

The Commonwealth of Massachusetts Executive Office of Health and Human Services Department of Public Health 250 Washington Street, Boston, MA 02108-4619

MASSACHUSETTS CONRAD-30/J-1 VISA WAIVER POLICIES Federal Fiscal Year (October 1 - September 30)

The Massachusetts Department of Public Health (MDPH), through the Conrad-30/J-1 Visa Waiver Program, is committed to supporting employment requests for J-1 visa physicians in sites that have a history of serving the state's medically underserved populations. The MDPH J-1 Visa Waiver Program has been implemented in accordance with its authority under the "Conrad Amendment" to P.L. 103-416. This law permits MDPH to assist health care facilities located in federally designated medically underserved areas with physician recruitment by supporting J-1 visa waiver requests.

Federal law authorizes MDPH to support no more than thirty J-1 visa waiver requests per federal fiscal year (October 1 - September 30). MDPH will begin accepting applications October 1 of each year. From October 1 – December 31, applications for both Primary Care and Specialist positions will be accepted; reviews will be conducted in January and notifications sent by or before March 1. Should there be any slots available, there will be a 2^{nd} review in March and notification sent in April.

Applications will be reviewed with special attention and favorability to primary care services, identified areas of greatest need, and providing service in the public interest of the Commonwealth. The Massachusetts program continues to place emphasis on primary medical care, psychiatry, and certain specialties (applications must include appropriate documentation about community need). Prioritized areas include community health centers, rural communities, western Massachusetts, and the Islands.

The decision to support a waiver request is at the discretion of MDPH. Those requests that are supported by MDPH will be forwarded to the U.S. Department of State (DOS) Bureau of Consular Affairs, which reviews and recommends the J-1 Visa Waiver applications to the Bureau of Citizenship and Immigration Services. Copies of the support letter from MDPH will be mailed to the physician, the legal representative when appropriate, and the employer.

After receiving DOS approval, the physician must seek an H-1B visa before beginning employment. The Department plays no role in this subsequent step.

Included on the following pages are criteria for the Massachusetts Visa Waiver program and the steps and paperwork required to submit an application for review.

Conditions for Application

MDPH considers requests for support of J-1 visa waivers that meet the following conditions:

- MDPH only considers requests submitted by the employing health care facility or agency.
- The employer must submit a letter requesting that MDPH act as an interested government agency. See Step 2 on page 5 for details about what to include in the letter.
- Prior to employment, the physician must meet all medical licensure requirements for the Commonwealth of Massachusetts.
- The physician must agree to practice medicine full-time in the designated health care facility for a minimum of three (3) years and begin employment within ninety (90) days of receipt of the waiver.
- The physician's full-time practice site must be located in a Health Professional Shortage Area (HPSA) or Medically Underserved Area/Population (MUA/P). Instructions for determining whether a site is qualified are included as Appendix A of this document.
- Community Health Centers and Hospitals with federally qualifying disproportionate share percentages (at least 63% patient charges attributed to Medicare, Medicaid, other government payer and free care) or other measure of high utilization by underserved populations, will receive priority as placement sites for Conrad 30 waivers. Health care provider sites located in Health Professional Shortage Areas (HPSA) or with Medically Underserved Area or Population (MUA or MUP) designations will be required to document a significant percentage of MassHealth (Medicaid), Medicare and sliding fee or other charity care in order to qualify.
- The facility or agency must have a history of recruitment difficulty or specific need for the position the J-1 Visa physician will be filling. Provide a short summary of the recruitment difficulty and how long the position has been vacant (# months or years, or since a certain date). This summary includes recruitment history, a list of placement agencies or other recruitment resources engaged to recruit for the position (e.g. list of where position postings have been made), how many inquiries or applications have been submitted, salary offered, and whether the position has been offered to any U.S. physicians. <u>Do not</u> include copies of advertisements in your application packet to MDPH.
- The facility or agency must explain efforts made to recruit physicians who are U.S. Citizens.
- Primary Care services are a priority for the MDPH Visa Waiver program. Primary Care is interpreted to include physicians who are trained in and will practice internal medicine, pediatrics, family practice, obstetrics-gynecology, geriatrics, or psychiatry.

Physicians will receive additional preference if their primary language is significantly represented as an underserved population in the proposed practice community. A list of selected communities and languages is attached as Appendix B.

