

STATE OF COLORADO

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Dedicated to protecting and improving the health and environment of the people of Colorado

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Colorado Department
of Public Health
and Environment

To: Members of the State Board of Health

From: Stephen Holloway, Director
Health Equity & Access Branch

Through: Elizabeth Whitley, Director
Prevention Services Division

Date: March 26, 2014

Subject: **Request for Rulemaking Hearing**
Proposed Repeal of 6 CCR 1015-6, “Rules Concerning the Certification of Health Care Professionals Practicing in Rural Health Professional Shortage Areas to Qualify for the State Income Tax Credit” for the rulemaking hearing to occur in September of 2014.

The Prevention Services Division proposes to repeal the rules pertaining to the Rural Health Care Professional Tax Credit, pursuant to statute §39-22-126, C.R.S. The program reached its “sunset” date in statute on July 1, 2008. There is, therefore, no statutory authority for the rules so the rules must be repealed.

Although the division’s Primary Care Office no longer administers this program, the Office has since replaced it with the Colorado Health Service Corps (July 1, 2009). The Corps provides educational loan debt forgiveness for health professionals in exchange for a period of service in a rural or underserved community. Service terms are typically three years and, unlike the tax credit, the clinician is required to provide some care to publicly insured and uninsured individuals. Applicants to the program are selected based on characteristics that are believed to support long-term provider retention. The Corps is significantly more effective than the tax credit in supporting the clinical workforce in rural communities.

STATEMENT OF BASIS AND PURPOSE
AND SPECIFIC STATUTORY AUTHORITY

for Amendments to

6 CCR 1015-6, "Rules Concerning the Certification of Health Care Professionals Practicing in Rural Health Professional Shortage Areas to Qualify for the State Income Tax Credit"

Basis and Purpose.

The Rural Health Care Professional Tax Credit Program allowed practicing physicians, physician assistants, nurse practitioners and dentists in a rural Health Professional Shortage Areas to apply for a state income tax credit pursuant to Article 22 of Title 39, Colorado Revised Statutes if the clinician had outstanding student loan debt. To be eligible for the tax credit, the applicant had to complete a minimum of three years of service in the qualified rural practice. The purpose of the program was to create a financial incentive to encourage health care professionals to serve in the medically underserved areas of Colorado. The legislative authority for the program reached its "sunset" date on July 1, 2008. The Primary Care Office no longer administers the program.

Specific Statutory Authority.

The existing rules were promulgated pursuant to §39-22-126, C.R.S. The rules are being repealed pursuant to the program "sunset" date of July 1, 2008.

SUPPLEMENTAL QUESTIONS

Is this rulemaking due to a change in state statute?

XX Yes
___ No

Is this rulemaking due to a federal statutory or regulatory change?

___ Yes
XX No

Does this rule incorporate materials by reference?

___ Yes
XX No

Does this rule create or modify fines or fees?

___ Yes
XX No

REGULATORY ANALYSIS

for

Proposed Repeal of 6 CCR 1015-6, Rules pertaining to Certification of Health Care Professionals Practicing in Rural Health Professional Shortage Areas to Qualify for the State Income Tax Credit
November 14, 2001

- 1. A description of the classes of persons who will be affected by the proposed rule, including classes that will bear the costs of the proposed rule and classes that will benefit from the proposed rule.**
The statutory authority for the program was ended July 1, 2008, thus no program activity has been conducted since that date. There is no negative impact on any classes of persons resulting from the repeal of this rule.
- 2. To the extent practicable, a description of the probable quantitative and qualitative impact of the proposed rule, economic or otherwise, upon affected classes of persons.**
There is no quantitative, qualitative or economic impact due to the repeal of this rule.
- 3. The probable costs to the agency and to any other agency of the implementation and enforcement of the proposed rule and any anticipated effect on state revenues.**
There is no cost to the agency or to any other agency due to the repeal of this rule.
- 4. A comparison of the probable costs and benefits of the proposed rule to the probable costs and benefits of inaction.**
There are no differential costs or benefits between repeal of this rule and no action.
- 5. A determination of whether there are less costly methods or less intrusive methods for achieving the purpose of the proposed rule.**
There are no less costly or less intrusive methods for achieving the purpose of repeal.
- 6. A description of any alternative methods for achieving the purpose of the proposed rule that were seriously considered by the agency and the reasons why they were rejected in favor of the proposed rule.**
There are no other alternative methods for achieving the purpose of the proposed rule repeal.
- 7. To the extent practicable, a quantification of the data used in the analysis; the analysis must take into account both short-term and long-term consequences.**
Not applicable.

DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT

Rural Health Care Professional Tax Credit

6 CCR 1015-6

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1.1 Definitions:

- (1) ~~“Advance practice nurse” means a licensed nurse who has been accepted by the Colorado Board of Nursing for inclusion in the advance practice registry as a nurse practitioner, certified nurse midwife, clinical nurse specialist or a certified nurse anesthetist.~~
- (2) ~~“Department” means the Colorado Department of Public Health and Environment~~
- (3) ~~“Health care professional.” For the income tax year commencing on or after January 1, 2000, but prior to January 1, 2001, “health care professional” means a physician, physician assistant or advance practice nurse who is licensed or certified as such under the laws of this state. For the income tax year commencing on or after January 1, 2001, but prior to January 1, 2002, “health care professional” includes dentists who are licensed or certified as such under the laws of this state. For any income tax year commencing on or after January 1, 2002, “health care professional” includes dental hygienists who are licensed as such under the laws of this state.~~
- (4) ~~“Hospital” means a licensed general acute care hospital or primary care hospital.~~
- (5) ~~“Qualifying individual” means a health care professional who practices at least twenty (20) hours per week, has resided and practiced in a rural health care professional shortage area for no less than one hundred and eighty (180) days of the first income tax year for which credit is claimed, and who submits the documentation required by section 1.2 below.~~
- (6) ~~“Rural health care professional shortage area” means any area within a county that is not included within Colorado’s metropolitan statistical area counties of Adams, Arapahoe, Boulder, Broomfield, Denver, Douglas, El Paso, Jefferson, Larimer, Mesa, Pueblo and Weld; or any area within a county that is included within Colorado’s metropolitan statistical counties if such area is located thirty or more miles from the nearest hospital containing thirty or more licensed beds.~~

1.2 Application Requirements

~~Physicians, dentists, dental hygienists, advance practice nurses and physician assistants who plan to apply for a state income tax credit pursuant to part 1 of Article 22 of Title 39, Colorado Revised Statutes must submit the information listed below to the Colorado Department of Public Health and Environment using the application form provided by the Department. For the first year of participation in the program the health care professional must submit items 1 through 9 to the Department:~~

- (1) ~~A copy of his or her current Colorado license or certificate that shows that he or she is licensed or certified to practice in one of the professions eligible to receive an income tax credit from the state of Colorado. Advance practice nurses must also submit their registration number showing that they are on the advance practice registry.~~
- (2) ~~Evidence of residence in an area eligible for participation in the tax credit program or attestation regarding current residence, and duration of residence at this location. For a health care professional who resides in Adams, Arapahoe, Boulder, Broomfield, Denver, Douglas, El Paso, Jefferson, Larimer, Mesa, Pueblo or Weld county, a statement of the distance in miles from his or her residence by the shortest distance over paved roads to the nearest hospital with thirty or more licensed beds using a list of licensed hospitals supplied by the department.~~

