

RULE PROPOSALS

INTERESTED PERSONS

Interested persons may submit comments, information or arguments concerning any of the rule proposals in this issue until the date indicated in the proposal. Submissions and any inquiries about submissions should be addressed to the agency officer specified for a particular proposal.

The required minimum period for comment concerning a proposal is 30 days. A proposing agency may extend the 30-day comment period to accommodate public hearings or to elicit greater public response to a proposed new rule or amendment. Most notices of proposal include a 60-day comment period, in order to qualify the notice for an exception to the rulemaking calendar requirements of N.J.S.A. 52:14B-3. An extended comment deadline will be noted in the heading of a proposal or appear in subsequent notice in the Register.

At the close of the period for comments, the proposing agency may thereafter adopt a proposal, without change, or with changes not in violation of the rulemaking procedures at N.J.A.C. 1:30-6.3. The adoption becomes effective upon publication in the Register of a notice of adoption, unless otherwise indicated in the adoption notice. Promulgation in the New Jersey Register establishes a new or amended rule as an official part of the New Jersey Administrative Code.

HIGHER EDUCATION

(a)

HIGHER EDUCATION STUDENT ASSISTANCE AUTHORITY

Student Loan and College Savings Programs Tuition Reimbursement Program for Psychiatrists Proposed New Rules: N.J.A.C. 9A:10-3

Authorized By: Higher Education Student Assistance Authority,
Christy Van Horn, Chairperson.

Authority: P.L. 2017, c. 126, and N.J.S.A. 18A:71C-59 et seq.

Calendar Reference: See Summary below for explanation of
exception to calendar requirement.

Proposal Number: PRN 2018-046.

Submit written comments by August 3, 2018, to:

Marnie B. Grodman, Esquire
Administrative Practice Officer
Higher Education Student Assistance Authority
PO Box 545
Trenton, NJ 08625-0545
E-mail: Regulations@hesaa.org

The agency proposal follows:

Summary

P.L. 2017, c. 126 (N.J.S.A. 18A:71C-59 et seq.) (the Act), was signed into law on July 21, 2017. The Act establishes the Tuition Reimbursement Program for Psychiatrists and provides that the Higher Education Student Assistance Authority (Authority) shall adopt rules necessary for the administration of the Act.

The Act addresses a shortage of mental health care access in certain areas of the State by providing tuition reimbursement in exchange for up to four years of service as a full-time psychiatrist in an underserved area.

The proposed new rules govern the policy, administration, and procedures of the Tuition Reimbursement Program for Psychiatrists, and are summarized below:

The subchapter heading establishes the name of the program for which these proposed new rules will be promulgated, as the Tuition Reimbursement Program for Psychiatrists.

N.J.A.C. 9A:10-3.1 provides the purpose of the rules established by this subchapter and the scope of eligibility in order to apply for loan redemption.

N.J.A.C. 9A:10-3.2 provides the definitions for words and terms as used within this subchapter, which include “Authority,” “eligible position,” “eligible tuition expenses,” “fiscal year,” “full-time practice as a psychiatrist,” “mental healthcare services,” “Program,” “Program participant,” “State psychiatric hospital,” and “State underserved area.”

The definition for “State psychiatric hospital” differs from N.J.S.A. 18A:71C-59 because, pursuant to Reorganization Plan No. 001-2017, signed June 29, 2017, State psychiatric hospitals are now operated by the Department of Health.

N.J.A.C. 9A:10-3.3 provides the process the Commissioner of Health, in consultation with the Commissioner of Human Services shall use to define underserved areas. This section also specifies the source of the listings of the underserved areas, including the projected number of psychiatrists needed in each area, and the list of State psychiatric hospitals, including the projected number of psychiatrists needed in each hospital.

N.J.A.C. 9A:10-3.4 establishes the eligibility requirements that an applicant must meet in order to participate in the Program.

N.J.A.C. 9A:10-3.5 specifies the procedures that an applicant must follow in order to participate in the Program, as well as the process for the Authority’s review of the information submitted and selection of applicants for acceptance into the Program.

N.J.A.C. 9A:10-3.6 provides the terms for tuition reimbursement, which is initiated by a written contract with the Authority that specifies the duration of the participant’s approved employment service obligation, the total amount of eligible tuition expenses to be reimbursed by the State in return for service, and how participants may charge patients for professional services. The terms also specify the requirements to continue eligibility for annual tuition reimbursement under the Program.

N.J.A.C. 9A:10-3.7 outlines the contributing factors by which the Authority shall terminate a participant’s employment service obligation and subsequently cancel the tuition reimbursement contract, as well as the contributing factors for suspension of the tuition reimbursement contract and the length of the suspension. The section further stipulates that the final decision making authority to terminate a Program participant’s employment service obligation and cancel tuition reimbursement contract lies with the Authority.

N.J.A.C. 9A:10-3.8 outlines the procedures that an applicant must follow in order to appeal a notification of ineligibility for Program participation from the Authority and the Authority’s responsibility to provide a written response to the applicant within 30 days of receipt of the appeal.

As the Authority has provided a 60-day comment period on this notice of proposal, this notice is excepted from the rulemaking calendar requirement pursuant to N.J.A.C. 1:30-3.3(a)5.

Social Impact

The proposed new rules are intended to address a shortage of mental health care access in certain areas of the State by providing tuition reimbursement in exchange for up to four years of service as a full-time psychiatrist in an underserved area. These incentives will ensure that sufficient numbers of psychiatrists are available to provide services in the areas of the State that are currently underserved.

Economic Impact

It is anticipated that these proposed new rules will provide participants with economic relief from the cost of their education. Additionally, as the Program is intended to provide mental health services in underserved areas, it is anticipated that the proposed new rules will provide financial savings to patients who will not have to travel to receive care. An appropriation will be necessary to fund the tuition reimbursements and to administer the Program.

Federal Standards Statement

A Federal standards analysis is not required since the proposed new rules are not subject to any Federal requirements or standards, with the exception of requiring participants to agree to limit fees charged to recipients of benefits under the Federal Medicare Program established pursuant to Pub. L. 89-97 (42 U.S.C. §§ 1395 et seq.).

Jobs Impact

The proposed new rules will not result in the loss or generation of jobs but will help to alleviate the shortage of psychiatrists practicing in underserved areas by providing tuition reimbursement incentives for psychiatrists to practice in those areas.

Agriculture Industry Impact

The proposed new rules will have no impact on the agriculture industry.

Regulatory Flexibility Statement

A regulatory flexibility analysis is not required because the proposed new rules do not impose reporting, recordkeeping, or other compliance requirements on small businesses as defined by the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq. The proposed new rules address the critical shortage of mental health services in underserved areas.

Housing Affordability Impact Analysis

The proposed new rules will have an insignificant impact on the affordability of housing in New Jersey and there is an extreme unlikelihood that the rules would evoke a change in the average costs associated with housing because the proposed new rules concern tuition reimbursement for mental health professionals who practice in underserved areas of the State.

Smart Growth Development Impact Analysis

The proposed new rules will have an insignificant impact on smart growth and there is an extreme unlikelihood that the proposed new rules would evoke a change in housing production in Planning Areas 1 or 2, or within designated centers, under the State Development and Redevelopment Plan in New Jersey because the proposed new rules concern tuition reimbursement for mental health professionals who practice in underserved areas of the State.

Full text of the proposed new rules follows (additions indicated in boldface **thus**; deletion indicated in brackets [thus]):

SUBCHAPTER 3. [(RESERVED)] **TUITION REIMBURSEMENT PROGRAM FOR PSYCHIATRISTS**

9A:10-3.1 Purpose and scope

The rules established by this subchapter provide the policies and procedures for participation in the Tuition Reimbursement Program for Psychiatrists administered by the Higher Education Student Assistance Authority. This Program shall provide reimbursement to Program participants for a portion of the eligible tuition expenses incurred by the participants in attending medical school.

9A:10-3.2 Definitions

The following words and terms, when used in this subchapter, shall have the following meanings, unless the context clearly indicates otherwise:

“Authority” means the Higher Education Student Assistance Authority.

“Eligible position” means full-time employment as a psychiatrist in a State underserved area or at a State psychiatric hospital, or at a combination thereof.

“Eligible tuition expenses” means tuition expenses that were incurred by a Program participant in attending an accredited medical school and were not covered by any grants or scholarships.

“Fiscal year” means the period of time beginning on July 1 of a given year and ending on June 30 of the following year.

“Full-time practice as a psychiatrist” means 35 hours per week in an eligible position.

“Mental healthcare services” means the assessment and treatment of individuals with mental health or substance use disorders.

“Program” means the Tuition Reimbursement Program for Psychiatrists established pursuant to N.J.S.A. 18A:71C-59 et seq.

“Program participant” means a psychiatrist who contracts with the Authority to provide mental health care services in a State underserved area or in a State psychiatric hospital in return for tuition reimbursement provided under the Program.

“State psychiatric hospital” means a State psychiatric hospital operated by the Department of Health and listed in N.J.S.A. 30:1-7.

“State underserved area” means a geographic area in this State that the Commissioner of Health, in consultation with the Commissioner of Human Services, determines, on the basis of health status and economic indicators, as having a physician shortage in the specialty of psychiatry.

9A:10-3.3 Designation of underserved areas; list of available positions in State psychiatric hospitals

(a) In accordance with N.J.S.A. 18A:71C-62, the Commissioner of Health, in consultation with the Commissioner of Human Services, shall designate State underserved areas that have a shortage of psychiatrists. In designating State underserved areas, the Commissioner of Health shall consider health status criteria and economic indicators including, but not limited to, the financial resources of the population who reside in the area under consideration and the population’s access to mental health care services.

(b) The Commissioner of Health shall transmit to the Authority, a list of the State underserved areas and the projected number of psychiatrists needed in each area.

(c) The Commissioner of Health shall transmit to the Authority, the list of the State psychiatric hospitals and the projected number of psychiatrists needed in each hospital.

9A:10-3.4 Eligibility requirements for Program participation

(a) To be eligible for participation in the Program, an applicant must:

1. Maintain residency in the State during participation in the Program;

2. Be a State-licensed physician who has successfully completed all educational and residency training requirements for the practice of psychiatry by the date of execution of the Program contract;

3. Apply for the Program by September 30 of the calendar year after completing an accredited residency training program in psychiatry or completing an accredited fellowship in child and adolescent psychiatry;

4. Agree to practice full-time as a psychiatrist in a State underserved area and/or in a State psychiatric hospital for a period of one to four years in return for the tuition reimbursement provided under the Program; and

5. Not be simultaneously participating in either the Primary Care Practitioner Loan Redemption Program, N.J.S.A. 18A:71C-32 et seq., or in the Federally administered National Health Service Corps Loan Repayment Program, § 338B of the Public Health Service Act (42 U.S.C. § 2541-1).

9A:10-3.5 Application procedures

(a) In order to apply for participation in the Program, an applicant must complete a tuition reimbursement Program

application and submit it to the Authority between July 1 and September 30.

1. The Program application includes, but is not limited to:
 - i. The applicant's identification and contact information;
 - ii. Certification of full-time employment from the applicant's current employer or anticipated employer, including the start date;
 - iii. Proof of medical school attendance and graduation; and
 - iv. Proof of the amount of the applicant's tuition expenses for each year of medical school.

(b) The Authority will select Program participants from among those applicants who meet the eligibility criteria established pursuant to the N.J.A.C. 9A:10-3.4. Approval of the selected candidates is conditional upon the candidate receiving a license to practice medicine in New Jersey.

(c) In the event there are insufficient funds to select all of the applicants who meet the eligibility criteria, the Authority will rank all of the applications received during the application submission period using predetermined scoring evaluation criteria, which will be updated annually and posted on the Authority's website prior to July 1 each year.

(d) The Authority's approval of Program participation is subject to available funding.