• The facility or agency must identify for recruitment and retention purposes, the dates and nature (physician specialty) of all previous use of a J-1 Visa physician and the placement site, in the previous three (3) visa waiver program years.

• Flex 10 requirements

MDPH reserves the right to use up to ten (10) waivers each year to support qualified physicians in state or other facilities or agencies recognized by MDPH as potentially eligible. These health care agencies and organizations not located in a HPSA or MUA/P may be eligible if they provide documentation that greater than 30% of the patients served by site are located in HPSAs or MUA/Ps, and also include documentation of the site's patient payor mix. The facility or agency must request the flex slot in their request letter to MDPH.

- MDPH will, at its discretion, support requests for placement of physicians who are currently enrolled in or have completed a subspecialty or non-primary care fellowship. In addition to the other conditions listed above, applications to support a specialty physician must include:
 - a. Specific information on how the served population will benefit by placing that physician, such as: culturally competent care, reduced travel or wait times for patients, no impending physician retirements, etc. This information should show the specific benefit that will be gained if the physician is granted a visa waiver.
 - b. Data documenting the shortage of physicians in this specialty/fellowship in the particular community and statewide.
 - c. The percentage of MassHealth (Medicaid), Medicare and uninsured patients expected to be seen by the specialty physician.
 - d. Average waiting time for a non-emergency patient visit for that specialty in that area.
- All applications must include a minimum of three (3) letters of support from non-applicant community agencies or referring providers, including one from the community served.
- MDPH may consider supporting more than one (1) application per agency based on the conditions of need identified above.

Agencies or facilities that are considering submitting more than one application must coordinate all applications through one identified "point person" who is known to MDPH as such; and must prioritize the applications.

If an agency does not meet the relevant conditions listed above, the agency will not be eligible, and the application will not be supported by MDPH.

These <u>Conditions for Application</u> are reflected in the attached Checklist (Appendix E) and in Step 2 of the application instructions.

Note that the MDPH does not offer any assistance in placing physicians in suitable employment.

Teaching and Research

MDPH does not support waivers for research, teaching or other non-patient care positions. The goal of the Massachusetts visa waiver program is to increase direct-to-patient primary care services, and some direct-patient care specialty services. Researchers and educators whose primary activity is not patient care, for example, do not meet the Massachusetts Visa Waiver Program definitions of providing direct patient care services.

Transfer Request

In certain extenuating circumstances it may be necessary or appropriate for a change in work site or employer to be initiated during the initial three-year contract. The MDPH requires that all transfer requests be submitted in writing to the MDPH Health Care Workforce Center prior to any such change, in order to ensure continued support for the move or change of worksite. In particular the physician must continue to provide care to an underserved population in a federally designated underserved area. Failure to notify and seek continued support from MDPH in advance may result in MDPH not supporting future J-1 application from the employer.

The next section outlines the three-step process of the J-1 Visa Waiver application in Massachusetts including details for submitting an application.

Three-Step J-1 Visa Waiver Application Process

Step 1: Apply for Case File Number

Prior to application for a J-1 Visa Waiver, the <u>United States Department of State</u> requires that the physician/applicant complete an online data sheet DS-3035 application. This DS-3035 application submission must be accompanied by a non-refundable user fee of \$215, paid with a cashier's check or a money order made payable to the U.S. Department of State.

Instructions on how to complete the online DS-3035 application are at: <u>http://travel.state.gov/visa/temp/info/info_1296.html#</u>

Send this application and payment to:

U.S. Department of State Waiver Review Division P. O. Box 952137 St. Louis, MO 63195-2137

Completing the application online will reserve a Case File Number for your application and generate a bar coded data sheet which is required in order to process your J-1Visa Waiver recommendation application. This Case File Number must appear on every page of the application packet submitted to MDPH.

MDPH will only review completed applications that have an established Case File Number.

Step 2: Submit the required documents to the Massachusetts Department of Public Health

The following documents should be submitted collectively and in the order indicated to MDPH as one application packet. A checklist of the necessary items and the order in which the packet should be compiled is included as Appendix E of this document. The **Case File Number** must appear on every page of the application packet.

