

# PUBLICATION

---

## No More USDA Physician Waivers

**Authors: Robert C. Divine**

**March 04, 2002**

**The U.S. Department of Agriculture (USDA) has announced that it has ceased requesting waivers of the J-1 2-year home residency requirement for most international medical graduates (IMGs) effective February 27, 2002. Any waiver cases pending at USDA are being returned. It appears that USDA recommendations already sent to the State Department can continue processing.**

This is the end of the only remaining widely available federal agency "sponsorship" of waivers for international medical graduates. USDA had requested waivers for IMGs who were to serve at least three years as a primary care physician in an underserved rural area. The Department of Housing and Urban Development (HUD) used to sponsor IMGs for waivers for inner city clinics and hospitals but terminated its sponsorship program years ago. The only similar program remaining is the Appalachian Region Commission (ARC), which sponsors IMGs who will serve at least three years in underserved areas only in ARC's limited geographical jurisdiction.

Federal Agencies can still sponsor FMGs for waivers, but the remaining programs tend to focus on specific needs of the agencies and the groups they serve, such as the following:

- Department of Education for teachers/professors,
- Department of Health and Human Services for medical researchers, pharmacy research, post-pediatrics/endocrinology researchers,
- US Department of Agriculture for workers in the fields of agricultural economics, food processing, animal science, agronomy, agricultural and comparative pathology fields,
- Department of Energy for physicists working in the fields of mineral/metallurgical engineering, nuclear engineering, treatment and disposal of radioactive wastes,
- Department of Defense for workers in the fields of computers, economics or electrical engineering,
- National Aeronautics and Space Administration for workers in air/space fields,
- Department of Interior for environmental specialists and civil engineers,
- Department of Transportation for workers in the fields of chemical/civil engineering, aviation and
- National Science Foundation for physicists, atmospheric earth scientists, economics specialists, and specialists in science education.

Also remaining, of course, is the "State 20" program under which each state can request waivers for up to 20 IMGs per governmental fiscal year. Not every state operates at State 20 program, but most do, and most focus on primary care for underserved areas. The state programs are likely to receive increased requests, and thus become more competitive, in the wake of the USDA announcement.

Physicians that had been pursuing, or contemplating pursuing, USDA waivers will need to review carefully their remaining options to remain and work in the U.S. without going home for two years. Options include the hardship and persecution bases for waivers that have always existed. Interim options include seeking O-1 visas, which are not blocked for persons subject to the J home residency requirement.

## How We Can Help

Baker Donelson's Immigration Team assists teaching and non-teaching hospitals, research facilities, medical practice groups, nursing center operators, health insurers, HMOs, individual physicians, and individual medical professionals and workers arrange appropriate immigration status, plotting careful courses through the web of special immigration regulations affecting the medical field. We routinely seek J-1 waivers through state and federal agency sponsorship, arrange H-1B status and changes of employers, seek O-1 visas as an interim measure, and accomplish labor certification and national interest waivers for permanent residence for physicians. We work with a full range of institutions and individuals in obtaining NAFTA professionals, groups of registered nurses from the Philippines, Korea and elsewhere, and all other types of health care workers. When we have not been associated only as immigration counsel, our health lawyers can provide a full range of business and litigation services with an acute awareness of the business and regulatory health care environment.