



REPORT OF REVIEW

J-1 VISA WAIVER PROGRAM
COMMUNITY HEALTH SYSTEMS
BECKLEY, WEST VIRGINIA

OIG Report 96-14(H)
December 15, 1995

BACKGROUND

This review was conducted as a followup to our survey of the J-1 visa waiver program during 1994. OIG Report 95-4(H), December 7, 1994, covered Community Health Systems, Inc. (CHS), whose administrative offices are located in Beckley, West Virginia. That report concluded there was noncompliance with ARC program requirements in at least two instances. Specifically, two J-1 physicians were not providing 40 hours of primary care service at the HPSA location for which the J-1 visa waiver was requested; and there was some concern that one of the physicians was devoting a substantial amount of time to his subspecialty.

At the time of our on site visit to CHS in November 1994, two other J-1 physicians had just been hired; and our report noted there was also some concern that one of them would not be practicing in the approved location. The individual who was Executive Director of CHS at the time told us he had been working to have parts of Beckley declared a HPSA. All four of the physicians noted above were approved for the Clear Fork Primary Care Center, Colcord, Raleigh County, West Virginia.

OBJECTIVE

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

RESULTS OF FOLLOWUP WORK

On November 3, 1995, we made an unannounced visit to the Clear Fork clinic in Colcord, West Virginia. We learned that two J-1 physicians recruited and approved for that clinic actually work in Beckley, West Virginia, in other clinics operated by CHS. It is our understanding that the two physicians have been employed by CHS since October and November 1994 and that they have never worked at the Colcord clinic.

We spoke with the new Director of CHS who confirmed that both of the physicians were working in Beckley and not at the approved location in Colcord. The Director, who started work

on December 4, 1995, indicated that one of the physicians is being paid \$175,000 as a cardiologist and that he has a substantial number of hospital admissions requiring that he be physically closer to the hospital than the Colcord site would permit. The other J-1 physician is a pediatrician who acquired an increased number of hospital inpatients as the result of the current inability of another pediatrician to return to his previous range of activity after suffering a stroke.

Based on discussions with West Virginia and ARC staff and review of applicable files, there was no evidence that the clinic locations in Beckley, West Virginia, has been included as a HPSA nor that CHS was given approval to use the applicable J-1 physicians at locations other than the Clear Fork clinic at Colcord, West Virginia.

Our discussions with one of the J-1 physicians (cardiologist) disclosed the following information and comments.

The physician said he had been told by his employer that his assignment to the Robert Byrd Clinic (also known as Adult Medical and Valley Drive Clinic) in Beckley had been approved by the State and ARC. He provided us a copy of an October 25, 1995 memorandum (copy attached) from a CHS official to indicate the position that had been taken by his employer. He further stated that he had not received notification from anyone that he was in violation of program requirements.

The October 25, 1995 CHS memorandum includes the following paragraph.

"Both Dr. Khiami and Dr. Ujayli are practicing under the J-1 visa program. When the applications were submitted to the Appalachian Regional Commission both physicians were to be assigned to the Clear Fork Clinic. However, with the knowledge of the State of West Virginia and the subsequent site visit and knowledge of the Appalachian Regional Commission, both physicians were assigned to the Rural Acres Clinic and Adult Medicine Clinic."

At the time of employment of the two J-1 physicians in October 1994, the Director of CHS was attempting to have parts of Beckley, West Virginia, designated as a HPSA in order to use the two physicians at Beckley during their waiver periods.

However, as noted above, there is no evidence to indicate that parts of Beckley were approved as a HPSA; and thus, CHS and the physicians were responsible to ensure compliance with the terms and intent of the J-1 visa waiver program and related certifications. Also, there was no discussion or approval with respect to one of the J-1 physicians practicing a subspecialty.

The J-1 physician recognized that he had signed a certification stating he would perform 40 hours of primary care in a HPSA. However, he noted the vulnerability of J-1 physicians and that he had believed his former employer's representations that his assignment to the Beckley Clinic was proper. He believed he was misled by his employer; and in the absence of any other information or notification, he did not know what course to follow except comply with instructions he received. He also strongly believed that much of his practice involved primary care, including consultations and treatment related to stress, pain, and heart disease symptoms. He said he did very little cardiology type surgical procedures, e.g., two catheterization last year.

His current salary is \$175,000 although his contract salary is noted as \$100,000; and he has not signed a new contract that reflects the \$175,000.

The physician confirmed that he and the other J-1 physician employed in early November 1994 had been essentially working at clinics in Beckley and that the only time spent at the Clear Fork Clinic was a short period subsequent to the OIG visit in 1994. He said that, based on our recent inquiry, he and his colleague intended to start practicing at the Clear Fork clinic.

The West Virginia Director of Health Professions Recruitment reported a recent conversation with the current Director, CHS, wherein the Director proposed extending the waiver periods and inquired as to whether the J-1 cardiologist could serve some of the required 40 hours per week at the Clear Fork clinic but be allowed to continue treating some of his cardiology patients in Beckley.