Submit one original and one copy of the entire waiver request package to:

Nicole Watson, Recruitment & Retention Program Coordinator Health Care Workforce Center Massachusetts Department of Public Health 250 Washington Street, 5th Floor Boston, MA 02108-4619

1. EMPLOYING FACILITY OR AGENCY REQUEST LETTER

- The Facility or Agency must provide a request letter from the chief administrator that includes the following:
- a) A request that MDPH act as an interested government agency and support a waiver for the J-1 Visa physician, to the Department of State that the place of employment where the physician will provide services is located in a currently designated Health Professional Shortage Area (HPSA) or Medically Underserved Area/Population (MUA/MUP) and identify the Shortage Designation Area by number and type. Instructions for determining whether a site is in a qualified area are included in Appendix A.
- b) A description of how the physician's services are required and in the public interest.
 - a. Describe the facility's mission, services, and target population.
 - b. Describe the current medical or mental health care needs of the underserved populations in your area.
 - c. Describe how the J-1 visa physician's qualifications and proposed responsibilities will improve access to medical or mental health care services in your area for the underserved population.
- c) The employment responsibilities of the J-1 visa physician.
- d) Statement that the facility or agency is unequivocally offering the physician full-time employment for at least three (3) years (see also #5 Signed Employment Contract).
- e) Statement that the facility or agency participates in MassHealth and complies with the regulations governing MassHealth; accepts Medicare; and accepts patients participating in Commonwealth Care programs, provides care regardless of the patient's ability to pay a fee, and has a <u>sliding fee scale</u>. The sliding fee scale should be based on the patient's ability to pay a fee. Providers may establish any number of incremental percentages (discount pay class) as they find appropriate and must at a minimum address those patients who are at or below 200% of the Federal Poverty Level. For more information on the current U.S Department of Health and Human Service Federal Poverty Level guidelines, go to: <u>http://www.aspe.hhs.gov</u> and see the section "Often Requested" (on the left hand side of the screen); then click on "Poverty Guidelines." Include the sliding fee scale implementation plan, and public notice, as well as the agency's written commitment to the use of the sliding fee scale.
- f) Submit the employing agency patient payor mix data, or if the employing agency is not the work site, provide the worksite patient payor mix data. Specifically, provide a breakdown of private insurance, Medicaid/MassHealth including Managed Care, Commonwealth Care, Medicare, un-insured and private pay and the percentage of patients who participate in your sliding fee scale option.

- g) Describe in detail the <u>long range retention plan</u> for the physician, beyond the three year obligation.
- h) Statement that the facility and/or agency will comply with the J-1 visa monitoring activities, (See Appendix F for a copy of the semi-annual monitoring report). These reports are due on January 30 and July 30 of each year. These reports are required for each J-1 physician practicing under a waiver to ensure the J-1 physician continues to practice in a medically underserved area in Massachusetts for three (3) years. The employer is responsible for generating the semi-annual report using the attached form, and sending the completed and signed report to the Health Care Workforce Center on the due date. Failure to comply with reporting requirements may result in MDPH refusing to accept future J-1 visa applications.
- i) Statement that the facility and/or agency will notify the MDPH Health Care Workforce Center in writing, at least two weeks in advance, if the J-1 physician will no longer be employed full time at the facility during the three (3) year period.
- j) Dates and nature (physician specialty) of all previous use of a J-1 visa waiver physician and the placement site, in the previous three (3) visa waiver program years. Also include retention information, such as if the physician completed the contractual obligation and then resigned her/his position, or if the physician remained for longer than the minimum contracted agreement.

2. DATA SHEET DS-3035 AND CASE FILE NUMBER

Submit a legible photocopy of the completed DOS Waiver Review Application Data Sheet DS-3035 and Case File Number as received from the DOS in St. Louis.

3. COPY OF FRONT AND BACK OF I-94 ENTRY AND DEPARTURE CARDS

4. FORM G-28 (WHEN APPLICABLE)

5. SIGNED EMPLOYMENT CONTRACT

a) Include a completed, dated, employment contract signed by the Physician and the Executive Director of the health care agency stipulating the following:

1. Name and address of the health care site(s) and the geographic area(s) where the physician will practice.

2. Physician agrees to practice medicine for a minimum of 40 hours per week providing <u>clinical care only</u>, for a minimum of three (3) years at the practice site(s). Clinical care can include paperwork and phone calls related to patient care.

