

Nevada State Health Division

Corrective Action Plan for the J-1 Visa Waiver Program for Foreign-born Physicians

PROGRAM AND POLICY CHANGES, REGULATIONS AND STATUTES

February 2010

Issues:	Program and Policy Changes: Health Division
Lack of Oversight and Transparency	<p>Seven volunteer leaders from a variety of organizations and stakeholders in the private and public sectors who have impact on the provision of primary care in Nevada, particularly in medically underserved areas, were appointed by the Health Division Administrator to serve on the Health Division Primary Care Advisory Council. No other state seems to have a transparent process for approving J-1 Visa Waiver applications.</p> <p>Health Division Primary Care Council meets at least quarterly, follows Open Meeting Law, and examines, considers and makes advisory recommendations to the Health Division Administrator regarding primary care issues, including the applications for J-1 Visa Waivers. State Attorney General is represented at Council meetings.</p>
Complaints	<p>Procedures developed for addressing complaints and violations.</p> <p>Unannounced comprehensive site visits now being done annually, with return site visits for follow-up of critical deficiencies.</p> <p>Program review and analysis done, with referrals of issues and complaints to the State Board of Medical Examiners, State Attorney General, US Immigration and US Department of Labor.</p> <p>State Board of Medical Examiners provided education to the Council regarding it's complaint investigation process and provided guidance on typical program complaint scenarios.</p> <p>Primary Care Office staff have met or spoken with 100% of the current J-1 Visa Waiver physicians.</p> <p>Web-based complaint system is available.</p> <p>One complaint was received and investigated in 200, regarding physician not receiving prevailing wage; the employer immediately corrected the situation. 2009: One complaint alleging that patient safety was threatened because of high patient case load. BME has investigated and made a determination - it is not released publicly yet.</p>
Medical Licensing Bottlenecks	<p>Collaboration with the State Board of Medical Examiners, from the time a J-1 Visa Waiver application is received, has resulted in an improvement of physician start to work time from 150 days to less than 60 days.</p> <p>BME staff attends Council meetings and have provided educational sessions on the licensing process.</p>
Lack of Employer / Physician Compliance	<p>Unannounced comprehensive site visits are being done, with revisits as necessary.</p> <p>During the site visits, emphasis is placed on objective evidence of compliance, such as appointment lists and availability, wages, benefits, bonuses, moving expenses, direct service hours, and physician and employer feedback on provision of care to the underserved and the site's sliding fee procedure.</p>

	<p>Medicaid billing data is being monitored to establish that the sites are providing primary care to underserved communities, and to ensure that the J-1 Visa physician is providing service at the designated work site.</p> <p>Current and past J-1 Visa Waiver employment contracts have been reviewed for program compliance. Seven contracts have been amended to meet the program rules.</p> <p>After review by the Attorney General’s Office, deficiency letters have been sent to approximately 71% of employers, who were found not to be in compliance with program rules. Written plans for correction were received in all cases. Seven physicians were not working at their designated location; all but one employer corrected the situation. For the one site that had repeated non-compliance (the physicians was scheduled in a clinic that was not in an underserved area), the physician was assisted in a transfer to another employer. 71% of the employer sites had not posted a sign indicating that they would accept individuals regardless of ability to pay; this has been corrected.</p> <p>Monthly WebEx Orientations have been conducted with all new physicians and new employer sites; other physicians and employers are also welcome to attend the information sessions regarding the program’s rules.</p>																		
Lack of Formal Program Policies and Procedures	Policies and Procedures were finalized July 2009.																		
Lack of Program Management	<p>Performance indicators have been developed and are monitored and recorded quarterly.</p> <p>The PCO tracks semi-annual affidavits from physicians and employers regarding their work location, and verifies the information provided.</p> <p>The PCO tracks the status of the physician from receipt of H-1B visa status through completion of commitment.</p> <p>Improved identification of Health Professional Shortage Areas (HPSA).</p> <p>Employer and Physician satisfaction surveys are conducted annually. Some of the results are below:</p> <table><tr><td></td><td><u>2008</u></td><td><u>2009</u></td></tr><tr><td>Physician Satisfaction</td><td>52%</td><td>73%</td></tr><tr><td>The PCO provided needed support</td><td>47%</td><td>73%</td></tr><tr><td>Physician would recommend employer</td><td>52%</td><td>64%</td></tr><tr><td>Physician receives the money/benefits/time- off, which was agreed in contract</td><td>81%</td><td>91%</td></tr><tr><td>Does the physician plan to work in Nevada after your commitment ends?</td><td>67%</td><td>64%</td></tr></table> <p>Exit interview developed and implemented.</p> <p>Relationship and collaboration reestablished with the state’s Primary Care Association (Great Basin PCA) to address and improve access to health care for underserved communities and to support the safety net.</p> <p>PCO actively recruiting more J-1 Visa Waiver employer sites; all vacancies posted on the Primary Care Association and PCO web sites; Approximately 100 curriculum vitae are received and distributed annually to employers; recruitment CD has been developed and mailed to 118 medical schools across the nation.</p> <p>Development of a consumer-friendly database / search engine that will list all safety net providers by census track / county</p>		<u>2008</u>	<u>2009</u>	Physician Satisfaction	52%	73%	The PCO provided needed support	47%	73%	Physician would recommend employer	52%	64%	Physician receives the money/benefits/time- off, which was agreed in contract	81%	91%	Does the physician plan to work in Nevada after your commitment ends?	67%	64%
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who are willing to accept Medicaid, Nevada Check-up and offer a discounted fee (it will be placed on the Health Division website).

