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**OFFICE OF THE LIEUTENANT GOVERNOR
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MEMORANDUM

TO: Kurt West, AAC Contact
Department of Health and Social Services

FROM: Scott Meriwether
Special Assistant
907.465.3509 

DATE: January 18, 2013

RE: Filed Permanent Regulations: Department of Health and Social Services
Regulations re: health care professions loan repayment and incentive program: 7 AAC 24

Attorney General File: JU2012200729
Regulation Filed: 1/17/2013
Effective Date: 2/16/2013
Print: 205, April 2013

cc with enclosures: Linda Miller, Department of Law
Robert Pearson, Administrative Regulation Review Committee
Judy Herndon, LexisNexis

JU2012200729

ORDER ADOPTING CHANGES TO REGULATIONS OF THE
DEPARTMENT OF HEALTH AND SOCIAL SERVICES

The attached 19 pages of regulations, dealing with the health profession loan repayment and incentive program, are hereby adopted and certified to be a correct copy of the regulation changes that the Department of Health and Social Services adopts, under the authority of AS 18.29.010, AS 18.29.015, AS 18.29.020, AS 18.29.025, AS 18.29.030, AS 18.29.035, and AS 18.29.099, and after compliance with the Administrative Procedure Act (AS 44.62), specifically including notice under AS 44.62.190 and AS 44.62.200 and opportunity for public comment under AS 44.62.210.

This action is not expected to require an increased appropriation.

In considering public comments, the Department of Health and Social Services paid special attention to the cost to private persons of the regulatory action being taken.

The regulation changes described in this order take effect on the 30th day after they have been filed by the lieutenant governor, as provided in AS 44.62.180.

DATE: 01/14/2013
Juneau, Alaska

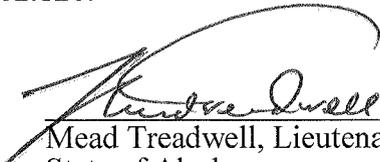


William J. Streur, Commissioner
Department of Health and Social Services

FILING CERTIFICATION

I, Mead Treadwell, Lieutenant Governor for the State of Alaska, certify that on

January 17, 2013 at 4:15 P.m., I filed the attached regulations according to the provisions of AS 44.62.040 – AS 44.62.120.



Mead Treadwell, Lieutenant Governor
State of Alaska

Effective February 16, 2013.

Register 205, April 2013.

7 AAC is amended by adding a new chapter to read:

Chapter 24. Health Care Professions Loan Repayment and Incentive Program.

Article:

1. Eligible Sites and Program Participation (7 AAC 24.010 - 7 AAC 24.080)
2. Advisory Body (7 AAC 24.710 - 7 AAC 24.760)
3. General Provisions (7 AAC 24.950 - 7 AAC 24.990)

Article 1. Eligible Sites and Program Participation.

Section

10. Designation as a health care services shortage area
20. Facility eligibility
30. Site recruitment and retention plan
40. Classification of eligible sites as having either regular or very hard-to-fill positions, or both
50. Prioritization of eligible sites
60. Calculation of employer payments
70. Direct incentive payments and health care professional experience
80. Employee eligibility to participate

7 AAC 24.010. Designation as a health care services shortage area. (a) In

designating a service area or health care facility as being, or as being located in, a health care services shortage area, for purposes of establishing eligibility under AS 18.29, the commissioner will

(1) make the designation for each of the following categories:

(A) areas with shortages of primary medical care providers;

(B) areas with shortages of behavioral health care providers;

(C) areas with shortages of general dental providers; and

(2) assign each area or facility a needs assessment score, up to 100 points, that reflects the severity of the shortage, based on the factors set out in (b) - (f) of this section.

(b) The commissioner will assign up to 35 points based on the ratio of providers to the population in a borough, in a federal census area if the population is in the unorganized borough, or in a community of at least 1,000 inhabitants. For a community of fewer than 1,000 inhabitants, the commissioner will consider the need in the community for a provider and the community's ability to support the provider.

