



November 2, 1999

REPORT 00-05

**MEMORANDUM FOR:** THE FEDERAL CO-CHAIRMAN  
ARC EXECUTIVE DIRECTOR  
ARC GENERAL COUNSEL

**SUBJECT:** Survey Report – Review of Selected Health Providers and  
J-1 Visa Waiver Physicians in New York

## **BACKGROUND**

This review was undertaken as part of a survey of J-1 Visa Waiver program operations in the Appalachian Region.

The J-1 Visa Waiver program provides a waiver of the requirement for a foreign physician to return to his/her home country after completion of medical training in the United States. The Appalachian Regional Commission (ARC) participates as a Federal Entity sponsor to assist Appalachian Region communities in providing health care services to medically underserved areas. The applicable ARC policies and procedures require J-1 physicians to practice 40 hours of primary care per week in a designated Health Profession Shortage Area (HPSA) in the Appalachian Region. The ARC program requires the physician to serve at least 3 years (unless a state has a longer period). There is no prohibition on J-1 physicians working extra hours or practicing subspecialties after fulfilling primary care requirements.

Although primary responsibilities for reviewing J-1 Visa Waiver requests, including supporting documentation, justifications of need, program oversight, and reporting have been delegated to the state health agencies, ARC retains the authority to act on waiver requests and to ensure compliance with program objectives and requirements.

## **OBJECTIVE**

The objective of our review was to determine the compliance with ARC J-1 Visa Waiver program requirements and J-1 physicians perform primary care services in an Appalachian HPSA for 40 hours per week.

## **SCOPE**

During the period September 28 through October 7, 1999, while conducting several audits, unannounced visits to 14 physicians located in western New York were also performed. The purpose of the visits was to verify the practices and locations of the physicians with J-1 Visa Waivers.

## **RESULTS**

13 J-1 physicians were contacted, and all were providing medical care in line with the approved practices. The physicians were satisfied with the program and practices and they generally expressed interest in staying in the area upon completion of their waiver periods.

One physician noted that a revised employment contract had a restrictive covenant that restricted him from providing service to any patients of his employer for a period of five years after expiration of the waiver period. This clause had been inserted in his contract by his current employer who had taken over the business from his prior employer. In one case the physician was not available and the employer noted that due to the pregnancy the physician had performed limited service during the past seven months. The employer also noted a need for additional physicians in the area and difficulties in obtaining additional waivers due to ARC limitations.

Employment verification forms were provided to the physicians for whom forms were not available at ARC.

Follow-up action will include reviewing the contract pertaining to the above case.

  
Hubert N. Sparks  
Inspector General



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00-05  
*Office of the Inspector General*

October 13, 2000

MEMORANDUM FOR     The Federal Co-Chairman  
                                  ARC General Counsel

SUBJECT:                    OIG Reports—Special Report, Pennsylvania J-1 Program; New  
                                  York and Tennessee J-1 Programs

The enclosed reports denote overall compliance with program requirements by the J-1 physicians contacted during compliance visits in New York and Tennessee and a summary of factors that led to the ending of employment by two J-1 physicians in Pennsylvania. Followup action by ARC with respect to the Pennsylvania situation is recommended. In one case, followup with a Tennessee physician is necessary to verify a work schedule and type of practice.

  
Hubert N. Sparks  
Inspector General

Enclosures



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*Office of the Inspector General*

November 8, 1999

Mr. Keith W. Stack  
Assistant Secretary of State  
Department of State  
41 State Street  
Albany, New York 12231

Re: OIG Reports 00-01, 00-02, 00-03, 00-04 and 00-05  
Grant Nos. NY-12709, NY-13106, NY 11474 and NY-12073

Dear Mr. Stack:

Enclosed are four reports dealing with projects performed with the assistance of ARC grants and a summary report dealing with J-1 Visa Waiver Program compliance visits.

Sincerely yours,

  
Hubert N. Sparks  
Inspector General

Enclosures

**1666 CONNECTICUT AVENUE, NW WASHINGTON, DC 20235 (202) 884-7675 FAX (202) 884-7691**

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November 5, 1999

Mr. Tom Kaczmarek  
Associate Health Planner  
Bureau of Health Resources Development  
New York State Department of Health  
Corning Tower Building, Room 1602  
Albany, New York 12237

Dear Mr. Kaczmarek:

Enclosed is a copy of our report dealing with J-1 Visa Waiver program compliance visits to western New York in October 1999. Also enclosed is a copy of a letter to Dr. Asif Saberi's current employer concerning a restrictive covenant that was included in Dr. Saberi's revised contract that was prepared when TRC became the employer.

Sincerely,

  
Herbert N. Sparks  
Inspector General

Enclosures



November 3, 1999

Mr. Paul Cesana, Chief Executive Officer  
TRC  
880 East 2<sup>nd</sup> Street  
Jamestown, New York 14701

Re: Asif Saberi, M.D.

Dear Mr. Cesana:

During a routine compliance visit by the Appalachian Regional Commission (ARC), Office of the Inspector General it was noted that Dr. Saberi's current contract contains a restrictive clause.

Under the ARC J-1 Visa Waiver policy "the employment contract between the physician and the sponsor may not contain a restrictive covenant or non-compete clause which prevents or discourages the physician from continuing to practice in any HPSA after the period of obligation under this policy has expired." The Agreement dated March 5, 1998 containing Article No. 14 Miscellaneous does not comply with this policy and must be removed immediately. Please forward an amended contract to: Deann Greathouse, J-1 Visa Waiver Program, ARC, 1666 Connecticut Avenue, N.W., Washington, D.C. 20235

Sincerely,

Laura Deann Greathouse  
J-1 Program

Cc: Tom Kaczmarek



November 2, 1999

MEMORANDUM FOR: GENERAL COUNSEL

SUBJECT: Addendum to OIG Report 00-05 J-1 Visa Waiver Program in Western New York

The physicians contacted during our survey were:

- Dunkirk Ramon Sood, Asif Saberi, Joe Askar
Cherry Creek Hyder Alam 1/
Gowanda Halah Hamzeh 2/
Salamanca Khalid Iqbal
Cuba Azhar Chaudhry, Sushama Kotmire 1/
Wellsville Mahjebeen Aziz 1/ 3/, Mohamed-Zahi Kassas
Bellmont Janet Anciro
Randolph Gulshan Nazir 1/
Westfield Daniel Glotzer 1/
Sherman Sanjay Tomar 1/

1/ Verification form given
2/ Left hospital 9/99, contract expired
3/ Physician missing work due to pregnancy

Handwritten signature of Hubert N. Sparks, Inspector General