Development of a stakeholder meeting, which meets quarterly, to review the status of HPSA designations and the impact on communities (Hospital Association, Office of Rural Health, AHEC, Great Basin).

Issues:	Regulation: State Board of Health
Non-compliance with Federal and State requirements	<p>Senate Bill 229: DRAFT regulations have been reviewed by the Attorney General's Office and will be completed by July 1, 2010.</p> <p>The State Board of Health is aware that they will be authorized to oversee the J-1 Visa Waiver Program.</p>
Board of Examiners and State Attorney General's Office	<p>State Agencies have been very responsive to the issues identified by the Program and have reacted quickly and appropriately.</p>
Slow Response from Other Government Agencies	<p>In March, 2008, Peter Lazaro from US Immigration and Customs Enforcement subpoenaed the PCO for copies of approximately 28 J-1 Visa Waiver physician files. Since that time, they have asked for 8 more records - for a total of 36. Mr. Lazaro indicated that he was conducting an investigation into H-1B violations, as directed by the US Attorney's Office; this investigation included some current issues.</p> <p>On September 10, 2009, the PCO met with Mr. Lazaro, from Immigration and Crane Pomerantz, from the US Attorney's Office to discuss the program and procedures. At that time, they indicated that several employers in the Las Vegas area might be in violation of H-1B regulations.</p> <p>Mr. Pomerantz felt that Nevada might be short changing American physicians by allowing foreign physicians to work in areas that the Department of Labor did not approve through Labor Certification. Mr. Lazaro and Mr. Pomerantz indicated that they would want the PCO to testify at a Grand Jury.</p> <p>In December, two pediatricians from El Dorado Medical Center, submitted a complaint with the PCO regarding a heavy patient care load that they felt threatened patient safety, and a complaint that they felt threatened at their work site. The Board of Examiners was notified and conducted an investigation into patient safety, Department of Labor was notified and Immigration. The physicians refused to report their allegation to the Employment Opportunity Commission.</p> <p>Since October, 2009, four emails have been sent to Mr. Lazaro by the PCO, requesting the status of the Grand Jury investigation and asking for an update on the current physician issues, including an allegation that physicians were not getting prevailing wage. Three phone calls also have been made with no response from Immigration.</p> <p>Richard Whitley, Health Division Administrator, has written letters to the two agencies asking for written updates on the status of the case.</p>
Limited Funding for Program Management	<p>Current available fiscal resources limit the ability of the Primary Care Office to effectively manage the program.</p> <p>Approximately \$210,000 is received annually from Health Resources and Services Administration (HRSA) to support two positions. Travel for on-site visits across the State is approximately \$10,000 per year. Once the regulations are adopted, it is anticipated that the program will generate \$5,000 in application fees that will be used for WebEx sessions and on-site, unannounced site visits.</p>