



FMG/ J1 Visa Waiver Physicians

Purpose

Currently, Foreign Medical Graduates (FMGs) who want to do Graduate Medical Education (GME) in the US can enter on either a J1 (training) or H1B (work) visa. Those who choose the J1 visa can stay in the US after training if they agree to practice for 3 years in an underserved area and get a waiver. Most of that is handled by State Primary Care Offices (PCOs) through the Conrad 30 J1 Visa Waiver program. Those who enter on the H1B visa can simply stay in the US if they find employment, and there is no service obligation. Currently, about 3,000 FMGs enter GME in the US every year, almost all in primary care. About half are on a H1B Visa and the other half are J1s.

The purpose of this policy paper is to increase (perhaps double) the number of J1 Visa Waiver (J1VW) physicians available to practice in underserved communities through the Conrad 30 Program.

Background

Starting in 1948, the Immigration and Nationality Act regulations required that FMGs pursuing GME training could enter the US only on a J1 Visa, and then must return home for 2 years after training before applying for an H1 visa to return to the US. In 1956, the law was amended to allow a waiver of this “return home” requirement through (1) a request by an interested government agency (IGA) and (2) a 3 year service obligation in an underserved area. It was then that the Appalachian Regional Commission (ARC), and other IGAs, began requesting waivers for J1 physicians to practice in underserved areas. In 1994, the law was again amended to authorize the Conrad 20 Program (now 30) which allows States (PCOs) to become an IGA and request up to 30 of these waivers each year.

Rationale

The shortage of primary care physicians was, is and always will be the major obstacle that people living in rural America face when trying to get adequate health care services.

Numerous strategies are being employed to help address this issue (NHSC, Conrad 30, 3RNet, expanded SOP, etc), but a national shortage of almost 30,000 PCPs will remain in 2015. Further, the availability of private health insurance and expansion of Medicaid under the ACA will certainly increase that need/demand.

J1 waived doctors are a major provider of primary care services in underserved rural communities. They are eager to be find employment and often remain long after their service obligation is done. In 2004, the majority of physicians employed by rural CHCs were J1 VW docs. Over the past 12 years, the Conrad 30 program has helped provide over 10,000 J1VW physicians to underserved communities in the US.

Issue

For over 40 years, Federal regulations prohibited FMGs from entering the US for GME under the H1B Visa. But in 1995, the INS (without issuing a NPR or seeking input from HHS, NRHA, NACHC, etc.) went back and simply reversed their final regulations to allow GME training under the H1B Visa. It is believed that a small group of FMG residents in NY, and their delegation, lobbied the Department of State for this change. Since that change was made, the number of H1Bs has more than doubled while J1s have dropped dramatically. Thus, the availability of service obligated doctors for underserved rural and urban communities has decreased significantly.

Returning to the requirement that GME can only be done on a J1 visa (with a waiver and 3 yr service obligation) could provide up to an additional 1,500 physicians every year for practice in underserved areas.

Costs

Teaching programs currently pay the immigration fees for each H1B resident and that cost would be eliminated. The income change (+ or -) of immigration lawyers is unknown. Additional PCO staff may be needed to handle the increased volume of J1 doctors seeking a waiver through the Conrad 30 program.

Action: Rural Health Congress

Approve this policy paper which will allow NRHA staff to work with the Department of State to return to its original regulation which stated that “FMGs seeking entry into the US for GME must seek classification as J1 nonimmigrant aliens”. There are informal indications that State is open to such a reconsideration. The J1VW authority (with 3 yr service obligation) and Conrad 30 Program will remain unchanged.

*Data in this Policy Paper extracted from: GAO Report (2006); AAMC Report (2010); Rosenblatt, R (JAMA, 2006); Traverso, G (JAMA, 2012); Berry, C (Conrad 30 Annual Report, 2012)

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