- ~~(3) Evidence of current location or locations of practice as a health care professional in one or more rural health care professional shortage areas as defined in these rules, such as employment contracts or self-attestation regarding practice location(s), average number of practice hours per week in each location and length of time the individual has worked in each location.~~
- ~~(4) For a health care professional who practices in Adams, Arapahoe, Boulder, Broomfield, Denver, Douglas, El Paso, Jefferson, Larimer, Mesa, Pueblo or Weld county, a statement of the distance in miles from his or her practice by the shortest distance over paved roads to the nearest hospital with thirty or more licensed beds using a list of licensed hospitals supplied by the department.~~
- ~~(5) Health care professionals who practiced in more than one location during the calendar year for which the credit is being claimed must provide the address including county, and the duration of practice at each location. In addition, if any of the locations for which the credit is being claimed were in Adams, Arapahoe, Boulder, Broomfield, Denver, Douglas, El Paso, Jefferson, Larimer, Mesa, Pueblo or Weld county, the health care professional must also provide a statement of distance as set forth in §1.2(4).~~
- ~~(6) A statement from the lending institution dated within the last three months that shows the loan balance and verifies that the health care professional is current with respect to payments on the loan. Statements must clearly show that the loan was used to finance higher education opportunities resulting in a degree or certification as an advance practice nurse, dentist, dental hygienist, physician assistant or physician, or the health care professional must submit an attestation stating that the loan was used to finance higher education opportunities resulting in a degree or certification as an advance practice nurse, dentist, dental hygienist, physician assistant or physician. The information provided by the lending institution must include the total amount of the outstanding loan as of January first of the first year for which the tax credit is claimed.~~
- ~~(7) The health care professional must include a statement that identifies all loan repayment programs in which he or she has participated or is participating, and the total amount of the loan repayment granted under each program.~~
- ~~(8) Health care professionals who are employed by another person, business or organization must submit a copy of their contract or letter of intent from the employer to employ the individual for at least three years or a letter from the employer stating that the contract or employment agreement is not temporary and can be renewed. Health care professionals who are self-employed must submit a signed and dated statement that they intend to practice at the same qualifying location or locations for at least three years.~~
- ~~(9) All health care professionals must sign and date a statement agreeing to inform the Department if they move their residence or practice location prior to fulfilling their three-year commitment to the area, if they lose their license or certification to practice, or if they otherwise cease to practice in a qualifying area or for the required number of hours prior to fulfilling their three-year commitment. Failure to fulfill the commitment will result in a report to the Department of Revenue that the commitment has not been completed and subjects the health care professional to the repayment requirement under 39-22-126 (7) Colorado Revised Statutes.~~

For the second and all subsequent years of the program, the health care professional must submit documentation covering items 1 through 8.

1.3 service requirement

To qualify for the state income tax credit, health care professionals must practice for three years in a rural health care professional shortage area as defined in these regulations. The health care professional must provide the health care services in consecutive years to qualify except that individuals who take a leave of absence in accordance with the Family Medical Leave Act may provide the required service over a four-

year period. Health care professionals who are unable to complete the required service in three years must notify the Department and request a deferment of their obligation. The Department will review the case and grant a one-year extension to health care professionals who meet these requirements, and who provide a brief explanation of the circumstances that require the extension and an attestation that the service requirement will be met within four years. Requests that do not fall under the Family Medical Leave Act will be considered on a case-by-case basis.

The Department reserves the right to verify that the residence and practice location requirements are met through the use of mapping programs or a visit to the area. The Department may request additional information from the health care professional if the materials submitted are unclear, inconsistent or incomplete.

The Department will notify the Colorado Department of Revenue if a health care professional, who has previously been issued a certificate as a qualifying individual under these regulations, moves out of the area, changes practice locations, ceases practice or otherwise ceases to meet these requirements and becomes ineligible for the state income tax credit. The Department will notify the Department of Revenue if it obtains information that the health care professional provided false or misleading information if that information was the basis for issuing the certificate of eligibility. The Department will copy the notice to the health care professional at the most recent residence address on file with the Department.

1.4 Application Deadlines

The Department will accept applications from January 1 through March 10 for certifications to meet the April 15 filing deadline for the previous year's state income tax returns. Applicants who request an extension of the filing date can apply after March 10 by submitting a copy of the extension request with their applications.