

PART IX. PAY FOR VHA PHYSICIANS, DENTISTS [AND PODIATRISTS]

1. **SCOPE.** This part contains mandatory pay administration regulations and procedures for Veterans Health Administration (VHA) physicians and dentists in the Department of Veterans Affairs (VA) appointed under the authority of 38 U.S.C. §§ 305, 7306, 7401(1), 7405(a)(1)(A). The Secretary retains authority to act on pay matters involving the Under Secretary for Health.
2. **AUTHORITY.** 38 U.S.C. § 305, §§ 7421(a), 7431- 7433 as amended by P.L. 108-445, [115-182, 116-12].
3. **EXCLUSIONS.** The following categories of physicians, dentists, and podiatrists are ineligible for pay under this part:
 - a. Interns and residents (whether paid by stipend or through a disbursement agreement) appointed under 38 U.S.C. § 7406;
 - b. Fee-basis employees appointed under 38 U.S.C. § 7405(a)(2);
 - c. Fellows (including special fellows such as Health Services Research and Development, Medical Informatics, Advanced Geriatrics, and Advanced Spinal Cord Injury) appointed under 38 U.S.C. § 7405(a)(1)(D);
 - d. Research trainees employed as Associate Investigators appointed under 38 U.S.C. § 7405(a)(1)(D); and
 - e. Physicians, dentists, and podiatrists employed at the Manila Outpatient Clinic who are foreign nationals paid under local national pay schedules established by the Department of State (DOS).
4. **GENERAL.** The pay of VHA physicians, dentists, and podiatrists consists of three elements: base pay, market pay, and performance pay. This policy is intended to make possible the recruitment and retention of the best qualified workforce capable of providing high quality care for eligible veterans. VA is committed to assuring that the levels of annual pay (base pay plus market pay) for VHA physicians, dentists[, and podiatrists] are fixed at levels reasonably comparable with the income of non-VA physicians, dentists[, and podiatrists] performing like services.
5. **DEFINITIONS.**
 - a. **Aggregate Pay.** The sum of all payments made to a physician, dentist[, or podiatrist] in a calendar year, exclusive of lump sum annual leave, reimbursement of travel, backpay, and severance. Physicians, dentists[, and podiatrists] appointed under 38 U.S.C. § 305, § 7306, 7401(1), and 7405(a)(1)(A) may not be paid aggregate compensation in a calendar year higher than the annual pay (excluding expenses) received by the President of the United States.

- b. **Annual Pay.** The sum of the base [and longevity] pay rate and market pay. Annual pay is basic pay only for purposes of computing civil service retirement benefits, lump sum annual leave payments, life insurance, thrift savings plan, work injury compensation claims, severance pay, recruitment, relocation, and retention incentives, continuation of pay, and advances in pay.

- c. **Base and Longevity Pay Schedule.** A table consisting of 15 rates of base pay, designated as steps 1 through 15. Physicians, dentists[, and podiatrists] advance on the table at the rate of one step for every 2 years of VHA service.
- d. **Base Pay Rate.** The rate for a step on the Physician, Dentist[, and Podiatrist] Base and Longevity Pay Schedule.

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- e. **Change in Assignment.** A permanent change in official duty station, change in duty basis (i.e., to/from full-time, part-time or intermittent), change in tier, or a significant change in duties or assignments as determined by an appropriate management official.
- f. **Longevity Step Increase.** Advancement to the next higher step of the grade based upon completing the required waiting period of two years (104 weeks) of creditable service.
- g. **Management Official.** A person who has supervisory authority over staff or program management responsibility.
- h. **Market Pay.** A component of [] [annual] pay intended to reflect the recruitment and retention needs for the specialty or assignment of a particular VHA physician, dentist, or podiatrist.
- i. **Performance Pay.** A component of compensation paid to recognize the achievement of specific goals and performance objectives prescribed on a fiscal year basis by an appropriate management official. The purpose of performance pay is to improve the quality of care and health care outcomes through the achievement of specific goals and objectives related to the clinical, academic and research missions of VA. Performance pay is paid as a lump sum in accordance with paragraph 12 of this part.
- j. **Tier.** A level within the annual pay range for an assignment or specialty.
- k. **Tier Exception.** Approval to exceed the maximum amount of a tier in the nationwide pay range under the provisions of paragraph 14d or Appendix IX-B.
- [l.] **Total [] [Compensation].** The sum of all payments made to a physician, dentist[, or podiatrist.] Includes base pay, market pay, performance pay, recruitment, relocation,[] retention incentives[, and incentive awards.] In Alaska, Hawaii, and Puerto Rico, where the Office of Personnel Management has approved a non-foreign cost-of-living allowance (COLA) under 5 U.S.C. § 5941, total [compensation] also includes the COLA.
- [m.] **Year.** For purposes of determining base pay under paragraph 7, a year is 52 calendar weeks.

6. RESPONSIBILITIES.**a. Secretary.**

- (1) Establishes the market pay of the Under Secretary for Health utilizing an appropriate health care labor market.
- (2) Approves nationwide annual pay ranges after consideration of recommendations of the Under Secretary for Health and after concurrence by the General Counsel and the Assistant Secretary for [Human Resources and Administration/Operations, Security, and Preparedness.]

b. Under Secretary for Health (or Designee).

