

New J-1 Waiver Option for International Medical Graduates (IMG) Avail in New York through Northern Border Regional Commission (NBRC)



Immigration Blog

By Nisha V. Fontaine (Jagtiani)

January 3, 2024 | **IMMIGRATION**

International Medical Graduates (IMG's) in the U.S. who are seeking opportunities to remain in the U.S. after completing their medical training (residency/fellowship), recently received some good news of a new J-1 Waiver Option through the Northern Border Regional Commission (NBRC) – especially those seeking to practice in New York.

What is a J-1 Waiver?

IMG's (International Medical Graduates) enter the U.S. to complete their residency/fellowship in J-1 status are concurrently agreeing to return to their home country for a period of two (2) years (thus, the two-year home residency requirement). IMG's are ineligible to obtain H or L status (or permanent resident status), without either first complying with the two-year residency requirement, **or** obtaining a waiver of the same by working in a medically underserved area for a period of three (3) years. Many IMG's prefer the latter.

Why do Employers care about J-1 Waiver availability?

Oftentimes, medical practice sites in medically underserved areas have difficulty attracting top talent – often leaving critical positions unfilled for months. The availability to help sponsor an IMG for a J-1 Waiver becomes an important recruitment tool that allows them to pursue and secure top candidates – as well as secure employment contracts for an initial three (3) year period with the IMG's.

How do you determine if a practice site qualifies as a HPSA (Health Professional Shortage Area)/MUA (Medically Underserved Area)/MUP (Medically Underserved Population)?

- Step 1: Visit <https://data.hrsa.gov/tools/shortage-area/by-address> and enter in Practice Site address where Physician will be practicing
- Step 2: Review results to see if the Practice Site qualifies for the relevant J-1 Waiver Program (some programs have specific requirements re: HPSA scores; some will only accept a HPSA and not a MUA/MUP; etc.)

What types of J-1 Waiver Programs are now available in New York for J-1 Waivers?

J-1 (Conrad) Waivers through New York Dept. of Health (NYDOH)

What is it?

- Every FY, each state is allowed to sponsor up to 30 IMG's who agree to work in medically underserved areas (as designated by the Dept. of Health Resources & Service Administration) within their own jurisdiction.
- Program is managed by each State's Dept. of Health, who ensure compliance with Dept. of State requirements, and are allowed to impose their own rules/procedures in determining selection of IMG's

NYDOH Specifics

- NYDOH typically publishes their updated guidelines for J-1 (Conrad Waivers) for the year in Aug/Sept of the year. They typically set a filing 'deadline' of late Nov/early Dec. Once the deadline passes, they then go through and prioritize applications based on community need, etc. They choose the top '30' based on community need, HPSA scores, etc. Once they choose the 30, they review and adjudicate accordingly.
- NYDOH doesn't typically publish a preference or inability to process specialty physicians – this would be a matter of establishing community need for a specialty and making a convincing case. Ultimately however, if others make more 'compelling' cases, that may not be enough. But NY doesn't categorically refuse to review specialists historically. We would need to see what the new guidelines are once released to see if there are any changes.
- Info on the NYDOH's J-1 (Conrad) Waiver Program is avail here: https://www.health.ny.gov/professionals/j-1_visa_waivers/

J-1 (IGA) Waivers through the U.S. Dept. of Health & Human Services (HHS)

What is it?

- HHS is allowed to sponsor an unlimited number of IMG's who agree to work in medically underserved areas (as designated by the Dept. of Health Resources & Service Administration)
- HHS can sponsor IMG's who agree to work at a facility site that has a HPSA score of 7 or higher and the physician must be practicing primary care. *(Prior to 2020, HHS could only sponsor facilities that were designated as Federally Qualified Health Centers (FQHCs) or Rural Health Centers (RHCs).)*
- Program is managed by the HHS, which ensures compliance with Dept. of State requirements, and determines its own rules/procedures in determining selection of IMG's
- Information on the HHS' J-1 Visa Waiver Program is available here:
<https://www.hhs.gov/about/agencies/oga/about-oga/what-we-do/visitor-exchange-program/supplementary-b-clinical-care.html>

HHS Specifics

- Waivers are available on a rolling basis throughout the year

J-1 (IGA) Waivers through Appalachian Regional Commission (ARC)

What is it?

- ARC is a regional commission (parts of AL, GA, KY, MD, MS, NY, NC, OH, PA, SC, TN and VA) that has a J-1 Waiver Program for IMG's.
- New York (14 counties): Allegany, Broome, Cattaraugus, Chautauqua, Chemung, Chenango, Cortland, Delaware, Otsego, Schoharie, Schuyler, Steuben, Tioga, and Tompkins
- ARC is allowed to sponsor an unlimited number of IMG's who agree to work in medically underserved areas (as designated by the Dept. of Health Resources & Service Administration) within the ARC region.
- Program is managed by the ARC, which ensures compliance with Dept. of State requirements, and determines its own rules/procedures in determining selection of IMG's (Program is administered through individual State Dept. of Health)
- Information on the ARC's J-1 Visa Waiver Program is available here: <https://www.arc.gov/j-1-visa-waivers/>

ARC Specifics

- Waivers are available on a rolling basis throughout the year

J-1 (IGA) Waivers through Northern Border Regional Commission (NBRC)

What is it?

- NBRC is a regional commission (ME, NH, VT, and NY) that just recently introduced a J-1 Waiver Program for IMG's.
- NBRC is allowed to sponsor an unlimited number of IMG's who agree to work in medically underserved areas practicing primary care (as designated by the Dept. of Health Resources & Service Administration) within the NBRC region.
- Program is managed by the NBRC, which ensures compliance with Dept. of State requirements, and determines its own rules/procedures in determining selection of IMG's (Program is administered through individual State Dept. of Health)
- Information on the NBRC's J-1 Visa Waiver Program is available here: [J-1 Visa Waiver Expansion Program | Northern Border Regional Commission \(nbrc.gov\)](#)

NBRC Waivers

- Waivers are available on a rolling basis throughout the year

Which Waiver is the best option?

Often times, there are multiple options available for any given scenario. Finding the best option for that particular scenario is a matter of reviewing and ensuring that all options have been properly identified, and then determining the best fit. For example, if an HHS waiver is avail, the J-1 Physician may prefer HHS over ARC or NBRC since HHS doesn't have a liquidated damages clause requirement in their contract.

Related Team



**Nisha V. Fontaine
(Jagtiani)**
Partner



Elizabeth M. Klarin
Partner



Eileen M. Martin
Partner | Team Co-
Leader - Immigration
| Team Leader -
Canada-U.S. Cross
Border



Andrew M. Wilson
Partner | Team Co-
Leader - Immigration

Disclaimer: *The information in this post is provided for general informational purposes only, and may not reflect the current law in your jurisdiction. No information contained in this post should be construed as legal advice from our firm or the individual author, nor is it intended to be a substitute for legal counsel on any subject matter. No reader of this post should act or refrain from acting on the basis of any information included in, or accessible through, this post without seeking the appropriate legal or other professional advice on the particular facts and circumstances at issue from a lawyer licensed in the recipient's state, country or other appropriate licensing jurisdiction.*