(c) The commissioner will assign up to 30 points based on the remoteness, isolation, and population density of a facility or geographic area where the population served is located. To score

(1) a census-designated place or facility not already in a geographic shortage area, the commissioner will calculate an isolation score using the formula set out in volume II, part B, page 6 of the *Alaska Rural Primary Care Facility Needs Assessment Project Final Report*, dated October 2000 and prepared by the Alaska Native Tribal Health Consortium, the department, and the United States Department of Health and Human Services, Indian Health

Service; the formula is adopted by reference;

(2) a geographic area as a shortage area, the commissioner will consider

(A) population density, based on the number of persons per square mile in the borough or the federal census area, census sub-area, or census tract; and

(B) travel time and distance for the population to reach primary medical care services, behavioral health care services, dental care services, and hospital services.

(d) The commissioner will assign up to 15 points based on indicators of a population's health status over a five-year period. To develop the health status component of the needs assessment score for

(1) primary medical care, the commissioner will use the highest three scores from the following indicators:

(A) low birth weight;

(B) post-neonatal mortality rate;

(C) births to mothers under 18 years of age, as a percentage of total births;

(D) mortality rate from unintentional injuries;

(E) mortality rate from heart disease and strokes;

(F) incidence of cancer, as indicated in the registry maintained under

7 AAC 27.011;

(2) behavioral health care, the commissioner will use the highest three scores from the following indicators:

(A) the suicide rate;

(B) the rate of adults who have consumed five or more drinks on one or

more occasions during a 30-day period;

(C) the rate of adult tobacco use;

(D) rates of substance abuse;

(E) the rates at which women at least 15 years of age and not older than 64 years of age are admitted to a hospital as a result of being assaulted;

(F) the rate of individuals who fall within the categories of an adult experiencing a serious mental illness or a child experiencing a severe emotional disturbance; in this subparagraph, "adult experiencing a serious mental illness" and "child experiencing a severe emotional disturbance" have the meanings given in 7 AAC 160.990(b);

(3) dental care, the commissioner will use scores from each of the following indicators:

(A) the percent of the population without fluoridated water;

(B) the percent of the population receiving preventive dental services annually;

(C) the percent of the population receiving dental treatment services at least once annually;

(D) the incidence of caries, if that rate is available.

(e) The commissioner will assign up to 15 points based on the economic status of the population, to be determined using each of the following factors:

(1) the percent of the population without health insurance;

(2) the per capita income of the population;

(3) the percentage of the population with an annual household income below 200 percent of the federal poverty level for this state; in this paragraph, "federal poverty level for this state" means the federal poverty guidelines for this state established annually by the United States Department of Health and Human Services and adopted by reference in 7 AAC 24.950;

(4) a dependency ratio, calculated by dividing the percent of the population that is either younger than 18 years of age or 65 years of age or older by the percent of the population that is working age; for purposes of this paragraph, working age is 18 years of age or older and younger than 65 years of age.

(f) The commissioner will assign up to five points based on the burden to a borough, census area, or census-designated place from influxes of seasonal population. The commissioner will measure that burden by calculating the ratio of observed injury-related hospitalizations to expected injury-related hospitalizations over the most recent five years, based on the borough, census area, or census-designated place where the injury occurred.

(g) In considering and assigning scores for the factors under (b) - (f) of this section, the commissioner may also consider data available from the United States Department of Health and Human Services with respect to designations under 42 U.S.C. 254e and 42 C.F.R. Part 5 of health professional shortage areas.

(h) The department will select health care professionals who are financially supported under AS 18.29 and this chapter in the areas of greatest shortage.