- (1) Recommends annual pay ranges for each specialty or assignment to the Secretary at least once every two years (this authority may not be redelegated);
- (2) Establishes a Steering Committee comprised of management representatives to develop recommendations for annual pay ranges for each specialty or assignment. The Steering Committee may include no more than one physician, one dentist, and one podiatrist executive serving in a Deputy Under Secretary, Principal Deputy Under Secretary, Network Director, or Facility Director position. The Steering Committee reviews available national pay sources and recommends applicable sources that describe overall compensation practices in broad geographic scope;
- (3) Establishes VHA performance guidelines and objectives for performance pay determinations;
- (4) Approves annual pay (plus non-foreign COLA where applicable) for employees under his/her jurisdiction and annual pay for all VHA physicians, dentists[, and podiatrists] [for Pay Table 6 assignments];
- (5) Approves performance pay amounts for physicians, dentists, and podiatrists in VACO and those in positions centralized to the Secretary or the Under Secretary for Health;
- (6) Approves requests for exceptions to the nationwide pay ranges in accordance with the provisions of appendix B of this part;
- (7) Ensures physicians, dentists[, and podiatrists] in VACO, and those in positions centralized to the Secretary or the Under Secretary for Health, have a market pay review at least once every 24 months and at such other times deemed necessary;
- (8) Approves assignment to tier and annual pay for tier [] [2] national program

assignments; and

- (9) Approves assignment to tier and annual pay for those physicians, dentists, and podiatrists assigned to any tier on the Executive annual pay range.

c. Network Directors (or Designee).

(1) Review and recommend approval or disapproval of annual pay (plus non-foreign COLA where applicable) in excess of \$350,000 per annum[];

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[(2)] Approve annual pay (plus non-foreign COLA where applicable) up to [\$400,000] per annum for physicians, dentists[and podiatrists] under their jurisdiction;

[(3)] Establish VISN performance goals and approve performance pay amounts for physicians, dentists[and podiatrists] under their jurisdiction;

[(4)] Ensure physicians, dentists[and podiatrists] under their jurisdiction have a market pay review at least once every 24 months and at such other times deemed necessary;

[(5)] Approve all annual pay and performance pay amounts for facility Chiefs of Staff and Deputy Chiefs of Staff; and

[(6)] Approve assignment to tier and annual pay for tier 3 network assignments.

d. Facility Directors (or Designee).

(1) Approve assignment to tier and annual pay (plus non-foreign COLA where applicable) up to the maximum rate on the applicable pay table for the corresponding assignment/specialty, not to exceed [] [\$350,000] per annum for individuals under their jurisdiction (excluding Chief of Staff and Deputy Chiefs of Staff). Performance pay and recruitment, retention, and relocation incentives are approved without regard the limitations prescribed under paragraph 14d of this part. The approval of incentives may not be redelegated; and

(2) Approve performance pay amounts for physicians, dentists, and podiatrists at their facility, except Chiefs of Staff and Deputy Chiefs of Staff. The authority to make performance pay decisions may be delegated to an appropriate management official.

e. Chiefs of Staff and Other Management Officials.

(1) Establish and communicate performance goals and objectives to individual physicians, dentists[and podiatrists] employed at their facility;

(2) Makes annual pay recommendations by completing VA Form 10-0432A, Market Pay Review and Approval Form and performance pay recommendations or decisions, as appropriate; and

(3) Ensure physicians, dentists, and podiatrists at their facility receive a market pay review at least once every 24 months and at such other times deemed necessary.

- f. **[Chief Human Capital Officer]**. The Chief Human Capital Officer (CHCO) advises the Under Secretary for Health and other key officials on the regulations, policies, and procedures contained in this part.

g. Human Resources Management Officials.

- (1) Advise facility management on the regulations, policies, and procedures contained in this part;
- (2) Ensure that the policies and procedures concerning physician, dentist[and podiatrist] pay as described in this part are adhered to;
- (3) Perform a technical review of all market pay recommendations;
- (4) Ensure that covered employees are aware of the policies governing the establishment and adjustment of physician, dentist[and podiatrist] pay; and
- (5) Prepare requests and ensure compliance for exceptions to annual pay limitations in accordance with the procedures in paragraph 14.

7. BASE PAY

- a. Each physician, dentist, and podiatrist covered by this part is entitled to a base pay rate determined under the Physician, Dentist[and Podiatrist] Base and Longevity Pay Schedule.
- b. The Physician, Dentist[and Podiatrist] Base and Longevity Pay Schedule contains 15 rates of base pay, designated as steps 1 through 15. The rates of pay that correspond to each step are published annually on the Office of [.] [Chief Human Capital Officer website] at <https://vaww.va.gov/OHRM/>.
- c. The base pay rate payable to a physician, dentist, or podiatrist is determined by the number of total years of service worked as a physician, dentist, or podiatrist in the VHA as reflected by his/her VA service date. The total years of service will be applied to the step rate payable as follows. For the purposes of this paragraph, 104 weeks of creditable service will be counted as two years of service.

Total Service (as determined by VA service date)	Rate Payable
Two years or less	Step 1
More than 2 years and not more than 4 years	Step 2
More than 4 years and not more than 6 years	Step 3
More than 6 years and not more than 8 years	Step 4
More than 8 years and not more than 10 years	Step 5
More than 10 years and not more than 12 years	Step 6
More than 12 years and not more than 14 years	Step 7
More than 14 years and not more than 16 years	Step 8
More than 16 years and not more than 18 years	Step 9
More than 18 years and not more than 20 years	Step 10
More than 20 years and not more than 22 years	Step 11
More than 22 years and not more than 24 years	Step 12
More than 24 years and not more than 26 years	Step 13
More than 26 years and not more than 28 years	Step 14
More than 28 years	Step 15

NOTE: *A description of the types of service creditable towards the calculation of the VA service date are contained in appendix A of this part.*

