

DEPARTMENT OF HEALTH & SOCIAL SERVICES



PROPOSED CHANGES TO REGULATIONS

7 AAC 24. HEALTH CARE PROFESSIONALS WORKFORCE ENHANCEMENT PROGRAM.



PUBLIC REVIEW DRAFT

April 27, 2020

COMMENT PERIOD ENDS: July 15, 2020.

Please see the public notice for details about how to comment on these proposed changes.

Notes to reader:

1. Except as discussed in note 2, new text that amends an existing regulation is **bolded and underlined**.
2. If the lead-in line above the text of each section of the regulations states that a new section, subsection, paragraph, or subparagraph is being added, or that an existing section, subsection, paragraph, or subparagraph is being repealed and readopted (replaced), *the new or replaced text is not bolded or underlined.*
3. [ALL-CAPS TEXT WITHIN BRACKETS] indicates text that is to be deleted.
4. When the word “including” is used, Alaska Statutes provide that it means “including, but not limited to.”
5. Only the text that is being changed within a section of the current regulations is included in this draft. Refer to the text of that whole section, published in the current Alaska Administrative Code, to determine how a proposed change relates within the context of the whole section and the whole chapter.

Title 7 Health and Social Services.

7 AAC 24 is repealed and readopted to read:

7 AAC 24. Health Care Professionals Workforce Enhancement Program.

Article

1. Eligible Sites and Program Participation (7 AAC 24.100 - 7 AAC 24.170)
2. Advisory Council (7 AAC 24.300- 7 AAC 24.350)
3. General Provisions (7 AAC 24.400)

Article 1. Eligible Sites and Program Participation.

7 AAC 24.100. Designation as a health care services shortage area.

The commissioner will designate a service area or site as being, or as being located in, a healthcare services shortage area under AS 18.29, if at least one of the following criteria are met:

- (a) evidence of an underserved population of at least 30% as defined in AS 18.29.190

(11);

(b) service area designated as rural as defined in AS 18.29.190(7);

(c) service area designated as a federal Health Professional Shortage Area (HPSA) designation as defined in 7 AAC 24.450(10);

(d) evidence that the site provides education or training to health care professionals to increase access to health care services; the site includes a university, technical college, health education network, and program for community health aide, behavioral health aide, dental health aide, public health, and substance use disorder training.

(Eff. ___/___/___, Register _____)

Authority: AS 18.29.105 AS 18.29.120 AS 18.29.190

7 AAC 24.110. Employer site eligibility. A site must meet the following requirements to participate in the program:

(a) qualify as a health services shortage area under AAC 24.100;

(b) submit an employer site application approved by the department;

(c) maintain clinical and employment documentation for audit, and provide required documents upon program request.

(d) maintain a designated site representative that is authorized by the employer to

(1) review and sign contract and program participation documents; and

(2) submit quarterly work reports for participating health care professionals;

(e) if a site provides health care services, the site must:

(1) ensure that the health care professional charges for provided services at the usual and customary rates in the employer's area, except that if a service recipient is unable to pay such fee, that individual will be charged at a reduced rate or not charged any fee.

(2) provide services to patients covered by Medicare and Medicaid, and submit a 12-month billing summary with its application;

(3) provide services to individuals eligible under 25 U.S.C.1680c, if the site is a Tribal Health Organization;

(4) verify the health professional credentials using a process that includes reference review, licensure verification, and a query of the National Practitioner Data Bank;

(5) develop and maintain a plan to guide the recruitment and retention of health care professionals. The plan must include the policies and processes that a site will use to recruit and maintain appropriate clinical staffing levels needed to serve the community. A current copy of the plan should be available on site and updated as needed.

(Eff. ___/___/___, Register_____)

Authority: AS 18.29.105 AS 18.29.120

7 AAC 24.120. Classification of eligible sites as having either regular or very hard-to-fill positions, or both. The commissioner will consider the following factors to determine whether a site has either regular or very hard-to-fill positions, or both:

(a) the length of time to fill a vacancy, including

(1) evidence of Internet postings for 12 months or longer;

(2) evidence that a locum tenens or other short-term provider filled the position;

(b) the length of time of active recruitment for a vacant position, including evidence of

(1) actual job postings and the actual dates of posting;

(2) whether the position was posted during the most recent 12 months in journals, in newspapers, or on the Internet preceding the commissioner's determination of an eligible site under 7 AAC 24.110;

(c) interviews conducted during the most recent 12 months preceding the commissioner's determination of an eligible site under 7 AAC 24.110, including

(1) who was interviewed, and

(2) the reasons for not hiring an individual who was interviewed.