(i) A site that is not already designated as being located in a health care services shortage area may apply to the department for a designation. The site must provide information to support that a shortage exists of providers identified in (a)(1), (2), or (3) of this section. The

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commissioner will review the application and assign a score as provided in (a) - (g) of this section. (Eff. 2 / 16 / 2013, Register 205)

Authority: AS 18.29.015 AS 18.29.099

Editor's note: Volume II, part B, page 6 of the *Alaska Rural Primary Care Facility Needs Assessment Project Final Report*, adopted by reference in 7 AAC 24.010, may be obtained from the Department of Health and Social Services, Division of Public Health, P.O. Box 110616, Juneau, Alaska 99811-0616.

7 AAC 24.020. Facility eligibility. (a) A facility in a health care services shortage area may apply to participate in the health care professions loan repayment and incentive program. If an entity operates multiple facilities within a health care services shortage area, each facility must submit a separate application, regardless of whether the facility is a main facility or one secondary to the main facility.

(b) For a facility to be considered for participation,

(1) the facility must

(A) provide comprehensive outpatient, ambulatory, primary medical, behavioral health, or dental services, or care delivered in a hospital, prison, long-term care facility, or drug treatment facility; for purposes of this subparagraph, a drug treatment facility includes a hospital, institution, group residence, rehabilitation center, community health center, prison, long-term care facility, clinic, counseling center, mobile unit, and halfway house, if that entity provides evaluation, treatment, care, or

rehabilitation of drug, alcohol, and other substance abusers;

(B) ensure access to ancillary, inpatient, and specialty referrals;

(C) provide services on a free or reduced fee schedule basis to individuals at or below 200 percent of the federal poverty level for this state, and post signage advertising this statement in the facility waiting room and on the Internet if applicable; in this subparagraph, "federal poverty level for this state" means the federal poverty guidelines for this state established annually by the United States Department of Health and Human Services and adopted by reference in 7 AAC 24.950;

(D) accept patients covered by Medicare and Medicaid, and submit a 12-month billing summary with its application;

(E) use a health care professional credentialing process including reference review, licensure verification, and a query of the National Practitioner Data Bank and the Healthcare Integrity and Protection Data Bank; and

(F) agree to comply with federal and state law; and

(2) at least 30 percent of the facility's patients must be underserved under AS 18.29.035(c)(1), (2), or (3). (Eff. 2/16/2013, Register 205)

Authority: AS 18.29.015 AS 18.29.035

7 AAC 24.030. Site recruitment and retention plan. (a) A participating site shall develop and maintain a plan to guide the recruitment and retention of health care professionals.

(b) A recruitment and retention plan must include the policies and processes that a site will use to recruit and maintain appropriate clinical staffing levels needed to serve the

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community. A site shall keep a current copy of the plan on site, and shall update the plan as needed to address any factor that may affect management of the facility. (Eff. 2/16/2013)

Register 205)

Authority: AS 18.29.015

7 AAC 24.040. 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:

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

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

(B) evidence that a locum tenens or other short-term provider filled the

position;

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

evidence of

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

(B) whether the position was posted

(i) during the most recent 12 months preceding the commissioner's determination of an eligible site under 7 AAC 24.020;

(ii) in journals, in newspapers, or on the Internet;

(C) interviews conducted during the most recent 12 months preceding the commissioner's determination of an eligible site under 7 AAC 24.020, including

(i) who was interviewed; and

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

(Eff. 2 / 16 / 2013 Register 205)

Authority: AS 18.29.015

7 AAC 24.050. Prioritization of eligible sites. The commissioner will prioritize eligible sites based on

(1) each site's needs assessment score calculated under 7 AAC 24.010; and

(2) the percentage of patients treated at each site who are underserved under

AS 18.29.035(c)(1), (2), or (3). (Eff. 2 / 16 / 2013, Register 205)

Authority: AS 18.29.015 AS 18.29.099

7 AAC 24.060. Calculation of employer payments. (a) To determine the amount of a quarterly matching payment required under AS 18.29.015(d), the commissioner will use the percentages set out in this section.