- d. Base pay rates are adjusted on the same effective date and by the same percentage as any General Schedule adjustment under 5 U.S.C. § 5303, exclusive of locality comparability payments under 5 U.S.C. § 5304. [If such an adjustment would cause the employee's annual pay (sum of base and longevity pay rate and market pay) to exceed the amount of annual pay (excluding expenses) received by the President of the United States as specified in 3 U.S.C. § 102, the employee's biweekly pay will be reduced by the amount of pay projected to exceed the aggregate pay limit in the calendar year. See Part VIII Chapter 2, paragraph 3c. The following remark will be contained on the SF50 of any General Schedule adjustment that results in an annual pay rate in excess of the annual limitation: "The amount of annual pay (base pay plus market pay) received may be limited by 38 U.S.C. § 7431(e)(4) and 3 U.S.C. § 102."]
- e. Since the step rate is based solely on tenure, a physician, dentist, or podiatrist may not be adjusted higher or lower in step, except for corrections undersubparagraph f below.
- f. A physician, dentist [or podiatrist] with unverified prior VHA service at the time of appointment will be placed at Step 1. Upon receipt of the employee's Merged Record Personnel Folder, the step will be redetermined in accordance with the provisions of subparagraph c above. The responsible Human Resources office will process any step adjustment resulting from this review as a retroactive correction to the appointment action. When processing a correction of this type, the appropriate management official should review the previous recommendation of the provider's market pay to ensure the prior service was properly considered and if necessary, the approving official may also recommend retroactively correcting market pay at this time. This may result in an increase or decrease in the market pay component.

8. LONGEVITY STEP INCREASES.

- a. **Eligibility.** Longevity step increases (LSIs) will be granted to physicians, dentists [and podiatrists] that are receiving less than the maximum step rate (step 15) on the Physician, Dentist[, and Podiatrist] Base and Longevity Pay Schedule. If such an increase would cause the employee's annual pay (sum of base and [longevity pay rate and] market pay) to exceed the amount of annual pay (excluding expenses) received by the President of the United States as specified in 3 U.S.C. § 102, the [employee's biweekly pay will be reduced by the amount of pay projected to exceed the aggregate pay limit in the calendar year. See Part VIII Chapter 2, paragraph 3c.] The following remark will be used for LSIs that result in an annual pay rate in excess of the annual limitation: "[The amount of] annual pay (base pay plus market pay) [received may be limited] by 38 U.S.C. § 7431(e)(4) and 3 U.S.C. § 102." See paragraph 14c for information regarding the annual pay limitation.

- b. **LSI Waiting Period.** Each eligible physician, dentist[and podiatrist] will be advanced one step upon completion of two years (104 weeks) of creditable service in VHA.
- c. **Creditable Service.** The following service is counted as creditable in the computation of waiting periods for longevity step increases:
 - (1) Continuous paid full-time, part-time, or intermittent assignment on an indefinite or time limited basis, in the VHA under authority of 38 U.S.C. §§ 7401(1), 7405(a)(1)(A) or 7306.

NOTE: *The period spent in part-time service is covered as though it had been performed on the basis of full-time service. For an intermittent employee, 1 day of credit is given for each day of service in a pay status; 520 compensable days are equivalent to a waiting period of 104 calendar weeks; the accumulation of 520 compensable days must extend over a period of not less than 104 calendar weeks..*

(2) Time elapsing on annual, sick or other leave with pay, including periods for which annual or sick leave is advanced.

(3) Leave without pay not to exceed a total of 30 calendar days in the LSI waiting period.

(4) Active military duty when otherwise creditable service is interrupted.

(5) Any period of 120 calendar days or less between discharge or termination of active military service and re-employment under mandatory provisions of any statute or regulation.

(6) Actual service rendered prior to an extended absence on leave without pay, regardless of the length of such absence, which is due to injury or illness incurred as a direct result of employment.

(7) Leave of absence granted to an employee who is receiving compensation for work injuries under 5 U.S.C. chapter 81.

d. **Effective Date.** Longevity step increases are effective on the first day of the first pay period following completion of the required waiting period.

9. MARKET PAY

a. Each physician and dentist covered by this part is eligible for market pay. Market pay is intended to reflect the recruitment and retention needs for the specialty or assignment of a particular physician or dentist at a VA facility.

b. At least once every two years, the Secretary prescribes nationwide minimum and maximum amounts of annual pay (base pay plus market pay) that will be paid under this paragraph. These amounts are published in the Federal Register for not less than 60 days prior to the effective date. The Secretary may prescribe different ranges for different specialties or assignments. In determining pay ranges, at least two or more national surveys of pay for physicians and dentists are consulted. National surveys consulted include data that describes overall physician and dentist income by specialization or assignment and benefits in broad geographic scope. Annual pay ranges approved by the Secretary are available on the [Office of Human Resources Management](#).

(1) When VA increases the nationwide minimum and/or maximum amounts of annual pay under this paragraph, physicians and dentists are not automatically entitled to a corresponding increase in their individual annual pay rates. Only physicians and dentists whose existing rate of annual pay falls below the newly prescribed nationwide minimum for their designated pay range will automatically receive an increase in market pay to make their annual pay rate equivalent to the new nationwide minimum. [The appropriate management official is responsible for reviewing] the market pay rates for individual physicians and dentists on a periodic basis under the provisions of paragraph 10.

(2) In the event that the nationwide minimum and maximum amounts of annual pay are reduced under this paragraph, physicians and dentists already on VA rolls will not experience a reduction in market pay.

c. There may be up to four tiers of annual pay for each specialty or assignment for which a separate range of pay has been approved. Each tier reflects different professional responsibilities, professional achievements, or administrative duties. The current tier definitions for the annual pay ranges established for individual clinical specialty pay tables are as follows.

(1) **Tier 1.** Staff

(2) **Tier 2.** Program manager, supervisor or section chief

(3) **Tier 3.** Service chief, service line manager or other assignment for which the scope and complexity is determined to exceed the definition of Tier 2, Network-level program manager or national program responsibilities requiring a specialty within the assigned pay table.

NOTE: Consult the published pay tables on the [Office of Human Resources Management Web site](#) to determine the specific tiers and definitions that apply to particular specialties covered by pay tables 5 [and 6].

[d.] **Employees with Dual Assignments [National Level Assignments in VHA Headquarters].** The local [management official] will recommend an annual rate of pay for a physician or dentist who is at a medical center or network office but also has a national level assignment with VHA Headquarters. The Human Resources Office will refer the recommendation [] through the Workforce Management and Consulting Office (10A2) for final approval as to the tier and annual pay in consideration of the VHA Headquarters assignment.

[e. **Full Time Employees with Multiple Assignments at a Facility.** Full time employees may have more than one assignment at a facility. For example, a full time primary care physician with a full panel of patients may also spend additional hours performing compensation and pension examinations or occasionally cover an emergency room as needed, in addition to their normal full time biweekly work requirement. Another example might be a psychiatrist who works full time at the main medical center Monday through Friday and agrees to work each Saturday at an outpatient clinic. In setting market pay for a full time employee with additional assignments such as these, the approving official can adjust market pay to account for these additional assignments.

[f] **Full Time Employees with Assignments at Another Facility.** Full time employees may have assignments at other facilities in addition to their primary full time biweekly assignment at their parent facility. In such cases, the approving official at the parent facility will consult with the approving official at the secondary facility as to the specifics of the secondary assignment, and reach agreement as to the value of the secondary assignment that should be added into the market pay of the employee. The secondary facility will reimburse the parent facility for the additional market pay that is provided to the employee for the secondary assignment.

[g.] The amount of market pay and appropriate tier for a particular physician or dentist is recommended to the approving official by a Compensation Panel as described in paragraph 13 below.

[h.] The determination of the amount of market pay of a particular physician or dentist shall take into consideration:

- (1) The level of experience of the physician or dentist in the specialty or assignment;
- (2) The need for the specialty or assignment of the physician or dentist at the facility;
- (3) The appropriate health care labor market for the specialty or assignment of the physician or dentist;
- (4) The board certifications, if any, of the physician or dentist;
- (5) The accomplishments of the physician or dentist in the specialty or assignment;
- (6) The prior experience, if any, of the physician or dentist as an employee of the VHA [(to include the amount of Base and Longevity Pay the physician or dentist will receive)];
- (7) Consideration of unique circumstances, qualifications or credentials, if any, and the comparison of these circumstances to the equivalent compensation level of non-VA physicians, dentists, or podiatrists in the local health care labor market; and
- (8) In Alaska, Hawaii, and Puerto Rico, the Office of Personnel Management has approved a non-foreign cost-of-living allowance (COLA) under 5 U.S.C. § 5941 which is intended to address living costs substantially higher than those in Washington, DC, and/or conditions of environment substantially different from those in the Continental United States. The non-foreign COLA for physicians, dentists, and podiatrists is calculated as a percentage of the employee's base pay only (the rate for a step on the Physician, Dentist[and Podiatrist] Base and Longevity Pay Schedule). When determining market pay amounts for providers in these areas, the appropriate management official should consider the COLA amount the provider will receive to ensure the provider is adequately, but not excessively, compensated for these issues.

NOTE: *The following factors should be taken into consideration when making market pay recommendations and approvals. Where a provider spends a significant amount of time away from clinical duties within his/her specialty or assignment, the time spent away from clinical duties may impact on the provider's level of experience in the specialty or assignment, availability to work in the specialty or assignment, and/or accomplishments in the specialty or assignment, and may therefore be considered when recommending a market pay amount.*

- i. A recommendation of annual pay using VA Form 10-0432A, Market Pay Review and Approval Form will normally be recommended, and a final decision made prior to the effective date of appointment. In unusual circumstances, a physician, dentist, or podiatrist may be appointed without a market pay review. The following conditions apply:

- (1) The physician, dentist, or podiatrist will be paid only the applicable base pay rate on the Base and Longevity Pay Schedule until the market pay review and recommendation is approved.
- (2) The physician, dentist, or podiatrist must be reviewed by the appropriate management official within the 30 days following the effective date of appointment.
- (3) Once the market pay recommendation action is approved, the market pay rate will be retroactive to the effective date of the appointment.

- j. Market pay recommendations are taken into consideration by the appropriate approving official. The approving official determines the amount of market pay to be paid a physician, dentist, and podiatrist after consideration of the annual pay (the sum of the base pay rate and market pay) recommended by the appropriate management official. The approving official's decision is final.