(Eff. ___/___/___, Register_____)

Authority: AS 18.29.105

7 AAC 24.130. Health care professional eligibility. The healthcare professional must meet the following requirements to be eligible to participate in the health care professions workforce enhancement program:

(a) be eligible under AS 18.29.130(a);

(b) not have a simultaneous contract or service obligation with another entity for loan repayment; the simultaneous contract or service obligation excludes

(1) a benefit is provided by the employer, including a sign-on bonus, retention bonus, or productivity bonus, are not considered a simultaneous service obligations;

(2) a service obligation in the

(A) Reserves of the United States Army, Navy, Air Force, Marine Corps, or Coast Guard;

(B) National Guard; or

(C) Commissioned corps of the United States Department of Health and Human Services, Office of the Surgeon General, Public Health Service;

(c) be qualified to work in the United States and provide adequate evidence of citizenship, naturalization, or permanent residency to employer to satisfy employment requirements.

(Eff. ___/___/___, Register_____)

Authority: AS 18.29.105 AS 18.29.115 AS 18.29.130

7 AAC 24.140. Prioritization of eligible sites and health care professionals.

(a) The department and the advisory council use a competitive process and blind case-code to review all applicants in an open, publicly noticed meeting.

(b) The department and the advisory council will annually issue a public notice of priorities for the competitive application process including occupation-types, localities, practice-settings, distribution of program participants, and available funding. The advisory council may consider other relevant factors in its deliberations, including

- (1) number of health care employee vacancies per site;
- (2) number of participants at given sites;
- (3) the percentage of underserved patients served;
- (4) degree of rurality;

- (5) level of social and medical need in service area;
- (6) whether position serves clientele statewide;
- (7) size of position's anticipated workload;
- (8) candidate specialty;
- (9) occupation mix of staff;
- (10) employer and practice setting;
- (11) whether applicants are new recruits or retention candidates; or
- (12) a combination of relevant factors.

(c) The department and the advisory council will give priority to an experienced health care professional over a less experienced health care professional under AS 18.29.035 for direct incentive payments.

(Eff. ___/___/___, Register_____)

Authority:	AS 18.29.105	AS 18.29.115	AS 18.29.125
	AS 18.29.110	AS 18.29.120	AS 18.29.130

7 AAC 24.150. Program Fees.

(a) The program operation costs are funded by a per-contract administrative fee. The purpose of this fee is to help cover accounting and reports. The administrative fee amount is set at five percent of the health care professional's total contract value.

(b) If the department contracts for services described in AS 18.29.105(f)(1), or a fiscal agent, an additional per-contract administrative fee may be assessed at one and one-half percent of the health professional's total contract value.

(c) The department will include a summary of expenses relative to fees collected in the annual report to the advisory council, and fees will be re-determined as necessary in a publically noticed advisory council meeting.

(Eff. ___/___/___, Register_____)

Authority: AS 18.29.105 AS 18.29.190

7 AAC 24.160. Employer payments.

(a) The department will calculate the quarterly payment under AS 18.29.110-125 based on the

- (1) tier level, tier I, tier II or tier III, under AS 18.29.115;
- (2) type of participation, full-time or half-time;
- (3) difficulty of hiring for the position, regular or very hard-to-fill;
- (4) qualifying student loan debt level or direct incentive option; and
- (5) number of service hours.

(b) The department will use a quarterly work report to monitor the health care professional's contract compliance with the service obligation and to prorate quarterly employer and benefit payment based on actual service. A quarterly work report must

(1) be submitted by the employer and approved by the health care employee to document that the service was actually provided at the specified location, for the specified population, and the duration of the service;

(2) be submitted on a form approved by the department;

(3) not contain any information that identifies patients or discloses protected health information; and

(4) be received by the department not later than 30 days from the end of each calendar quarter.

(c) The department will provide a quarterly invoice to the employer. The invoice will include all participating health care professionals employed by the employer. The invoice will be

(A) payable to the department; and

(B) due not later than 30 days;

(d) The department will not make payments to, or on behalf of, the health care professional until the employer payment for the invoiced amount is received by the department.

(e) A written request for a partial waiver of the employer payment may be granted upon review by the department if sufficient funds are available. The department will send the employer a written decision in response to the request for partial waiver not later than 30 days.

(f) An employer that makes more than three late payments or fails to pay will breach the contract with the department. The department will classify that employer as ineligible for program participation, and the employer may incur civil penalties.