3. Physician agrees to begin employment within ninety (90) days of receiving a waiver and agrees to continue to work in accordance with Federal and State visa waiver guidelines at the practice site(s).

4. Physician's annual salary, showing that the physician is receiving a competitive salary.

The employment contract shall not include a non competition clause or any other provision that limits the J-1 visa physician's ability to remain in the area upon completion of the three (3) year contract.

b). The employing agency and the practice site(s), if different from the employer, must submit a written statement that they will make every reasonable effort to enable the J-1 Visa physician to practice in accordance with these policies.

6. SIGNED STATEMENT OF AGREEMENT

The physician must submit a signed and dated letter stating that the Physician:

- a) Agrees to "meet the requirements set forth in section 214 (1) of the Immigration and Nationality Act."
- b) Will begin employment at the facility within 90 days of receiving the waiver.
- c) Will work at the facility for at least three (3) years.

7. PHYSICIAN ATTESTATION SAMPLE

I, ______, hereby declare and certify, under penalty of the provisions of 18USC.1001, that: (1) I have sought or obtained the cooperation of the Massachusetts Department of Public Health which is submitting an IGA request on behalf of me under the Conrad 30 program to obtain a waiver of the two-year home residency requirement; and (2) I do not now have pending nor will I submit during the pendency of this request, another request to any U.S. Government department or agency or any equivalent, to act on my behalf in any matter relating to a waiver of my two-year home residence requirement.

8. COPIES OF ALL IAP-66 /DS-2019 FORMS

9. CURRENT COPY OF THE PHYSICIAN'S CURRICULUM VITAE

Include a copy of Massachusetts medical license or copy of first page of application for license.

10. PHYSICIAN PERSONAL STATEMENT

Signed and dated Personal Statement from physician regarding his/her reasons for not wishing to fulfill the two-year home country residency requirement.

11. LETTER OF "NO OBJECTION" FROM HOME GOVERNMENT (when applicable)

The J-1 Visa physician should obtain a letter of "no objection" from his/her home country ONLY IF the J-1 physician had medical education or post-graduate training in the United States FUNDED BY the government of the graduate's home country.

If a J-1 waiver applicant requires a letter of "no objection," the Department of State requests that the letter clearly state that it is pursuant to Public Law 103-416.

12. EXPLANATION OF OUT-OF-STATUS (when applicable)

13. SIGNED AFFIDAVIT

Appendix D: signed and witnessed affidavit stating the physician and the agency/facility accept public payers and offer a sliding fee scale and are not being investigated for fraud or under any professional sanctions.

14. RECRUITMENT EFFORTS

The facility or agency must have a history of recruitment difficulty or specific need for the position the J-1 Visa physician will be filling. Provide a short summary of the recruitment difficulty and how long the position has been vacant (# months or years, or since a certain date). This summary includes recruitment history, a list of placement agencies or other recruitment resources engaged to recruit for the position (e.g. list of where position postings have been made), how many inquiries or applications have been submitted, salary offered, and whether the position has been offered to any U.S. physicians. Do not include copies of advertisements in your application packet to MDPH.

15. LETTERS OF COMMUNITY SUPPORT

For all applications, submit letters from at least three (3) community agencies that work closely with the served populations stating the J-1 placement is critical and will help alleviate health care access problems for the underserved population of the community.

16. PHYSICIAN'S JOB DESCRIPTION – Provide a copy of the J1 Physician's job description.

Step 3: Application Packet and MDPH Support Letter is sent to the Department of State

After reviewing all application materials, the Massachusetts Department of Public Health will make a decision on supporting a physician for a J-1 waiver. For those applicants who are supported by MDPH, the entire application packet including the support letter will be sent by MDPH to the U.S. Department of State (DOS). A copy of the support letter will also be sent to the physician, the employer and the legal representative when appropriate.

Once the application is sent to DOS, MDPH will only be involved in responding to DOS questions regarding items in the application packet. Application processing at DOS generally takes 6-8 weeks. MDPH will have no additional information regarding the status of a candidate unless a specific issue or question arises from DOS. Candidates can check their status at DOS through the following website: http://www.travel.state.gov/visa/about/how/how 1463.html

A support letter from MDPH is an essential step in the process but does not ensure that a candidate will receive a waiver.

Physicians must also obtain an H-1B visa in order to begin employment. MDPH plays no role in this part of the process.