10. MARKET PAY ADJUSTMENTS FOR INDIVIDUAL PHYSICIANS, DENTISTS [AND PODIATRISTS]

- a. At least once every 24 months, the market pay of each physician, dentist, and podiatrist is reviewed by the appropriate approving official in accordance with the criteria in paragraph 9h. Each physician, dentist [and podiatrist] will be provided a written notice of the results of the review, even if the review does not result in a pay adjustment. The Notification of Personnel Action, SF-50, as well as the Market Pay Review and Approval Form VA 10-0432A, serve as the written notice. If an adjustment is made as a result of the biennial review, [] [to the extent that VHA makes an administrative determination that an employee has been affected by an unjustified or unwarranted personnel action that resulted in the denial of market pay otherwise due to the employee] the effective date of such change will be retroactive to the first pay period following the biennial review due date.[The market pay adjustments processed due to a retroactive biennial review, may be processed under the Back-Pay Act as prescribed in 5 U.S.C. § 5596, if applicable.]
- b. The market pay of a physician, dentist [or podiatrist] is also reviewed upon change in assignment, change in board certification, reduction of clinical privileges, and at any such additional times as deemed necessary or appropriate by an appropriate management official. Change in assignment refers to a permanent change in official duty station, change in duty basis (i.e., to/from full-time, part-time or intermittent), change in tier, or a significant change in duties or assignments as determined by an appropriate management official, such as call duty rotations, or assignment to/from a Community Based Outpatient Clinic. Employees who have multiple assignments at their facility or multiple facilities, as provided for in paragraphs 9e and 9f above, will have their market pay reviewed at any time that their primary or secondary assignment changes. Employees who have multiple assignments at their facility or multiple facilities, as provided for in paragraphs 9e and 9f above, will have their market pay reviewed at any time that their primary or secondary assignment changes. A market pay review, and any subsequent adjustment made based on a change in assignment, is effective the first pay period following approval.
- c. A market pay review cannot result in a reduction in market pay for a physician, dentist[or podiatrist] remaining in the same position or assignment at the same duty station, unless there is a change in board certification or reduction of privileges. Market pay may also be reduced upon change in assignment or as the result of a correction to the appointment action under the provisions of paragraph 7f.

- d. The market pay amount authorized by the approving official is a final decision. There is no reconsideration process. However, employees may request reconsideration of a tier determination under the provisions of paragraph 11 below.

11. RECONSIDERATION OF TIER DETERMINATION.

- a. If a physician, dentist [or podiatrist] believes that his/her tier determination is improper based on the nature of his/her assignment, the employee may submit a request for reconsideration to the official that approved the tier recommendation. These reconsideration procedures do not apply to appointment actions.
 - (1) The request for reconsideration must be submitted in writing to the approving official (i.e., the official who approved the tier recommendation) within 30 days of the end of the pay period in which the pay determination is effected.
 - (2) The request must cite specific facts and circumstances that support the employee's belief that his/her tier determination is inappropriate.
- b. If the Facility Director was the approving official on the original action, the Facility Director will consult with the VISN Chief Medical Officer regarding the reconsideration request. The facility director will consider the recommendation of the Chief Medical Officer and make a final decision regarding the tier reconsideration request. The Facility Director will provide a decision to the employee in writing. The Facility Director's final decision will be filed with the VA Form 10-0432A.
- c. Any tier adjustments resulting from a reconsideration will be effective the beginning of the first pay period after the approving official's decision.
- d. The decision of the approving official is final. There is no further reconsideration.
- e. If the original action was taken at the Network level or above, the approving official's decision is final.

12. PERFORMANCE PAY.

- a. The purpose of performance pay is to improve the overall quality of care and health care outcomes through the achievement of specific goals and objectives related to the clinical, academic and research missions of VA. Performance pay is intended to recognize the degree to which an individual physician, dentist, or podiatrist achieves specific goals and performance objectives prescribed on a fiscal year basis by an appropriate management official. Physicians, dentists [and podiatrists] not excluded under paragraph 3 of this part are eligible to receive performance pay. The amount is determined solely at the discretion of the approving official based on the achievement of the specified goals and objectives and is paid annually as a lump sum.
- b. The amount of performance pay established should be commensurate with the complexity and scope of the goals and objectives. The amount paid to any individual may vary based on the degree of execution and individual achievement of specified goals and objectives.
- c. The amount of performance pay payable to any individual physician, dentist, or podiatrist in a fiscal year is determined by the approving official based on the goals and objectives specified for the fiscal year. The amount payable may not exceed the lower of:

(1) \$15,000, or

(2) The amount that is equal to 7.5% of the annual pay in effect for the physician, dentist [or podiatrist] on September 30th of the fiscal year during the period of time under review.

NOTE: *The amount payable as performance pay to a part-time or intermittent employee shall generally be prorated based on the full-time equivalent salary. However, if there is no qualitative or quantitative difference between the expected contributions of a part-time employee and a similarly situated full-time employee (e.g. when the same performance goals and objectives are used by both full-time, part-time employee) their performance pay amounts should be equal.*

- d. Physicians, dentists [and podiatrists] must be advised of the specific goals and objectives that will be measured in determining their eligibility for performance pay and the maximum monetary value associated with those goals and objectives. These goals and objectives and the maximum amount of performance pay available in connection with achieving the specified goals and objectives must be communicated by an appropriate management official to the individual physician, dentist, or podiatrist within 90 days of the beginning of each fiscal year. For newly hired physicians, dentists [and podiatrists], goals and objectives must be communicated within 30 days of their entrance on duty. [In the event a performance pay goal or objective must be added, changed, or removed after it has been communicated to the employee, the change must be documented on VA Form 10-0432, Performance Pay Recommendation and Approval, and the employee must be notified of the change. Any changes made to performance pay goals or objectives must be communicated to the employee prior to

July 1 to provide at least a 90-day period for the employee to achieve the goal or objective.] VA Form 10-0432 will be used to document when goals and objectives are communicated to each employee. Physicians, dentists [and podiatrists] hired after July 1 are not eligible for performance pay based on their performance within that fiscal year.

- e. Performance goals and objectives are generally developed locally and will differ from performance standards used for the Executive Career Field (ECF) or proficiency rating systems. Examples of categories that may be addressed include outcomes, reduction of waiting times, patient panel sizes, research achievements, performance of compensation and pension exams or other additional tasks, timely completion of medical record documentation, adequacy of medical record documentation for billing purposes, patient satisfaction, exemplary conduct or behavior, teaching students or others, innovations, national priorities, and other areas where improvements, efficiencies or increased effectiveness are identified. Goals and objectives may also be set at the Network or Headquarters level.

