

CHAPTER 5

Rules and Regulations for the Wyoming Provider Recruitment Grant Program

Section 1. Authority. These rules are promulgated by the Department of Health, Public Health Division, pursuant to W.S. § 35-1-1101, and the Wyoming Administrative Procedures Act at W.S § 16-3-101, *et seq.*

Section 2. Purpose and Applicability.

(a) These rules implement the Wyoming Provider Recruitment Grant Program which governs the award of grant funds to recruiting entities to recruit healthcare providers.

(b) The Department may issue manuals, bulletins or both to interpret the provision of these rules and regulations. Such manuals and bulletins shall be consistent with and reflect the policies contained in these rules and regulations. The provisions contained in manuals or bulletins shall be subordinate to the provisions of these rules and regulations.

Section 3. Severability. If any portion of these rules is found to be invalid or unenforceable, the remainder shall continue in effect.

Section 4. Definitions. The following definitions shall apply in the interpretation and enforcement of these rules.

(a) “Department” means the Wyoming Department of Health, Public Health Division.

(b) “Provider” means an individual who is licensed or eligible to be licensed in a healthcare profession under Wyoming Statutes, Title 33.

(c) “This Act” means W.S. § 35-1-1101.

Section 5. Provider Recruitment Grant Program Administration.

(a) The Department shall develop an application form and solicit eligible applicants seeking to recruit eligible healthcare providers between July 1st and September 30th of each year in which funding is available. The application form will be made available online at <http://www.health.wyo.gov/rfhd/rural/index.html>.

(i) In the event funding remains in the Program budget or additional funding is appropriated to the Program, the Department may accept additional applications at other times.

(ii) The Department will accept applications for the recruitment of healthcare provider types the Department has determined to be of highest need pursuant to Section 8 of these rules and regulations.

(iii) The Department may identify a maximum amount in grant funding each applicant may apply for during each application period which aligns with the average reimbursement paid under all prior awards. The Department will indicate the identified maximum amount on the application form.

(iv) The Department shall verify the eligibility of each recruiting entity prior to making award determinations.

(b) The Department shall make award determinations and issue written notifications of award to selected recruiting entities within sixty (60) days after the close of an application period.

(c) The Department shall determine the total amount of the grant authorized for each approved application and shall finalize a written Contract Agreement between the Department and the recruiting entity which sets forth the terms and conditions for receiving grant monies under this Act. The Department shall consider the following in determining the authorized grant amount:

(i) The amount the recruiting entity specified on the application to the Program;

(ii) The appropriateness of the amount applied for in relation to the recruiting entity type and the provider type to be recruited; and

(iii) The average amount reimbursed under all prior awards.

(d) The Department may reimburse the recruiting entity for appropriate costs identified in the Contract Agreement, not to exceed the amounts identified by category in this Act.

(e) The Department may reimburse the recruiting entity for recruitment costs described below, not to exceed the Ten Thousand Dollars (\$10,000) allowed by this Act. This applies only to providers targeted to fill positions specifically identified in the Contract Agreement. Covered costs include:

(i) Costs associated with hiring a professional recruitment company.

(ii) Interview costs to include hotel, meals, transportation and entertainment for providers and their immediate family to visit the location and interview at the recruiting entity's offices (maximum of two (2) visits per candidate).

(iii) Advertising expenses, including marketing and mailings.

(iv) Salaries of recruiting entity staff are not eligible.

(v) Travel expenses to attend professional conferences and expenses for exhibits and displays used at professional conferences are not eligible.

(f) The above amounts will be reimbursed after the recruited provider has relocated and has begun full-time practice in the approved geographic area of Wyoming and after all documentation required by the Contract Agreement is received and approved by the Department.

(i) To verify payment amounts, the Department shall demand appropriate documentation, including but not limited to receipts, vouchers, and premium documentation.

(ii) Grant monies not used will be retained by the Department for future use under this Act.

(g) The Department may request information from the recruiting entity to verify progress in the recruitment process.

(h) The Department shall notify recruiting entities, and recruited providers in a timely fashion, when appropriate, of any changes in the Contract Agreement, the Act, and/or these rules and regulations.

Section 6. Recruiting Entity Responsibilities.

(a) An eligible applicant shall complete and submit an application to the Department between July 1st and September 30th each year. In the event additional applications are accepted pursuant to Section 5(a)(i), eligible applicants shall complete and submit an application to the Department by the deadline identified in the Program application.

(b) Once the application is approved by the Department, the applicant becomes a recruiting entity. The recruiting entity shall enter into a Contract Agreement with the Department. The Contract Agreement will outline the grant amount the recruiting entity is eligible for and how those amounts are required to be used.

(c) The Contract Agreement is between the Department and the recruiting entity. The recruiting entity must have a separate contract with the recruited provider.

(i) The recruiting entity must enter into a written and legally binding Offer of Recruitment or employment contract with the recruited provider. The recruiting entity must include terms in the Offer of Recruitment or employment contract to recoup any benefits paid to the recruited provider, using grant monies under this Act, in the event the recruited provider fails to meet the requirements of this Act, these rules and regulations, and/or the Contract Agreement.

(d) The recruiting entity must annually submit to the Department verification that the recruited provider treats Medicare, Medicaid and Kid Care insurance eligible patients, and that the provider works full-time in Wyoming in the approved geographic area for a period of two (2) years.