Appendix A: Instructions for finding out the designation status of a practice site

1. In most cases, to determine whether a practice site is in an underserved area it is important to have the <u>Census Tract</u> number (usually four digits, sometimes with two decimal points included e.g. 8011.02).

Census tracts for a specific address can be found at: <u>http://www.ffiec.gov/geocode/default.aspx</u>.

Type in the address and press SEARCH and the resulting search should provide the census tract in the <u>bottom right corner</u> of the grid.

2. You can use the census tract to check designation status via the searchable databases for the HPSA and MUA/P designations:

HPSA database: <u>http://hpsafind.hrsa.gov/</u> MUA/MUP database: http://muafind.hrsa.gov/

Searching by state <u>and county</u> in either database will be the most efficient. Statewide searches are large and sometimes difficult to peruse, but may also be helpful.

In the HPSA database be sure to use STATUS="designated".

In the MUA/P database it will first give you <u>all</u> designations for that county. <u>Click on the MUAID#</u> (five digits) to access the Census Tract information for each designated area.

Remember that if a town or city is on the Designation List without specific census tracts, it means that the whole municipality is designated.

For information about the Health and Human Services (HHS) waiver program refer to: http://www.globalhealth.gov/exchangevisitorprogram/index.html#suppb

For current information and updates about the Massachusetts Visa Waiver program refer to: http://www.mass.gov/dph/primarycare

For information about the Massachusetts Community Health Centers (CHCs) and job postings at the CHCs refer to: <u>www.massleague.org</u>

For information about the Massachusetts Hospitals refer to: www.mhalink.org

For other questions contact Nicole Watson at: nicole.watson@state.ma.us

Appendix B: Language Guide for Conrad-30/J-1 Visa Waiver Program

<u>Community</u>	Language
Boston	Spanish, Haitian Creole, Chinese, Vietnamese, Cape Verdean, Portuguese, Somali
Brockton	Cape Verdean, Spanish, Haitian Creole, Portuguese
Cambridge	Spanish, Haitian Creole, Portuguese, Chinese, Bengali
Cape Cod	Cape Verdean, Portuguese, Spanish
Chelsea	Spanish, Vietnamese, Portuguese, Serbo-Croatian
Everett	Spanish, Portuguese, Haitian Creole, Vietnamese
Fall River	Portuguese, Spanish, Khmer
Fitchburg	Spanish, Hmong
Framingham	Spanish, Portuguese, Russian, Chinese
Holyoke	Spanish, Polish
Lawrence	Spanish, Khmer, Vietnamese
Lowell	Khmer, Spanish, Portuguese, Vietnamese
Lynn	Spanish, Khmer, Vietnamese, Portuguese, Burmese, Arabic
New Bedford	Spanish, Portuguese, Cape Verdean
Quincy	Chinese, Vietnamese, Spanish, Portuguese
Revere	Spanish, Khmer, Portuguese, Arabic
Salem	Spanish
Somerville	Spanish, Portuguese, Haitian Creole
Southbridge	Spanish
Springfield/ W. Springfield	Spanish, Vietnamese, Somali, Russian
Worcester	Spanish, Vietnamese, Portuguese, Polish, Chinese, Arabic, Albanian

Appendix C: Application Information Sheet

Confidential Information

Massachus 250 W	e Workforce Cente etts Department of ashington St. Bost -1 Visa Program or	f Public Health on, MA 02108-4	(MDPH) 4619	r
Physician Last Name:			Male:	Female:
Physician First Name:			MI:	
Date of Birth:	Dept of	State Case #:		
Country of Birth:				
Practice/Specialty:				
Purpose of request for letter from MDPI		-		ional Interest Waiver
Employer Name:				
Employer Address:				
Employer Contact Name:		Phone:		
Email of Contact:				
Practice Site 1 Name:		Medic	caid Billing	Number:
Practice Site 1 Address:				
County:	Census Tract:	l	Hours to be s	spent at this site:
HPSA #:	MUA or MUP #	# (if applicable): _		
Practice Site 2 Name:		Medio	caid Billing	Number:
Practice Site 2 Address:				
County:	Census Tract:	I	Hours to be s	spent at this site:
HPSA #:	MUA or MUP #	(if applicable):		
Lawyer Name (write N/A if none) :			Email:	
Law Firm Name:				
Law Firm Address:				
Phone:	Fax:			