(b) If the employer is a government agency, the match amount is 10 percent.

(c) If the employer is a nonprofit entity, the match amount is

(1) 25 percent; or

(2) 10 percent, if the department grants a waiver under this paragraph; to obtain a

waiver, the employer must

(A) complete a form provided by the department;

(B) provide documentation satisfactory to the department that more than

50 percent of the entity's

(i) patients are underserved under AS 18.29.035(c)(1), (2), or (3);

or

(ii) revenue comes from patients who are underserved under AS 18.29.035(c)(1), (2), or (3); and

(C) provide documentation satisfactory to the department that

(i) the entity has under \$5,000,000 in annual revenue; or

(ii) less than 15 percent of the total of annual reimbursements and revenue to the entity is from insurance, philanthropic grant money, private payers, or other private sources.

(c) If the employer is a for-profit entity, the match amount is

(1) 30 percent; or

(2) 15 percent, if the department grants a waiver under this paragraph; to obtain a

waiver, the employer must

(A) complete a form provided by the department;

(B) provide documentation satisfactory to the department that more than 50 percent of the entity's

(i) patients are underserved under AS 18.29.035(c)(1), (2), or (3);

or

(ii) revenue comes from patients who are underserved under AS 18.29.035(c)(1), (2), or (3); and

(C) provide documentation satisfactory to the department that

(i) the entity has under \$5,000,000 in annual revenue; or

(ii) less than 15 percent of the total of annual reimbursements and revenue to the entity is from insurance, philanthropic grant money, private payers, or other private sources. (Eff. 2/16/2013, Register 205)

Authority: AS 18.29.015

7 AAC 24.070. Direct incentive payments and health care professional experience.

In determining priorities under AS 18.29.035 for direct incentive payments, the commissioner will give priority to experienced health care professionals over less experienced health care professionals. For purposes of this section, the commissioner will consider both the type and the length of the health care professional's relevant work experience as a licensed health care professional in that health care profession. (Eff. 2/16/2013, Register 205)

Authority: AS 18.29.015 AS 18.29.035

7 AAC 24.080. Employee eligibility to participate. The department will not consider a participant that has a simultaneous contract or service obligation with another entity for loan repayment. However, a participant is not subject to the limitation in this section if the obligation consists of service in

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

(2) the National Guard; or

(3) the commissioned corps of the United States Department of Health and Human Services, Office of the Surgeon General, Public Health Service. (Eff. 2/16/2013,

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Authority: AS 18.29.015 AS 18.29.035

Article 2. Advisory Body.

Section

- 710. Advisory body membership
- 720. Advisory body duties
- 730. Advisory body meetings
- 740. Appointment and terms of advisory body members
- 750. Advisory body ex-officio non-voting members
- 760. Termination and removal of advisory body members; conflict of interest

7 AAC 24.710. Advisory body membership. The advisory body consists of 15 members representing professional associations, health care sites, and health care professions training sites. One of the 15 members is an expert in economic issues affecting the hiring and retention of health care professionals in the state. Three of the 15 members are at-large members, who are experts needed for particular issues that may arise during the administration of the health care professions loan repayment and incentive program. (Eff. 2/16/2013)

Register 205)

Authority: AS 18.29.015

7 AAC 24.720. Advisory body duties. The advisory body shall

(1) provide recommendations for and oversight and evaluation of all aspects of the program;

(2) review and comment on any proposed program initiatives;

(3) review and comment on any ongoing program activities; and

(4) assist in formulating policies for the program. (Eff. 2/16/2013, Register 205)

Authority: AS 18.29.015

7 AAC 24.730. Advisory body meetings. (a) Two-thirds of the individuals currently appointed as voting members constitute a quorum to convene the advisory body and conduct business.

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

(c) The advisory body shall conduct public meetings in accordance with the 2011 edition of *Robert's Rules of Order Newly Revised*. (Eff. 2/16/2013, Register 205)

Authority: AS 18.29.015

7 AAC 24.740. Appointments and terms of advisory body members. (a) Advisory body members will be appointed for staggered three-year terms.

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

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

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

(e) The body shall select a chair and a vice-chair from the members to serve terms of one year. (Eff. 2/16/2013, Register 205)

Authority: AS 18.29.015

7 AAC 24.750. Advisory body 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 body. (Eff. 2/16/2013, Register 205)

Authority: AS 18.29.015

7 AAC 24.760. Termination and removal of advisory body members; conflict of interest. (a) Members of the advisory body serve at the pleasure of the commissioner. 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 body;

(B) taking positions in the name of the advisory body or program without the support of the advisory body, or promising, without the support of the advisory body, to support the positions or programs of other entities in the name of the advisory body 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. 2 / 16 / 2013, Register 205)

Authority: AS 18.29.015

Article 3. General Provisions

Section

950. Federal poverty guidelines

990. Definitions

7 AAC 24.950. Federal poverty guidelines. For purposes of calculation of the federal poverty level for this state under this chapter, the federal poverty guidelines for this state established annually by the United States Department of Health and Human Services at 77 Fed. Reg. 4034 - 4035 (January 26, 2012), are adopted by reference as amended from time to time.

(Eff. 2/16/2013 Register 205)

Authority: AS 18.29.015

7 AAC 24.990. Definitions. In this chapter, unless the context requires otherwise,

- (1) "advisory body" means the advisory body established under AS 18.29.015(c);
- (2) "department" means the Department of Health and Social Services;
- (3) "hospital" has the meaning given in 7 AAC 160.990(b);
- (4) "loan" means the total amount of the participant's eligible educational debt;
- (5) "long-term care facility" has the meaning given in 7 AAC 160.990(b);
- (6) "Medicaid" has the meaning given in 7 AAC 160.990(b);
- (7) "Medicare" has the meaning given in 7 AAC 160.990(b);
- (8) "primary care"

(A) means the delivery of professional, comprehensive health services consisting of health education and disease prevention, initial assessment of health problems, treatment of acute and chronic health problems, and the overall management of an individual's or family's health care services;

(B) includes the following types of care:

- (i) first-contact care of persons with undifferentiated illnesses;
- (ii) comprehensive care that is not disease- or organ-specific;
- (iii) care that is longitudinal in nature;
- (iv) care that includes the coordination of other health services;

(C) includes the following preventive services:

- (i) prenatal and postpartum services;
- (ii) screening for breast, cervical, prostate, and other types of cancer;
- (iii) well-child services;
- (iv) immunizations;
- (v) screenings for communicable diseases, environmental contaminants, and chronic health conditions;
- (vi) pediatric eye, ear, and dental screenings to determine the need for vision and hearing correction and dental care;
- (vii) voluntary family planning services;
- (viii) preventive dental services provided by a dentist, dental hygienist, or dental therapist;

(D) includes the following other services:

(i) health services related to family medicine, internal medicine, pediatrics, obstetrics, or gynecology provided by a physician, dentist, pharmacist, dental hygienist, registered nurse, advanced nurse practitioner, physician assistant, physical therapist, clinical psychologist, or clinical social worker with at least a master's degree in social work;

(ii) diagnostic laboratory and radiological services;

(iii) emergency medical services;

(iv) pharmaceutical services;

(v) referrals to providers of health related services including specialists;

(vi) patient case management services including counseling, referral, and follow-up services;

(vii) patient education regarding health conditions and the availability and use of health services;

(9) "prison" means

(A) a correctional facility maintained or regulated by the Department of Corrections, including a contract facility;

(B) a juvenile detention or treatment facility maintained by the department, including a contract facility;

(10) "program" means the health care professions loan repayment and incentive program established under AS 18.29;

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(11) "site" means a service area or health care facility. (Eff. 2/16/2013,

Register 205)

Authority: AS 18.29.015