(i) Full-time is defined as working at least forty (40) hours per week. The Department, at its discretion, may consider less than forty (40) hours per week as full-time when the industry standard for full-time for the provider's profession is less than forty (40) hours per week.

(e) The recruiting entity must ensure the recruited provider does not already practice in Wyoming, including part-time. The only exceptions are providers completing residency training in Wyoming and military providers (not practicing in Wyoming other than to fulfill a military obligation) which may still be recruited under this Act.

(i) Within ten (10) business days of signing an Offer of Recruitment, the recruiting entity must submit a notarized affidavit from the recruited provider to the Department stating he does not already practice in Wyoming, including part-time, and has not done so for a period of at least twenty-four (24) months.

(ii) Payment will not be made to the recruiting entity until the affidavit and all documentation required by the Contract Agreement is received by the Department, and the recruited provider has relocated and begun full-time practice in the approved geographic area of Wyoming.

(f) The recruiting entity shall not require that the recruited provider sign any type of "non-compete agreement" which continues after termination of the recruited provider's employment or practice arrangement with the recruiting entity. This includes early termination by the recruited provider or the recruiting entity prior to the end of the stated term of the employment contract and/or Offer of Recruitment.

(g) If the recruiting entity is a hospital, the recruiting entity must ensure that the agreement between the hospital and a recruited physician meets the conditions set forth in 42 C.F.R. 411.357(e), as amended. This law provides the exceptions to referral prohibitions related to compensation arrangements, also known as the "Stark Amendment."

(h) The recruiting entity has one (1) year from the effective date of the Contract Agreement to recruit an eligible provider and must keep the Department's program coordinator updated on its progress.

(i) The recruiting entity shall require that the recruited provider begin full-time practice in the approved geographic area of Wyoming within six (6) months of signing an Offer of Recruitment.

Section 7. Eligibility Criteria for Provider Recruitment Grant Program Applicants.

(a) For-profit and non-profit hospitals, physicians, and healthcare clinics in Wyoming, and other appropriate Wyoming organizations (including county and city government agencies, non-profit organizations, and in-state provider recruitment agencies) are eligible to apply for grants under this Act.

(b) Providers may not recruit themselves, nor may they be recruited by their immediate family members.

(c) The recruiting entity may recruit more than one provider per application period. A separate application is required for each provider to be recruited.

(d) The recruited provider cannot already practice in Wyoming, including part-time. The only exceptions are providers completing residency training in Wyoming and military providers (not practicing in Wyoming other than to fulfill a military obligation) which may still be recruited under this Act.

(e) Providers relocating to Wyoming to become employed by the state or by the United States are not eligible.

(f) An organization recruiting a provider to treat that organization's employees, family members, or former employees is not eligible. An organization is eligible if the recruited provider's practice is "open to the public" and patient access is not in any way limited to a relationship with the organization.

Section 8. Selection Process.

(a) The Department will make selections based on:

(i) The Department's determination of priority of the various geographic areas of Wyoming;

(ii) The Department's determination of priority of the medical specialty need of the various geographic areas of Wyoming; and

(iii) Other relevant information submitted on the application.

(b) The Department shall give priority to recruitment of private practice providers.

(c) The Department shall give higher priority to direct patient care providers.

(d) Applicants demonstrating the greatest need for providers, at the discretion of the Department, shall be given highest priority. The Department will not award grants to applicants not recruiting for geographic areas demonstrating substantial need for providers.

Section 9. Provider Recruitment Grant Termination Breach, Repayment and Penalties.

(a) The Department is contracting with the recruiting entity. If the recruited provider fails to meet the requirements of this Act, the recruiting entity must repay the entire amount of grant funds received under this Act to the state. The recruiting entity is not precluded from recovering these repayments from the recruited provider.

(b) If the recruiting entity is unable to recruit an eligible provider within one (1) year of the effective date of the Contract Agreement, the contract terminates without penalty. If the recruiting entity incurred eligible costs under Section 5 (e), but was unsuccessful in recruiting a provider, the recruiting entity may submit a request for reimbursement to the Department. Payment of grant monies under Section 5 (e) without a successful recruitment will be at the discretion of the Department.

(c) If the recruited provider fails to relocate and begin full-time practice in the approved geographic area of Wyoming within six (6) months as required by Section 6 (i), the Contract Agreement terminates and the Department will not make any grant payments to the recruiting entity for eligible costs under Section 5 (d).

(d) Repayments include:

(i) The total amount of grant funds paid to the recruiting entity;

(ii) Interest at the rate of ten percent (10%) per annum; and

(iii) The amount to be repaid shall be determined from the end of the month in which the recruiting entity breached the Contract Agreement as if the recruiting entity had breached at the end of the month.

(e) Amounts recovered and damages collected under this section shall be deposited into the General Fund.

(f) The Department may cancel or release, in full or in part, a recruiting entity from the requirements of this Act without penalty upon submission of appropriate documentation of the following:

(i) The recruited provider becomes permanently disabled;

(ii) The recruited provider dies;

(iii) The recruited provider or a family member for whom the recruited provider is the principal caregiver has a chronic life threatening illness or a severe chronic medical circumstance that requires relocation or a significant reduction in practice hours.

(iv) For other good cause shown, as determined by the Department.