Appendix D: Physician/Employer Status Affidavit



The Commonwealth of Massachusetts Executive Office of Health and Human Services Department of Public Health 250 Washington Street, Boston, MA 02108-4619

MASSACHUSETTS J-1 VISA WAIVER PROGRAM

The Massachusetts Health Care Workforce Center will not support any applicant or sponsor of an applicant for a J-1 Visa Waiver who does not accept MassHealth or does not comply with the regulations governing MassHealth; does not accept Medicare; or does not accept patients participating in Commonwealth Care programs, does not provide care regardless of the patient's ability to pay a fee and does not have a sliding fee scale. The same holds for an applicant or sponsor who has ever experienced any negative, legal and/or professional restrictions with medical licensing, DEA registration, fraud, or professional sanction including (see A-D, below): currently in the process of being challenged, relinquished, withdrawn, investigated, denied, revoked, suspended, reduced, limited, placed on probation, not renewed, or voluntarily or involuntarily relinquished --

- A) Medical License in any state
- B) DEA Registration injunction
- C) Medicaid, Medicare Fraud
- D) Any other type of professional sanction

We, the applicant agency of a J-1 Visa Waiver Physician and the J-1 Visa Waiver applicant being duly sworn, hereby state there are no sanctions or charges pending per the above paragraph and listings against here signed or prior to the application for this J-1 Visa Waiver application.

Print Applicant Agency Representative Name

Signature of Applicant Agency Representative

Printed J-1 Physician Name

Signature of J-1 Physician

Subscribed and Sworn before me on this_____ Day____ Year

_____Notary Public

Appendix E: Checklist of application materials required for MDPH review

The following application documents must be included, and packaged in the order noted below. The DOS case file number must appear on every page of the application. <u>Do not include any other documents that are not required by MDPH</u>.

 Appendix C (Applicant information sheet)
 Request letter from Agency, including facility description with a current copy of the sliding fee scale and policy, practice site patients payor mix and long range retention plan for the physician
 Copy of Physician's job description
 Copy of Data Sheet (DS-3035)
 Copy of Front and Back of I-94 Entry and Departure Cards
 Form G-28 (when applicable)
 Copy of signed employment contract
 Signed Statement of Agreement
 Physician Attestation
 Copies of all IAP-66/DS-2019
 Curriculum Vitae of J-1 physician (including a copy of license to practice in Massachusetts or a copy of the first page of the application)
 Signed and dated Personal Statement from Physician regarding his/her reasons for not wishing to fulfill the two-year home country residence requirement
 Letter of No Objection from Home Government (when applicable)
 An Explanation For Out of Status (when applicable)
 Physician/Employer Status Affidavit (Appendix D)
 Recruitment Efforts – Refer to (page 7- item 14)
 Three (3) letters of Community Support
 One original and one copy of the complete application packet

If you have additional questions please contact:

Nicole Watson, *Recruitment and Retention Program Coordinator* Phone: 617-624-6051 Email: <u>nicole.waston@state.ma.us</u>

Appendix F: PHYSICIAN / EMPLOYER and PRACTICE SITE MONITORING REPORT
Monitoring reports are due on <u>January 30 and July 30</u> of each year until the physician's <u>three (3) year</u> commitment is complete. <u>Failure to submit these reports</u> will result in the physician and employer being in noncompliance with program policies.
Complete this form bi-annually each year and send pdf file to Nicole.Watson@state.ma.us
Reporting period: MMDDYY
PHYSICIAN Name: Practice/Specialty:
Home Address:
Practice Site Address(s):
Physician email:
Office Phone: Personal Phone:
Visa Waiver Commitment Start Date:
Visa Waiver Commitment End Date:
I, the above named physician, provide health care services at the above stated address a minimum of 40 hours per week, as noted in the visa waiver application, and comply with all my contractual obligations.
Physician's Signature:Date:
EMPLOYER I hereby certify that Dr is employed in accordance with our Visa Waiver application providing at least 40 hours/week of health care services, at above site(s), as per our application.
Employer Agency Name
PRINT Representative First and Last Name:
Title
Phone Number: Email:
Representative Signature: Date:
MDPH - USE ONLY Date Received at MDPH-HCWC: