

## Chapter Comm 128

### HEALTH CARE PROVIDER LOAN ASSISTANCE PROGRAM

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**Note:** Chapter Comm 128 as it existed on June 30, 1998 was repealed and new chapter Comm 128 was created effective July 1, 1998.

**Comm 128.01 Purpose.** The purpose of this chapter is to establish the procedures under which health care providers may apply for assistance under this chapter; to establish priorities among eligible applicants in the event that the number of applicants exceeds available funding; and to establish penalties for breach of an agreement, including circumstances under which those penalties may be waived.

**History:** Cr. Register, June, 1998, No. 510, eff. 6-1-98.

**Comm 128.02 Definitions.** In this chapter:

(1) "Dental health shortage area" has the meaning contained in s. 36.61 (1) (ag), Stats.

(2) "Dental hygienist" has the meaning contained in s. 36.61 (1) (aj), Stats.

(3) "Department" means the department of commerce.

(4) "Educational loan" means a health education assistance loan, a plus loan, a national direct student loan, a stafford loan, a health professions student loan, a supplemental loan for students, a guaranteed student loan from a state education financial aid office, a university sponsored student loan, a trust fund loan, a scholastic loan, a foundation loan or any other loan that the department determines is exclusively for educational purposes, and that was obtained by the health care provider from a public or private lending institution for education related to the health care provider's field of practice.

(5) "Eligible practice area" has the meaning contained in s. 36.61 (1) (am), Stats.

(6) "Health care provider" has the meaning contained in s. 36.61 (1) (b), Stats.

(7) "Nurse-midwife" means a person who practices nurse-midwifery in accordance with s. 441.15, Stats.

(8) "Nurse practitioner" means a person who meets the requirements of s. 632.895 (8) (a) 3., Stats., or who is licensed as a registered nurse under ch. 441, Stats., or the laws of another state and who satisfies any of the following:

(a) Is certified as a primary care nurse practitioner or clinical nurse specialist by the american nurses' credentialing center, the national certification corporation, the national certification board of pediatric nurse practitioners and nurses, the american academy of nurse practitioners, or by another certifying body approved by the american board of nursing specialties.

(b) Has completed an educational program approved by one of the certifying bodies listed in par. (a) and who is eligible, or who upon completion of the minimum time-in-practice requirement will be eligible, to take the professional certification examination as an advanced practice nurse.

(9) "Physician assistant" has the meaning contained in s. 448.01 (6), Stats.

(10) "Primary care" means basic health care services including general assessment, treatment, and management of common

acute and chronic medical conditions, health promotion and disease prevention, and prenatal care and delivery services.

**History:** Cr. Register, June, 1998, No. 510, eff. 6-1-98; CR 01-157: renun. (1) to (8) to be (3) to (10), cr. (1) and (2), Register, June 2002 No. 558, eff. 7-1-02; corrections in (1), (2), (5) and (6) made under s. 13.92 (4) (b) 7., Stats.

**Comm 128.025 Medical assistance and badger care requirements for dental hygienists.** (1) In addition to conforming to s. Comm 128.02 (1), the dental hygienist's employer shall agree to the following:

(a) In year 1 of the dental hygienist's agreement with the department, his or her employer shall provide dental services to at least 50 unduplicated medical assistance or badger care recipients, not to fall below a minimum of \$8,000 in claims paid.

(b) In year 2 of the dental hygienist's agreement with the department, his or her employer shall provide dental services to at least 70 unduplicated medical assistance or badger care recipients, not to fall below a minimum of \$11,000 in claims paid.

(c) In year 3 of the dental hygienist's agreement with the department, his or her employer shall provide dental services to at least 90 unduplicated medical assistance or badger care recipients, not to fall below a minimum of \$15,000 in claims paid.

(2) In this section, "unduplicated" means that a recipient may only be counted once for the year regardless of the number of visits during the year.

(3) The department may waive the requirements of sub. (1) on a case-by-case and year-to-year basis upon an administrative review that shows the employer for whom the dental hygienist works made a significant effort to achieve the targets contained in sub. (1) and that the employer has credible plans, as determined by the department, to meet the following year's targets, if applicable. If, in the opinion of the department, the employer did not make a significant effort nor has credible plans to meet future targets as established in sub. (1), the dental hygienist may be required to repay any monies paid to the hygienist by the department without additional penalties and may not receive additional loan assistance for subsequent periods.

**History:** CR 01-157: cr. Register June 2002 No. 558, eff. 7-1-02.

**Comm 128.03 Priorities among eligible applicants.**

(1) Any health care provider who practices in an eligible practice area and who provides primary or dental care is eligible for educational loan repayment as provided in s. 36.61 (4), Stats.

(2) If the cost of repaying the educational loans of all eligible applicants, when added to the cost of educational loan repayments scheduled under existing agreements, exceeds the total amount in the appropriations under s. 20.285 (1) (jc) and (ks), Stats., the department shall establish priorities among eligible applicants based upon the following considerations:

(a) *Extremely high need for medical or dental care.* The degree to which there is an extremely high need for medical or dental care in the eligible practice area in which the eligible applicant proposes to practice.

(b) *Health care provider retention.* The likelihood that an eligible applicant will remain in the eligible practice area in which he or she desires to practice after the loan repayment period.

(c) *Per capita income.* The per capita income of the eligible practice area in which an eligible applicant desires to practice.