- f. At the end of each fiscal year, each supervisor evaluates the degree to which each covered individual achieved the performance goals and objectives communicated at the beginning of the fiscal year. VA Form 10-0432 must be completed and include a description of the performance goals and objectives achieved by the individual that supports the amount of performance pay. VA Form 10-0432 must also be completed if the employee has not successfully met the communicated performance goals and objectives and therefore is not being recommended to receive performance pay. In addition, supervisors and managers must document to what extent a performance or conduct related disciplinary/adverse action impacted an individual's ability to achieve performance pay goals and objectives and what effect, if any, the action had on the performance pay decision. Further, supervisors and managers must document to what extent the performance of part-time or intermittent work, and the effect, if any, the performance of non-clinical duties has had on the performance pay decision. VA Form 10-0432 must be forwarded through the appropriate chain of command to the designated approving official [in sufficient time for the action to be coded in HRSmart for processing and disbursement only during the last pay period paid in the calendar year. In most cases, the last pay period in the calendar year is pay period 25.] Performance pay disbursements may not be made until VA Form 10-0432 is signed by the supervisor and employee and approved by the appropriate management official.
- [g. Physicians, dentists, and podiatrists whose pay is at or projected to exceed the \$400,000 aggregate pay limit will be given goals and objectives but will only receive performance pay to the extent that it does not cause their earnings to exceed the aggregate pay limit, even if that means they receive \$0 for meeting their assigned goals and objectives.
- h. A standard remark will be documented on any performance pay action stating: "Any amount of performance pay that would cause the employee to exceed the aggregate pay limit provided in 38 U.S.C. § 7431(e)(4) and 3 U.S.C. § 102 will be reduced."
- i. Disbursement of performance pay will be placed on hold when a physician, dentist or podiatrist has pending performance or conduct based allegations, a reduction of clinical privileges, or loss of licensure. Performance payments will be withheld pending a review and final determination of the action to be taken.
- j. Performance payments must be coded in HRSmart and disbursed to employees only during the last pay period of the tax year, to allow the Defense Accounting and Finance System (DFAS) to process base and longevity pay rate and/or market pay adjustments throughout the year, up to the aggregate pay limit.
- k.] Physicians, dentists [and podiatrists] who separate from VA employment prior to September 30 are not eligible for performance pay based on their performance within that fiscal year.

[l.] For physicians, dentists[and podiatrists] who transfer during the fiscal year, the gaining facility will consult with the previous supervisor to determine the appropriate performance pay amount. For individuals who change positions during the year, performance under previously specified performance goals and objectives will be considered, and previous supervisors will be consulted as applicable, in determining the appropriate performance pay amount.

[m.] A physician's, dentist's [or podiatrist's] failure to meet the criteria for performance pay may not be the sole basis for an adverse personnel action against that individual.

13. MARKET PAY RECOMMENDATION AND APPROVAL.

a. Function of Appropriate Management Official.

(1) The appropriate management official will complete and submit VA Form 10-0432A, Market Pay Review and Approval Form. The appropriate management official is responsible for recommending the appropriate pay table, tier level and market pay amount (considering the combined sum of the base pay and market pay) for individual physicians, dentists [and podiatrists]. The appropriate management official is also responsible for evaluating the annual pay (base and longevity pay rate and market pay) to include pay table and tier assignment of each physician, dentist [and podiatrist] under their jurisdiction at least once every 24 months (biennial review) and at such other times deemed necessary by the appropriate management official. A change in duty basis (i.e., to/from full-time, part-time, or intermittent), change in tier, or a significant change in duties or assignments as determined by an appropriate management official, such as call duty rotations, or assignment to/from a Community Based Outpatient Clinic will also require a re-evaluation of the market pay and tier.

- (2) The appropriate management official will recommend the following with regard to pay for individual physicians, dentists [or podiatrists]:
 - (a) The appropriate specialty or assignment and pay table;
 - (b) The appropriate tier for the physician, dentist [or podiatrist] using the tier definitions contained in paragraph 9 of this part or the tier definition associated with the pay table, as appropriate; and
 - (c) A rate or an appropriate range of market pay for the physician, dentist, or podiatrist considering the criteria in paragraph 9 of this part, other pay elements authorized for the individual (e.g., base pay, recruitment, relocation, or retention incentive, COLA), and the nationwide minimum and maximum amounts of annual pay prescribed by the Secretary for the specialty or assignment.
- (3) Annual pay recommendations will be taken into consideration by the appropriate approving official. The approving official determines the amount of annual pay to be paid a physician, dentist [or podiatrist] after consideration of the recommendation of the appropriate management official. The approving official's decision is final.
- (4) The HRM Official, or designee (or a representative of VHA Workforce Management and Consulting Office for VACO pay actions) will provide a technical review for all physician, dentist [and podiatrist] annual pay determinations.

