

**This is an amendment to 5.7.3 NMAC, Sections 10 and 11, effective 12/11/2018. Non-substantive grammar corrections to 'and/or' and 'he/she' were made throughout the part to conform to correct legislative styles.**

**5.7.3.10 SELECTION OF LOAN REPAYMENT PARTICIPANTS:**

**A.** Upon receipt of application forms and supporting documentation from eligible participants, a committee will be convened by the commission staff person charged with the administration of this program to make award recommendations. Applicants will be notified within 30 days of the results of this review.

**B.** Preference in awarding funds will be to individuals that have graduated from a New Mexico [public] post-secondary institution.

**C.** Recruitment awards will be made to eligible participants who agree to relocate to an approved practice site.

**D.** Retention awards will be made to eligible participants who agree to remain in an approved practice.

**E.** Award amounts will be dependent upon the location of the practice, the applicant's total health professional educational indebtedness, and certain characteristics of the practice; the committee may modify the amount of the awards based upon available funding or other special circumstances.

**(1)** No award amount may exceed the total medical educational indebtedness of any participant.

**(2)** Highest priority will be given to those participants in practices which are hard to fill (vacancies in excess of 12 months), practices which require after-hours call at least every other night, and those which have heavy obstetrical responsibilities.

**F.** Payments will be made on a quarterly basis upon receipt of a certified quarter (three months) of service which verifies that the participant is satisfactorily providing primary health care services in an approved area.

**G.** Payments will not be made until participants are actually providing services in their approved practice sites, and no payments will be made prior to the date of application and execution of a participation agreement.

**H.** Participants with consolidated loans will be asked to detail the consolidation in writing at the time of application, segregating those loan amounts which qualify under this program for repayment.

**I.** The program will not pay fines, penalties or other financial damages assessed as a result of delinquent payments on eligible loans, other loans or as a result of other legal action taken against participants. [7/15/1998; 5.7.3.10 NMAC - Rn, 5 NMAC 7.3.10, 7/31/2005; A, 12/11/2018]

**5.7.3.11 PARTICIPATION AGREEMENT:** Upon approval, a participation agreement shall be drawn between each eligible participant receiving loan repayment and the department on behalf of the state of New Mexico. The agreement shall state both the participant's obligation under the program as well as the department's responsibility. No payment will be made until a duly signed document is on file at the department offices. The participation agreement shall include, but not be limited to, the following stipulations:

**A.** provide for the repayment of a specified sum as determined in Section 10; the commission will pay the amount due for each quarter of completed service by the program participant, directly to the participant or their lender(s) for payment of their health professional education loans; any amounts allocated to repay loans will be divided equally by the number of quarters in the service period covered by the award; quarters comprise an average of thirteen weeks including paid leave or any combination of hours and weeks thereof for the entire service period;

**B.** state that the department will complete annual reports to all tax authorities delineating award payments made to the program participant;

**C.** state that payment of the award is conditioned upon the program participant submitting timely reports and requests for reimbursement to the department or its designee, as required by the commission;

**D.** state the participant's obligations including a minimum two year period of service in a practice providing continuous clinical services in the field of their profession in an area designated by the committee as eligible;

**E.** state that the program participant is responsible for payment(s) of their eligible health professional education loans until such time that actual loan repayment is performed by the department. Repayment by the

department will begin following the first certified quarter of completed clinical service in an area designated by the committee;

**F.** state that the recipient will charge for professional services at the usual and customary rate prevailing in the area where the services are provided, except that if a person is unable to pay such charge, such person shall be charged at a reduced rate or not charged any fee;

**G.** in providing health services, the participant shall not discriminate against any person on the basis of such person's ability to pay for such services or because payment for the health services provided to such person will be made under the insurance program established under Part A or B of Title XVIII of the Social Security Act or under a state plan for medical assistance approved under Title XIX of such act;

**H.** the participant will accept assignment under Sections 1842(b)(3)(B)(ii) of the Social Security Act for all services for which payment may be under Part B of Title XVIII of such act and enter into an appropriate agreement with the state agency which administers the state plan for medical assistance under Title XIX of such act to provide services to individuals entitled to medical assistance under the plan;

**I.** the award will be terminated if any of the following should occur:

(1) the participant fails to perform continuous clinical service at the approved facility, unless a change of facility or an interruption in service is approved in advance and in writing by the department; no interruption in service exceeding six months will be approved;

(2) the employment of the participant at an approved location is terminated;

(3) the participant loses their professional license, board certification [~~or medicare and/or medicare billing privileges~~] or billing privileges for medicare or medicare; or

(4) the department deems termination is warranted for any other reasonable cause.

**J.** in the event this agreement is terminated by the commission, the commission shall have no obligation to make any further payments to or on behalf of the participant;

**K.** penalties as outlined in Section 12; and

**L.** shall state that the participant further promises:

(1) to use the allocated award solely for the purposes of repaying health professional education loans, including principal, interest and related expenses or, where approved by the commission;

(2) to be responsible for all tax liabilities incurred in the acceptance of the award; and

(3) to complete all necessary reports and requests for loan repayment required by commission and submit them to the commission or its designee on a timely basis.

[7/15/1998; 5.7.3.11 NMAC - Rn & A, 5 NMAC 7.3.11, 7/31/2005; A, 12/11/2018]