

# **Guidance for Temporary Reassignment of State and Local Personnel during a Public Health Emergency**

**Section 201 of the Pandemic and All-Hazards Preparedness Reauthorization Act of 2013 (PAHPRA), Public Law 113-5**

## **Scope**

Section 201 of the Pandemic and All-Hazards Preparedness Reauthorization Act of 2013 (PAHPRA), Public Law 113-5 amends section 319 of the Public Health Service (PHS) Act to provide the Secretary of the Department of Health and Human Services (HHS) with discretion to authorize the temporary reassignment of state, tribal, and local personnel during the time period when she has declared a federal public health emergency upon request by a state or tribal organization. The temporary reassignment provision is applicable to state, tribal, and local public health department or agency personnel whose positions are funded, in full or part, under PHS programs and allows such personnel to immediately respond to the public health emergency in the affected jurisdiction. This authority terminates Sept. 30, 2018.

## **Background**

This new provision provides an important flexibility to state and local health departments and tribal organizations during an event requiring all the resources at their disposal. The temporary reassignment provision permits state, tribal, and local personnel to be voluntarily reassigned so they can immediately respond to the public health emergency in the affected jurisdiction. During the temporary reassignment, the salaries of the affected personnel can be charged to the HHS awards to which they are normally charged, as appropriate.

## **Implementation Guidelines**

Following the declaration of a federal public health emergency by the HHS Secretary, the governor of a state, or the tribal organization, or their appropriate designees, may request the authority to temporarily reassign state and local public health department or agency personnel funded in whole or part through programs funded under the PHS Act. The requests should be comprehensive and include all HHS programs that will be affected as a result of the approval of the temporary reassignment request. Each state and Indian tribe should submit one comprehensive request per declared federal public health emergency. This request should delineate all programs for which you are requesting the authority to temporarily reassign personnel.

## Applicability

- Reassignment must be voluntary. The state or Indian tribe shall not require personnel to agree with the reassignment unless otherwise provided under law or regulation of the state or Indian tribe that receives the authorization for temporary reassignment.
- Staff should, when possible, be reassigned into activities within their identified scope of practice, skill set, credentialing, and in accordance with the jurisdiction's established preparedness plans.
- Staff should receive, at a minimum, just-in-time training, where applicable, upon reassignment.

- States and Indian tribes are encouraged to develop, in advance, written plans to initiate these guidelines in the event of a declared federal public health emergency and include the implementation of this provision in any response exercises conducted throughout the year. Such plans are in addition to other such plans required in the jurisdiction's all-hazards public health preparedness and emergency response plans under section 319C-1 of the PHS Act (which authorizes the Centers for Disease Control and Prevention's Public Health Emergency Preparedness program).

#### Requirements for Submitting Temporary Reassignment Requests

All requests for the authority to temporarily reassign personnel must be submitted in writing to the HHS Secretary by the governor of the state or a tribal organization or his/her designees. In addition to traditional delivery methods, such as U.S. Postal Service or common carrier, requests may be submitted to a dedicated email address which will be provided when final guidance is issued.

At a minimum, the written request must:

- Identify each federal program from which personnel will be reassigned;
- Identify the number of appropriate personnel from each program to be reassigned;
- Describe the activities to be conducted by the reassigned personnel;
- Outline anticipated impacts that the temporary reassignment will have on the affected programs;
- Assure that the reassignment will last no longer than 30 days or until the Secretary of HHS determines that the public health emergency no longer exists, whichever comes first.
- Assure that the public health emergency is in the geographic area of the state or Indian tribe;
- Assure that the current public health workforce cannot adequately and appropriately address the emergency;
- Assure that the public health emergency would be addressed more efficiently and effectively through the temporary reassignment of state or local personnel;
- Assure that the reassignment is consistent with the jurisdiction's all-hazards public health preparedness and emergency response plan required under section 319C-1 of the PHS Act;
- Assure that, unless otherwise provided under the law or regulations of the State or Indian tribe, that personnel have the opportunity to volunteer for temporary reassignment and were not required to agree to a temporary reassignment;
- Agree to submit an after-action report within 90 days after the termination of the authorized reassignment; and
- Assure that the state or Indian tribe will participate in the independent evaluation conducted by the U.S. Comptroller General described in the Evaluation section of this guidance.

**Review and Notification Process:** In deciding whether to grant the state or tribal organization the authority to temporarily reassign personnel, the Secretary must consider any adverse effect on the programs whose personnel are being reassigned. To ensure adequate review of the

request and its impact on the affected program, the Secretary will consult with the appropriate impacted HHS offices for review and program recommendations.

The Secretary will provide written notification to the governor of the state or Indian tribe regarding the outcome of the request. States or Indian tribes may immediately reassign personnel upon notification of approval. Should the initial or supplemental requests be denied, the state or Indian tribe may address all concerns provided with the denial and resubmit the request for further consideration.

The Secretary will also notify Congress when such requests are made and/or authorized or extended.

### **Reassignment Duration**

The authorization to reassign personnel shall terminate at the end of the declared federal public health emergency or 30 days after the request is approved, whichever comes first. In cases where the public health emergency lasts longer than 30 days, the state or Indian tribe may request an extension for an additional 30 days. The request for extension must contain the same information and assurances that are required for the initial request. The same submission and review process will be followed for the extension request. The extension authorization shall terminate at the end of the declared federal public health emergency or at the end of the extension, whichever comes first.

### **Required Reporting**

Within 90 days of the completion of the temporary reassignment, the state or Indian tribe will submit to the Secretary an after action report outlining the effect that the temporary reassignment had on each program. HHS will provide additional guidance on reporting when such requests are approved; however at a minimum, this report must describe:

- The number of persons reassigned from each program;
- The amount of funds used to support the reassigned personnel;
- Actual impact the temporary reassignment had on the programs, both positive and adverse impact;
- How medical surge capacity was improved through reassignment (if applicable);
- How the reassignment of personnel improved operational efficiencies; and
- How the reassignment assisted the state or Indian tribe in responding to or addressing the public health emergency.

Reports may be submitted through the same process used to submit the request(s).

### **Evaluation**

States and Indian tribes that receive authority to temporarily assign personnel must participate in an independent evaluation of the temporary reassignment provision conducted by the U.S. Comptroller General. Such participation includes providing documentation and other information, as requested, to allow the Comptroller General to submit a report to Congress that, at a minimum, will include:

- A description of how, and under what circumstances, such temporary reassignment has been used by states and Indian tribes;
- An analysis of how such temporary reassignment has assisted state and Indian tribes in responding to public health emergencies;
- An evaluation of how such temporary reassignment has improved operational efficiencies in responding to public health emergencies;
- An analysis of the extent to which, if any, federal programs from which personnel have been temporarily reassigned have been adversely affected by the reassignment;
- Recommendations on how medical surge capacity could be improved in responding to public health emergencies and the impact the reassignment flexibility has had under this section on such surge capacity.

## **Definitions**

For the purposes of this guidance, the following definitions apply.

- Public health emergency: any incident determined by the Secretary of Health and Human Services to constitute a public health emergency under section 319 of the PHS (42 U.S.C. § 247d).
- Current public health workforce: State, tribal or local public health department or agency personnel funded in whole or in part through programs authorized under the PHS Act.
- Program: grant, cooperative agreement, contract or other funding mechanism
- Indian tribe/tribal organization: The terms “Indian tribe” and “tribal organization” have the meaning given such terms in section 4 of the Indian Self-Determination and Education Assistance Act.
- State: The term “state” includes, in addition to the entities listed in the definition of such term in section 201 of the PHS Act, the Freely Associated States.
- Reassignment: The transfer of an existing staffing capability to another functional capability.