14. PAY LIMITATIONS AND EXCEPTIONS.

- a. Except as provided in subparagraph b and subject to subparagraph c below, the annual pay of a physician, dentist [or podiatrist] may not be less than the minimum amount, nor more than the maximum amount of the applicable pay range and tier for the corresponding specialty/assignment. For part time employees, the full-time equivalent (i.e., not prorated) annual pay will be used to determine whether the annual pay is within the applicable pay range and tier.
- b. The annual pay for a physician, dentist [or podiatrist] may exceed the maximum amount of the applicable pay range and tier for the corresponding specialty/assignment only as a result of a longevity step increase to base pay (see paragraph 8) or as a result of a statutory general increase in base pay (see paragraph 7d). Exceptions to the maximum of the applicable pay range and tier for the corresponding specialty/assignment are permitted in unusual circumstances and may be requested under the provisions of subparagraph 14d below for individual exceptions or appendix B of this part for specialty or facility-wide exceptions.
- c. In no instance may the aggregate pay (base pay; market pay; performance pay; recruitment, relocation, and retention incentive; and any other payment under title 38 authority) received by a VHA physician, dentist [or podiatrist] in a calendar year exceed the annual pay rate (excluding expenses) of the President of the United States as specified in 3 U.S.C. § 102. For part time employees, the actual earnings (i.e., annual pay is prorated) will be considered when determining whether this aggregate pay limitation will be exceeded. [For detailed information on the aggregate pay limit refer to Handbook 5007, Section VII, Chapter 2, Aggregate Limits.]
- d. Annual pay (plus non-foreign COLA where applicable) in excess of the applicable pay range maximum of the pay table for the corresponding assignment/specialty or in excess of [] \$350,000] shall require higher level approval unless the increase is the result of a longevity step increase or a statutory general increase in base pay. For part time employees, the full-time equivalent (i.e., not prorated) annual pay will be considered when determining whether an exception is required.
 - (1) The Medical Center Director is the approving official for annual pay up [to the maximum pay range of the pay table for the corresponding assignment/specialty, notto exceed \$350,000,] and may also approve a tier exception for employees in pay tables 1, 2[and 3] that does not exceed the maximum for the pay table up to [\$350,000]. The determination to approve a tier exception at this level will be based on a narrative justification that includes pertinent information on the recruitment and retention history of the position, the unique or exceptional qualifications of the individual, or other circumstances at the specific facility. The Medical Center Director may not approve tier exceptions for employees in pay tables [] [5 and 6].

- (2) The Network Director is the approving official for annual pay greater than [] [the maximum rate of the pay table for the corresponding assignment/specialty], not to exceed [\$400,000 for employees under their jurisdiction. They] may also approve a tier exception for employees in pay tables [1, 2,] 3, [] and 5. [The Network Director is the approving official for Pay Table 5 assignments for Chiefs of Staff and Deputy Chiefs of Staff, not to exceed the maximum rate of the next highest tier.] Network offices shall establish procedures for submission of requests for exceptions to the pay limitation.
- (3) The Under Secretary for Health is the approving official for all tier exceptions not covered in paragraphs 14(d)(1) and (2) above. The Under Secretary for Health is the approving official for annual pay [] [for employees assigned to Pay Table 6]. Requests to exceed (or further exceed) [] [the tier] shall be submitted through the Network Director to VHA's Workforce Management and Consulting Office (10A2A) and shall contain the following information:
- (a) A narrative justification for the proposed amount of annual pay, including any pertinent information on the recruitment and retention history of the position occupied or to be occupied by the physician, dentist [or podiatrist], the unique or exceptional qualifications of the individual, or other circumstances at the specific facility; and
- (b) The annual pay recommendation as documented on VA Form 10-0432A.
- (4) Exceptions under subparagraphs (1), (2) or (3) above will be disapproved if the approving official determines that a lesser amount of market pay is sufficient to be competitive for the recruitment and retention of a physician, dentist [or podiatrist] in the market for the required skills.
- e. Exceptions requiring VACO approval under subparagraphs 14b and 14d(3) will be effective the beginning of the first pay period beginning on or after the date of approval, or 30 days from the date of receipt in VACO, whichever is earlier.
- f. Annual pay for the Under Secretary shall be subject to the provisions of paragraphs 18 and 19 of this part.

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15. PAY RATES INCIDENT TO CERTAIN PERSONNEL ACTIONS.**a. Appointments, Reappointments, Conversions, and Transfers from Other Agencies.**

- (1) **Employees Without Prior VHA Service.** Employees without prior VHA service as a physician, dentist [or podiatrist] (including those with other Federal service) are placed at step 1 on the Physician, Dentist [and Podiatrist] Base and Longevity Schedule. The annual pay and tier are recommended by the appropriate management official under the provisions of paragraph 13.
- (2) **Employees With Prior VHA Service.** Employees with prior VHA service as a physician, dentist [or podiatrist] are placed at a step on the Physician, Dentist [and Podiatrist] Base and Longevity Schedule according to their prior service. Instructions for calculating the VA Service Date are contained in appendix A of this part. A chart depicting the appropriate step rate based on the length of service is contained in paragraph 7c of this part. The annual pay and tier are recommended by the appropriate management official under the provisions of paragraph 13.

b. Changes in Assignment.

- (1) **At the Same Facility or Upon Transfer to a Different Facility.** Individuals will retain their step on the Base and Longevity Pay Schedule. The market pay and tier for the new assignment are recommended by the appropriate management official under the provisions of paragraph 13. If such an assignment results in a reduction in market pay, the affected employee is not entitled to retain the higher rate of market pay. However, if the assignment is involuntary, management may offer retention of market pay if a reduction would be against equity and good conscience or against the public interest. The decision not to grant retention of market pay is not appealable. See subparagraph 16 below for notice requirements when an involuntary assignment in connection with a disciplinary action results in a pay reduction.
- (2) **Temporary Assignments and Details.** Individuals temporarily assigned to a position with a different pay range or tier, [or to a position with different responsibilities, complexity and scope,] may receive a market pay adjustment after serving in the assignment for 60 days or more. Temporary assignments and details that result in a change in market pay must be documented by an official personnel action under the provisions of VA Handbook 5005. Temporary assignments and details to a lower tier may not result in a reduction of an individual's existing market pay rate. Upon termination of a temporary assignment or detail, an individual's market pay is returned to the amount payable prior to the temporary assignment or detail.

c. Changes in Duty Basis (Part-Time to Full-Time or Full-Time to Part-Time or Intermittent). Conversions from a part-time to a full-time duty basis or a full-time to a part-time or intermittent duty basis through a conversion action are considered a change in assignment. Individuals will retain their step on the Base and Longevity Pay

Schedule. The market pay and tier are re-evaluated by the appropriate management official under the provisions of paragraph 13. If the change in duty basis results in a reduction in market pay, the affected employee is not eligible to retain the higher rate of market pay.