(Eff. ___/___/___, Register_____)

Authority:	AS 18.29.105	AS 18.29.120	AS 18.29.190
	AS 18.29.110	AS 18.29.125	AS 44.29.022
	AS 18.29.115	AS 18.29.130	

7 AAC 24.170. Penalties and appeals.

(a) The department will provide a contract for the eligible health care professional, the eligible employer and the department. The department may amend or terminate a contract only through a fully executed amendment or termination document.

(b) A employer or health care professional that breaches the contract will be subject to penalties under AS 18.29.105(d)(3)(B).

(c) An applicant or program participant may appeal a department decision related to eligibility, penalties, violations, and contract termination.

(1) To appeal a decision by the department, an applicant or program participant must submit a written request for a first-level appeal to the program not later than 30 days after the date of the department's letter. The request for a first-level appeal must specify the basis upon which the department's decision is challenged and include any supporting documentation. The department will notify the applicant or program participant in writing of the department's first-level appeal decision.

(2) An applicant or program participant who is not satisfied with the first-level appeal decision under this section may request a second-level appeal by submitting a written request to the commissioner not later than 30 days after the date of the first-level appeal decision. The request for second-level appeal must include

(A) a copy of the department's first-level appeal decision;

(B) a description of the basis upon which the decision is being appealed;

(i) a copy of the first-level appeal submitted by the applicant or program participant; and

(ii) any additional supporting documentation that supports the basis upon which the applicant or program participant is making the appeal.

(d) The second-level appeal includes the commissioner's review of the original appeal record, decision, and any additional material submitted by the applicant or program participant and the department. The commissioner's decision under this subsection is the final administrative decision of the department.

(Eff. ___/___/___, Register_____)

Authority:	AS 18.29.105	AS 18.29.120	AS 18.29.130
	AS 18.29.110	AS 18.29.125	AS 18.29.190
	AS 18.29.115		

Article 2. Advisory Council.

7 AAC 24.300. Advisory council membership. The advisory council will have 15 voting members representing professional associations, health care sites, and health care professions education and training sites. One of the 15 members will be an expert in economic issues related to recruitment and retention of health care professionals in the state. Three of the 15 members will be at-large members, who are experts needed for specific issues that may arise during the administration of the health care professionals workforce enhancement program.

(Eff. ___/___/___, Register_____)

Authority:	AS 18.29.105	AS 18.29.190
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7 AAC 24.310. Advisory council duties.

(a) The advisory council shall oversee, evaluate, and provide recommendations to the program, including

- (1) review and comment on proposed program initiatives;
- (3) review and comment on ongoing program activities; and
- (4) assist in formulating policies for the program.

(b) The council may establish a committee as needed. A committee may be composed of council voting members, council ex-officio members, and persons who are not council members; however, such committees must be chaired only by a voting member.

(Eff. ___/___/___, Register_____)

Authority: AS 18.29.105 AS 18.29.130 AS 18.29.190

7 AAC 24.320. Advisory council meetings.

(a) Two-thirds of the individuals currently appointed as voting members constitute a quorum to convene the advisory council and conduct business.

(b) The advisory council shall meet at least quarterly and shall hold an annual meeting, at which time the advisory council shall elect officers and confirm the dates and locations for the next three quarterly meetings.

(c) The advisory council shall conduct public meetings in accordance with the 2011 edition of *Robert's Rules of Order Newly Revised*.

(d) A business meeting shall be open to the public; the advisory council shall use the blind case-code to discuss any individual health care professional.

(Eff. ___/___/___, Register_____)

Authority: AS 18.29.105 AS 18.29.130 AS 18.29.190

7 AAC 24.330. Appointments and terms of advisory council members.

(a) An advisory council member will be appointed for staggered three-year terms.

(b) A member of the advisory council shall serve until a successor is appointed.

(c) An appointment to fill a vacancy on the advisory council is for the remainder of the unexpired term.

(d) An advisory council member who has served all or part of two successive terms may not be reappointed to the advisory council unless three years have elapsed since the person has last served on it.

(e) The council shall select two co-chairs from the members to serve terms of one year.

(Eff. ___/___/___, Register_____)

Authority: AS 18.29.105 AS 18.29.190

7 AAC 24.340. Advisory council ex-officio nonvoting members.

The commissioner shall appoint ex-officio nonvoting members as needed to support the goals of the program and the work of the advisory council. Employees of the department are ex-officio members.

(Eff. ___/___/___, Register_____)

Authority: AS 18.29.105 AS 18.29.190

7 AAC 24.350. Termination and removal of advisory council members; conflict of interest.

(a) The commissioner may terminate a member's service for the member's

(1) misconduct;

(2) bias, including

(A) subverting the purposes of the program while representing the advisory council;

(B) taking positions in the name of the advisory council or program without the support of the advisory council, or promising, without the support of the advisory council, to support the positions or programs of other entities in the name of the advisory council or program;

(3) failure to disclose a conflict of interest as required under this section; or

(4) missing three consecutive meetings.