(d) *Financial support for health care provider recruitment and retention.* The financial or other support for health care provider recruitment and retention provided by individuals, organizations or local governments in the eligible practice area in which an eligible applicant desires to practice.

(e) *Geographic distribution.* The geographical distribution of the health care providers who have entered into loan repayment agreements under this section and the geographical location of the eligible practice area in which an eligible applicant desires to practice.

(f) *Length of service.* The degree to which the medical or dental provider is new to the eligible practice area.

(g) *Loan balance.* The educational loan balance of the eligible applicant.

(h) *Provision of medical assistance and badger care services.* If already in practice, the degree to which the dental hygienist provides medical assistance and badger care services in the dental practice.

**History:** Cr. Register, June, 1998, No. 510, eff. 6-1-98; CR 01-157: am. (1), (2) (intro.), (a) and (f), cr. (2) (h), Register June 2002 No. 558, eff. 7-1-02; **corrections in (1) and (2) (intro.) made under s. 13.92 (4) (b) 7., Stats.**

**Comm 128.04 Application process.** (1) Applications shall be in such form as the department may require and shall contain the following information:

(a) Evidence of health or dental care professional educational program attendance.

(b) Evidence of licensure or certification as a nurse-midwife, nurse practitioner, dental hygienist or physician assistant.

(c) Evidence of educational loan indebtedness and educational loan outstanding balance.

(d) The location of the applicant's current or proposed practice.

(e) Evidence that the provider practices or will practice primary care in an eligible practice area.

(f) The length of time the health care provider has practiced in the eligible practice area.

(g) Information about the likelihood that the applicant will remain in the eligible practice area after the loan repayment period.

(h) Any other information the department may require to make a determination in accordance with the provisions of s. 36.61, Stats., and this chapter.

(2) The department shall prepare application materials that it may update as necessary.

**History:** Cr. Register, June, 1998, No. 510, eff. 6-1-98; CR 01-157: am. (1) (a) and (b), Register June 2002 No. 558, eff. 7-1-02; **correction in (1) (h) made under s. 13.92 (4) (b) 7., Stats.**

**Comm 128.05 Breach of agreement.** (1) The following actions, if taken by a provider who has entered into an agreement with the department under the state health care provider loan repayment program for repayment of loans entirely from state funds, after July 1, 1998, shall constitute a breach of that agreement:

(a) No longer practicing at an eligible clinic.

(b) Reducing hours below the minimum required by the department.

(c) Failing to treat medicare or medicaid patients.

(d) Failing to apply funds received from the department to repayment of eligible loans.

(e) Failing to timely supply documentation required by the department.

(f) Failing to work at least 45 weeks per year.

(g) Failing to meet the additional requirements outlined for dental hygienists in s. Comm 128.025.

(2) The following actions, if taken by a provider who has entered into an agreement with the department under the expanded loan assistance program under s. 36.61 (3) (a), Stats., shall constitute a breach of that agreement:

(a) No longer practicing at an eligible clinic.

(b) Reducing hours below the minimum required by the department.

(c) Failing to take medicare assignment.

(d) Failing to treat medicaid patients.

(e) Failing to apply funds received from the department to repayment of eligible loans.

(f) Failing to timely supply documentation required by the department.

(g) Failing to work at least 45 weeks per year.

(h) Failing to use a sliding fee scale or comparable method of determining payment arrangements for patients who are not eligible for medicare or medical assistance and who are unable to pay the customary fee for the health care provider's services. Sliding fee scales may vary from clinic to clinic but, at a minimum, shall address persons with incomes below 200% of the federal poverty level.

**History:** Cr. Register, June, 1998, No. 510, eff. 6-1-98; CR 01-157: cr. (1) (g), am. (2) (h), Register June 2002 No. 558, eff. 7-1-02; **correction in (2) (intro.) made under s. 13.92 (4) (b) 7., Stats.**

**Comm 128.06 Penalties for breach of agreement.**

(1) A provider who breaches an agreement with the department in the first year of the provider's obligation shall repay to the department the amount already received plus an amount equal to the total months of obligation multiplied by \$500.

(2) A provider who breaches an agreement with the department in the second year of the provider's obligation shall repay to the department the amount already received plus an amount equal to the number of months remaining in the agreement multiplied by \$500.

(3) A provider who breaches an agreement with the department in the third year of the provider's obligation shall repay to the department the amount already received for the months remaining in the agreement plus an amount equal to the number of months remaining in the agreement multiplied by \$500.

**History:** Cr. Register, June, 1998, No. 510, eff. 6-1-98; CR 01-157: am. (2) and (3), Register June 2002 No. 558, eff. 7-1-02.

**Comm 128.07 Waiver of penalties.** The department may waive any penalty for breach of agreement if the provider is unable to serve or repay due to a permanent physical or mental impairment that prevents the provider from working in the provider's profession. The provider shall provide verification of his or her condition from an appropriate board certified specialist or specialists that will reasonably convince the department that the provider will be unable to continue working in the provider's profession.

**History:** Cr. Register, June, 1998, No. 510, eff. 6-1-98.

**Comm 128.08 Suspension.** A provider's contract may be suspended by the department, without penalty, for a period of time agreed upon by the provider and the department for certain hardships, including an extended illness or family leave that exceeds the maximum of 7 weeks off allotted each year, or termination of employment that requires the provider to seek employment in another eligible practice site.

**History:** Cr. Register, June, 1998, No. 510, eff. 6-1-98.