- d. **Loss of Board Certification and Other Changes in Assignment.** Individuals will retain their step on the Base and Longevity Pay Schedule. If a loss of board certification, reduction in privileges, or other changes in assignment result in a reduction in market pay, the affected employee is not entitled to retain the higher rate of market pay.
- e. **Simultaneous Pay Changes.** Employees eligible for two or more pay changes on the same date shall have them processed in the order which provides the maximum benefit. However, when a general adjustment to the Base and Longevity Pay Schedule is made, that general adjustment is processed first.

16. NOTICE REQUIREMENTS FOR REDUCTIONS IN MARKET PAY. Physicians, dentists [and podiatrists] must be notified in writing when an involuntary assignment in connection with a disciplinary action will result in a reduction in market pay. The notice must provide at least a 30-day advance notice of the effective date of the reduction, the amount of the reduction, and any appropriate appeal rights with regard to the new assignment, as defined in VA Handbook 5021.

17. DUAL APPOINTMENTS. Individuals with part-time appointments at more than one VA facility may receive base, market, and performance pay from each facility subject to the following restrictions:

- a. The combined total of performance pay for any fiscal year may not exceed the lower of:
 - (1) \$15,000, or
 - (2) The amount that is equal to 7.5% of the sum of the base and market pay payable to the physician or dentist in that fiscal year for his/her highest paying position.
- b. Management at the two facilities will coordinate performance pay decisions and communicate regarding the respective market pay decisions to ensure that the provider's earnings do not exceed the limitations contained in paragraph 14 of this part. When determining whether the aggregate pay limitation in paragraph 14c will be exceeded, the provider's projected combined earnings will be considered (i.e., what the provider will actually be paid). When determining whether the [Network Director's or] Under Secretary for Health's approval is required under paragraph 14d, the provider's full-time equivalent (i.e., not prorated) [annual] pay [(plus non-foreign COLA where applicable)] will be considered separately for each appointment.
- c. Two part-time appointments under 38 U.S.C. 7405(a)(1)(A) totaling one full-time position will not confer the rights associated with a full-time (80 bi-weekly hours) permanent appointment under 38 U.S.C. 7401(1).

18. RELATIONSHIP OF PAY TO BENEFITS

- a. Base pay under paragraph 7 and market pay under paragraph 9 are considered pay for retirement benefits under chapters 83 and 84 of title 5, life insurance, lump-sum leave payments, the Thrift Savings Plan, and work injury compensation claims.
- b. All special pay received under the former 38 U.S.C. 7431 or 38 U.S.C. 4118 is included in basic pay for the purposes of 5 U.S.C., chapters 83 and 84, relating to the computation of civil service annuities.

19. ERRONEOUS PAYMENTS. Under certain conditions, claims of the Government arising out of erroneous payment of pay or allowances made to employees may be waived under the authority of 5 U.S.C. 5584. This includes erroneous payments of base, market, and performance pay.

20. COMPUTATION OF PAY

- a. Salary payments for full-time physicians and dentists are computed by dividing the annual

pay authorized for the individual by 364 to determine a daily rate. This daily rate is paid for all days of paid service.

- b. Salary payments for part-time and intermittent physicians are computed by dividing the annual pay authorized for the individual by 2,080 to determine an hourly rate. This hourly rate is paid for all hours of paid service. Part-time and intermittent physicians and dentists may not be paid for more than 1820 hours (7/8ths) in a calendar year.

21. PAY FOR THE UNDER SECRETARY FOR HEALTH.

- a. Base pay for the Under Secretary for Health shall be determined in accordance with 5 U.S.C. § 5314, i.e., Level III of the Executive Schedule.
- b. The Under Secretary for Health who is a physician or dentist shall be eligible for market pay. The Secretary determines the amount of market pay payable to the Under Secretary, after considering the recommendations of the Assistant Secretary for Human Resources and Administration/Operations, Security, and Preparedness.
- c. The Under Secretary for Health is not eligible for performance pay.
- d. Annual pay for the Under Secretary shall be subject to the provisions of paragraphs 18 and 19 of this part.

22. DOCUMENTATION.

- a. Annual pay recommendations for new appointments, biennial reviews or reviews based on change in assignment will be documented and approved using VA Form 10-0432A, Market Pay Review and Approval Form. VA Form 10-0432A is filed in the employee's e-OPF.
- [b. Performance pay recommendations will be documented and approved using VA Form 10-0432, Performance Pay Recommendation & Approval. VA Form 10-0432 is filed in the employee's e-OPF.]

23. REFERENCES.

- a. Public Law 108-445 (December 3, 2004) Department of Veterans Affairs Health Care Personnel Enhancement Act of 2004.
- b. Public Law 111-163 (May 5, 2010) Caregivers and Veterans Omnibus Health Services Act of 2010. [
- c. Public Law 114-315 (December 16, 2016) Veterans Health Care and Benefits Improvement Act of 2016.
- d. Public Law 115-182 (June 6, 2018) VA MISSION Act of 2018.
- e. Public Law 116-12 (April 8, 2019) A bill to amend title 38, United States Code, to clarify the grade and pay of podiatrists of the Department of Veterans Affairs.

- f. 5 U.S.C. § 5596 (April 7, 2020) Back pay due to unjustified personnel action]
- g. 38 U.S.C. § 7404 (April 7, 2020) Grade and pay scales
- h. 38 U.S.C. § 7431 (April 7, 2020) Pay
- i. 38 U.S.C. § 7432 (April 7, 2020) Pay of Under Secretary for Health
- j. 38 U.S.C. § 7433 (April 7, 2020) Administrative Matters