(b) A member with a substantial financial interest in an official action must declare the financial interest and request to be excused from voting. The chair will make a final determination on a request by a member to be excused from voting due to a conflict of interest. The advisory board may override a ruling by the chair on a majority vote

(c) If the chair determines that a member has a conflict of interest, that member must file a written disclosure form with the department describing the matter.

(d) A member shall inform the chair of potential conflicts of interest valued at more than \$5,000 annually if the interest is related to health care system income affecting the member or the member's immediate family. In this subsection,

(1) "health care system income" means income from a health care industry job; in this paragraph, "health care industry job" includes health care professional clinical, non-clinical, and administrative jobs;

(2) "member's immediate family" means the member's spouse, children, parents, and siblings.

(Eff. ___/___/___, Register_____)

Authority: AS 18.29.105 AS 18.29.190

Article 3. General Provisions.

7 AAC 24.400. Definitions. In this chapter, unless the context requires otherwise,

(1) "advisory council" means the advisory council established under AS 18.29.105;

(2) "blind-case-code" means the method of presenting relevant data about a health care professional applicant under consideration without exposing the name or other identifying aspects of the applicant; the applicant is simply referred to by alphanumeric code;

(3) "competitive process" means the required application process for health care professional and employer applicants to the program; the program will determine basic eligibility, and then forward application data to the advisory council; the advisory council will review such data using blind case-code; if funding is limited, the advisory council's determination process will be competitive; selected applications are recommend to the commissioner through an advisory council resolution;

(4) “direct incentive payment” means funds specified in the health care professional’s authorized service contract that will be paid directly to a health care professional; a direct incentive payment is subject to federal income taxation;

(5) “direct patient health care services” in AS 18.29.190(8) and (9), means the health care professional directly provides a health care service to a patient, and may include case consultation, case management, and management of an individual’s medications, charting, care coordination activities, medication management, diagnostic services follow-up, telehealth, and patient correspondence;

(6) “employer” means a health care organization that hires and employs health care professionals including a clinic, hospital, tribal health entity, developmental disability service, substance use disorder treatment service, behavioral health clinic, dental care clinic, long-term care facility, assisted living center, correctional facility, school, university, and other organization that may be included by the commissioner upon council recommendation;

(7) “fiscal agent” means an entity that contracts with the department to maintain and operate the funding account;

(8) “full-time position” means a program-eligible position in which the health care professional works at least 40 hours per week in at least one contract-specified site; the 40 hours per week may occur in no less than four days per week, with no more than 12 hours of work to be performed in any 24-hour period; the health care professional may be a full-time employee but have only half-time program participation;

(9) “half-time position,” means a program-eligible position in which the health care professional works at least 20 hours per week in at least one contract-specified site; the 20 hours

per week may occur in no less than two days per week, with no more than 12 hours of work to be performed in any 24-hour period; the health care professional may be a full-time employee but have only half-time program participation;

(10) “health professional shortage area” (HPSA) means the designation assigned by the federal Health Resources and Services Administration (HRSA) as having shortages of primary medical care, dental or mental health providers, and may be geographic, demographic, or institutional; medically underserved areas or populations (MUAs or MUPs) are areas or populations designated by HRSA as having too few primary care providers, high infant mortality, high poverty, and high elderly population;

(11) "Medicaid" has the meaning given in 7 AAC 160.990(b);

(12) "Medicare" has the meaning given in 7 AAC 160.990(b);

(13) "program" means the health care professionals workforce enhancement program established under AS 18.29;

(14) “regular position,” means the default classification for all positions that participate in the program, unless the position is identified as very hard-to-fill; a regular position requires minimum effort to find and hire a candidate;

(15) “Tribal Health Organizations” (THOs) means organizations recognized by the federal Indian Health Service and designated to provide health care to underserved Alaska Native or American Indian populations, and other eligible patients under the Indian Healthcare Improvement Act, 25 U.S.C. 1680c;

(16) “very hard-to-fill position,” means the position been vacant for 12 months or longer, and during that vacancy period the employer conducted active personnel recruitment, used

temporary health care professional staff, and interviewed, but did not hire a candidate; the program will review application materials submitted by the employer to determine whether a position will be designated as very hard-to-fill.

(Eff. ___/___/___, Register_____)

Authority: AS 18.29.105 AS 18.29.120 AS 18.29.130
AS 18.29.110 AS 18.29.125 AS 18.29.190
AS 18.29.115