



Appalachian
Regional
Commission

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

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

These ARC guidelines are the minimum requirements and each ARC State may impose additional requirements 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-Chair only upon written recommendation by the Governor, the ARC State Alternate or, at the ARC State's option, a high-ranking ARC State public health official.
2. The physician must agree to provide direct patient care for at least forty (40) hours a week at a site in a Health Professional Shortage Area (HPSA), as designated by the Health Resources and Services Administration (HRSA), within the legislatively defined Appalachian Regional Commission service area for a minimum of three years or longer, as a specific ARC 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 employer must make a showing of need for the physician at the worksite. This must include a detailed explanation and evidence 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 employer shall demonstrate, with such supporting documentation as the Federal Co-Chair may require, that it has undertaken such recruitment through a reasonable number of appropriate sources of national and statewide circulation most likely to bring responses from able, willing, qualified, and available U.S. doctors. Job opportunity notices must also be placed in appropriate medical schools including all medical schools in the ARC State in which the hospital or clinic is located.
4. The employment contract between the physician and the employer may not contain a restrictive covenant, non-compete clause, or non-solicitation 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 ARC State where he or she will practice and must have completed graduate medical education and training.
6. The physician must not have been "out of status" (as defined by the United States Citizenship and Immigration Services of the United States Department of Homeland Security) 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-Chair all copies of his or her Certificates of Eligibility for Exchange Visitor (J-1) Status, Department of State Forms DS-2019, and every other document needed to verify status.

7. The employer must agree to provide healthcare services to individuals without discriminating against them because (a) they are unable to pay for those services, or (b) payment for those healthcare services will be made under Medicare and Medicaid. The employer 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 - Policies for Healthcare Services Charges](#).
8. For special population designated HPSAs, employers must demonstrate their record of serving Medicare, Medicaid, and medically indigent patients for three years prior to the request for waiver as well as their continuing intentions to serve such individuals. Such demonstrations will not be required for Community Health Centers, Rural Health Centers and Federally Qualified Centers that are otherwise required to serve the target population. Such sponsors must provide a copy of their Notice of Grant Award instead.
9. The physician must sign and incorporate into the employment agreement the [Federal Co-Chair's J-1 Visa Policy Affidavit and Agreement](#) for consideration by the Federal Co-Chair of the request and must comply with the terms and conditions set forth in that document.
10. All requests approved initially by the Federal Co-Chair and approved subsequently by the United States Citizenship and Immigration Services of the United States Department of Homeland Security will be subject to review by ARC's Inspector General for compliance with this policy statement and other applicable laws. An employer's failure to comply in good faith with this policy will be considered in the evaluation of other applications involving the same employer.