9A:10-3.6 Terms for tuition reimbursement

(a) An applicant who is selected for participation in the Program shall enter into a written contract with the Authority. The contract shall specify the total amount of eligible tuition expenses to be reimbursed by the State, not to exceed 25 percent of the participant's eligible tuition expenses for the one academic year of medical school attendance in which tuition was the lowest, in return for each full year of service satisfactorily completed by the participant, not to exceed four years. The contract shall require a program participant to:

1. Charge for professional services at the usual and customary rate prevailing in the State underserved area, but allow a patient who is unable to pay that charge to pay at a reduced rate or receive care at no charge;
2. Not discriminate against any patient in the provision of mental health care services on the basis of that person's ability to pay or source of payment; and
3. Agree not to charge in excess of the limiting fee for a service, as determined by United States Secretary of Health and Human Services, to a recipient of benefits under the Federal Medicare program established pursuant to Pub. L. 89-97 (42 U.S.C. §§ 1395 et seq.).

(b) In order to maintain Program eligibility a participant must:

1. Maintain residency in the State;
2. Maintain a license to practice medicine in the State;
3. Annually submit a certification signed by his or her employer verifying his or her continued employment and satisfactory performance in an eligible position.

(c) If a participant changes employers while participating in the Program, he or she must provide the Authority with a certification signed by the previous full-time employer containing the termination date from that position and a certification from the new full-time employer containing the start date for that position and verification of the participant's continued employment and satisfactory performance in an eligible position. If there is a gap in full-time service between eligible positions, the service obligation will be extended a commensurate amount of time to complete a full year of service.

9A:10-3.7 Termination or suspension of the participant's tuition reimbursement contract

(a) The Authority shall terminate the participant's employment service obligation and cancel the tuition reimbursement contract if it determines:

1. On the basis of a sworn affidavit of a qualified physician, that the participant is totally and permanently disabled;
2. On the basis of a death certificate, or other evidence of death that is conclusive under State law, that the participant has died;

3. On the basis of substantiating documentation as may be deemed necessary by the Authority upon specific case review, that continued enforcement of the employment service obligation may result in extreme hardship for the participant;

4. That the participant is no longer employed in a qualified position;

5. That the participant has been convicted of a felony and/or a high misdemeanor, as defined in N.J.S.A. 2C:1-4.d, or has committed an act of gross negligence in the performance of his or her employment service obligation; or

6. That the participant's license to practice has been revoked or suspended for cause.

(b) The Authority may suspend the participant's employment service obligation and the tuition reimbursement contract if it determines, on the basis of substantiating documentation as may be deemed necessary by the Authority upon specific case review, that continued enforcement of the employment service obligation may result in extreme hardship for the participant. Extreme hardships include, but are not limited to: temporary disability, military action, or temporary suspension of professional license pending the outcome of an investigation.

1. The Authority may suspend the employment service obligation and the tuition reimbursement contract of the Program participant for a period of up to two calendar years from the date the suspension commences. At the end of the first year of suspension, the participant must provide the Authority with substantiating documentation, as defined in this subsection, to renew the suspension for a second year.

2. The suspension, as stipulated in (b)1 above, may be extended beyond two years for exceptional circumstances at the discretion of the Authority on the basis of substantiating documentation, as defined in this subsection.

(c) The Higher Education Student Assistance Authority shall have final decision making authority to terminate a Program participant's employment service obligation and cancel the tuition reimbursement contract.

9A:10-3.8 Appeals process

(a) When an applicant has received a notification of ineligibility for Program participation, he or she may submit a written appeal to the Authority within 30 days of the date of the notification. The written appeal must include the following:

1. A copy of the notification of ineligibility received by the applicant from the Authority; and
2. The reason(s) why the applicant feels he or she is eligible to participate in the Program along with any documentation that the applicant has obtained to support the appeal, if applicable.

(b) The applicant will receive a written response from the Authority concerning the determination of his or her eligibility for Program participation within 30 days of the receipt of the appeal.

LAW AND PUBLIC SAFETY

(a)

DIVISION ON CIVIL RIGHTS

Advertising Relating to Real Property

Proposed New Rule: N.J.A.C. 13:9

Authorized By: Craig Sashihara, Director, Division on Civil Rights.

Authority: N.J.S.A. 10:5-8, 10:5-12, and 10:5-18.

Calendar Reference: See Summary below for explanation of exception to calendar requirement.

Proposal Number: PRN 2018-048.

Submit written comments by August 3, 2018, to:

Estelle Bronstein, Deputy Executive Director
 Department of Law and Public Safety
 Division on Civil Rights