The current Director, CHS said that he intended to transfer the two J-1 physicians from Beckley to the Clear Fork clinic effective December 18, 1995. He said that, although he had no reason not to believe the J-1 physicians' contentions that they (the physicians) had been told by the former Director their practices in Beckley had been approved, he also believed the J-1 physicians should fulfill their responsibilities in line with the J-1 program certifications they had signed. He noted the acceptance of a \$175,000 salary by one J-1 physician demonstrated an understanding that the physician was expected to practice his subspecialty. He emphasized his interest in ensuring compliance with program provisions by CHS sponsored J-1 physicians and noted his interest in extending waiver periods, if possible, to accomplish this objective.


The circumstances noted above are consistent with conditions noted in our prior reports on J-1 visa waiver program compliance, especially with respect to employer initiated use of J-1 physicians in violation of program requirements. Also, the comments of one of the current J-1 physicians about being informed that he was in compliance with program requirements are consistent with the CHS position as noted in the October 25, 1995 internal CHS memorandum. However, J-1 physician certifications that they intended to provide 40 hours of primary care at a HPSA and acceptance of a salary level substantially higher than normally accorded a J-1 physician are factors also needing consideration.

Therefore, we concluded that there is a need to determine the extent, if any, to which the first year of the J-1 physicians' service should be credited to completion of the 2-year waiver period. Such a determination should include the circumstances resulting in the physicians being assigned to a non-HPSA and whether the services provided met the definition of primary care

Thus, our recommendations are:

- o ARC should immediately notify the Director, CHS and the two J-1 physicians about program requirements to provide 40 hours of primary care service for 2 years (the period of service required when J-1 waivers were approved) in a HPSA.

- o The ARC should initiate action, in conjunction with the State Agency to determine the eligibility of physician service to date and a waiver period extension necessary to ensure overall achievement of program objectives.
- o ARC and the State Agency should work with the new Director, CHS to avoid repetition of the violations noted.


Hubert N. Sparks
Inspector General



Community Health Systems, Inc.

ADMINISTRATIVE OFFICES
304/252-8324 OR 304/252-8551
252 RURAL ACRES DRIVE
BECKLEY, WV 25801

October 25, 1995

TO: Sheila Johnson

FROM: Karen L. Jones, Director of Operations, Satellite
Administration and Personnel


Pursuant to your request for information concerning the approved practice sites for Dr. Khiami and Dr. Ujayli, the following information is provided:

Both Dr. Khiami and Dr. Ujayli are practicing under the J-1 Visa program. When the applications were submitted to the Appalachian Regional Commission both physicians were to be assigned to the Clear Fork Clinic. However, with the knowledge of the State of West Virginia and the subsequent site visit and knowledge of the Appalachian Regional Commission, both physicians were assigned to the Rural Acres Clinic and Adult Medicine Clinic.

If you or Dr. Villanueva require further information on this matter please direct your questions to me as I would prefer (as I'm sure you would agree) you reported accurate data.



MEMORANDUM

DATE: March 22, 1996
TO: Hubert Sparks, Inspector General
FROM: Deann Greathouse, Program Assistant 
SUBJECT: Follow-up on OIG Reports 96-9(H), 2/2/95, and 96-14(H), 12/18/95

I have spoken to Lois Baker at Mountain Comprehensive Health Care (MCHC) regarding the J-1 placements at the Whitesburg facility. We are planning a visit to MCHC in the very near future and will meet with Ms. Baker to resolve the outstanding placement issues. Ms. Baker has shown a willingness to work toward a positive resolution.


As of March 13, 1996 an agreement had be reached between Dr. Ujayli and Community Health Systems. Dr. Ujayli intends to transfer to Dr. Husam Nazer's facility which is located at Glen Daniel in Surveyor, West Virginia, an Appalachian HPSA. At this time I am awaiting a new contract and transfer information.

Dr. Khiami and Community Health Systems have agreed to continue employment together. Dr. Khiami was moved to Clear Fork on December 18, 1995 and has continued at that facility. At this time we are awaiting a formal contract revision and term agreement.

If you need any further information, please do not hesitate to contact me.



MEMORANDUM

DATE: July 8, 1996
TO: Hubert Sparks, Inspector General
FROM: Deann Greathouse, Program Assistant 
SUBJECT: OIG Report 96-14(H), 12/18/95

I have received the additional information I requested regarding Dr. Ujayli and Dr. Khiami. Dr. Ujayli transferred to Dr. Husam Nazer's facility at 6463 Harper Road in Glen Daniel - Surveyor, Raleigh County, West Virginia. He has agreed to extend his term of commitment to March 31, 1997.

Dr. Khiami will continue to work at the Clear Fork site with Community Health Systems, Inc. He has renewed his contract and will complete his commitment on November 6, 1996.

If you need further information, please do not hesitate to contact me.