loan Repayment Program (WHPLRP), are to be included in the recruitment offer and will identify such in the Contract Agreement with the recruitment entity.

(i) The recruitment entity is responsible to verify the recruited physician's eligibility for WHPLRP.

(ii) The recruited physician must sign a WHPLRP contract.

(iii) The WHPLRP contract is the controlling document for the WHPLRP. All recruited physicians qualifying for the WHPLRP are required to adhere to this contract's requirements.

(b) All eligible recruited physicians may apply for the WHPLRP and compete during normal WHPLRP application periods.