

PAY ADMINISTRATION

1. REASON FOR ISSUE: To implement provisions of the “Department of Veterans Affairs (VA) Health Care Personnel Enhancement Act of 2004” (Public Law 108-445, dated December 3, 2004) as it relates to pay for Veterans Health Administration (VHA) physicians and dentists.

2. SUMMARY OF CONTENTS/MAJOR CHANGES: This handbook contains mandatory procedures on pay administration. The pages in this handbook replace the corresponding page numbers in VA Handbook 5007. These changes will be incorporated into the electronic version of VA Handbook 5007 that is maintained on the [Office of Human Resources Management](#) Web site. Significant changes include:

- a. Deletes references to the former physician and dentist grade structure.
- b. Changes the manner in which an initial rate of pay is determined for physicians and dentists.
- c. Physicians and dentists are no longer covered under pay administration rules such as highest previous rate, change to lower grade, periodic step increases, or promotions/advancements.

3. RESPONSIBLE OFFICE: The Compensation and Classification Service (055), Office of the Deputy Assistant Secretary for Human Resources Management.

4. RELATED DIRECTIVE: VA Directive 5007, “Pay Administration.”

5. RESCISSIONS: None.

CERTIFIED BY:

**BY DIRECTION OF THE SECRETARY
OF VETERANS AFFAIRS:**

/s/Robert T. Howard
Assistant Secretary for
Information and Technology

/s/R. Allen Pittman
Assistant Secretary for
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CHAPTER 2. SETTING INITIAL RATES OF BASIC PAY**1. SETTING RATES OF PAY FOR EMPLOYEES APPOINTED TO POSITIONS UNDER 38 U.S.C. 7306 OR 7401****a. Initial Rates of Pay**

(1) Personnel employed under 38 U.S.C. 7306 and 7401(1) shall be compensated in accordance with salary tables established by the Secretary for each occupation and salary grade for which a range of rates is established under 38 U.S.C. 7404. Physician assistants (PAs) and expanded function dental auxiliaries (EFDAs) are compensated according to the grade determined in accordance with qualifications prescribed by the Under Secretary for Health and approved by the Secretary. Employees appointed under 38 U.S.C. 7401(3) will be paid from the General Schedule salary system, but their assignments are not subject to the classification and grading requirements of chapter 51, title 5, U.S.C.

(2) The initial rate of pay for personnel appointed under 38 U.S.C. 7306 [except physicians and dentists] may be set by the Secretary, upon recommendation of the Under Secretary for Health, at any step rate considered appropriate within the range of rates provided for the grade to which appointed.

(3) The initial rate of pay for physicians [and] dentists [] appointed under 38 U.S.C. [7306,] 7401(1)[, and 7405(a)(1)(A) is determined in accordance with the procedures contained in part IX of this handbook].

(4) The initial rate of pay for [] podiatrists, chiropractors, optometrists, PAs, and EFDAs appointed under 38 U.S.C. 7401(1) who do not have prior VA or other Federal civilian service [will be the minimum rate of the grade unless a higher step rate is authorized] under subparagraphs (5), (6), or c below.

(5) The initial rate of pay for [] podiatrists, chiropractors, [] optometrists, PAs, and EFDAs appointed [under 38 U.S.C. 7401(1) who have prior VA or other Federal civilian service may be set based on the employee's highest previous rate, unless a higher step rate is determined appropriate under subparagraphs (5), (6), or c below. See chapter 4 of this part for highest previous rate determinations].

(6) The initial rate of pay for [podiatrists, chiropractors, and optometrists] appointed to [Chief G]grade [and below and PAs and EFDAs appointed to Senior Grade and below may be set by the approving authority at any step rate of the appropriate grade on the basis of the individual's personal qualifications and attainments. The pay determination will be made in accordance with such qualifications as may be prescribed] by the Under Secretary for Health and approved by the Secretary.

(7) The initial rate of pay for [nurses or nurse anesthetists appointed at Nurse IV or Nurse V may be set by the approving authority at any step rate of the appropriate grade. The assignment of the grade shall be based upon criteria established by the Under Secretary for Health and approved by the Secretary, to cover complexity and responsibility involved in the specific assignment].

(8) The initial rate of pay for employees in hybrid occupations listed under 38 U.S.C. 7401(3) who have prior VA or other Federal civilian service may be set by the approving official at any step rate of the grade which does not exceed the highest previous rate (maximum payable rate) rule (see 5 CFR 531.203(c)), unless a higher rate is approved under chapter 3, paragraph 3 of this part. The specific pay rate shall be based on the recommendation of the appropriate Standards Board, which is to compare the quality of service rendered during the individual's prior employment with the quality of service expected of other persons in the same grade who have attained pay rates above the minimum rate of the grade. The provisions of this subparagraph are not to be construed as precluding reappointment at a higher grade if the person is qualified.

(9) Appointments, Reappointments and Transfers from Other Agencies of Nurses and Nurse Anesthetists Under the Locality Pay System (LPS)

(a) **Employees Without Prior VA or Other Creditable Federal Civilian Service.** The initial rate of pay shall be the applicable minimum rate of the grade and level unless the approving official authorizes a higher step for a head nurse or specialized skills (see part III, chapter 8) or superior qualifications.

(b) **Prior VA Service Under the LPS.** Former employees who served under the LPS may have their step set at any step which does not exceed their highest previous step unless the approving official authorizes a higher step as described in subparagraph (a).

(c) **Current or Prior Federal Service Which Does Not Include Service Under the LPS.** The employee may be paid at any step of the grade which does not exceed the employee's relative position in the former rate range unless the approving official authorizes a higher step as described in subparagraph (a). Current employees converted to a covered position at their request are not eligible for pay retention under part III, chapter 6, paragraph 4.

(d) **Restrictions on Making Highest Previous Step Determinations.** All highest previous step determinations are subject to the following restrictions:

1. The highest previous step must have been earned in a full-time, part-time or intermittent appointment, not limited to 90 days or less, or for a period of not less than 90 days under one or more appointments without a break in service.

2. The highest previous step may not include higher rates of pay for being a head nurse, higher rates based on specialized skills or an interim geographic adjustment approved under Executive Order 12826, dated December 31, 1992

3. The earned step on any special salary rate range approved under 38 U.S.C. 7455 is to be used for the purposes of computing the highest previous step.

b. **Retroactive Adjustment of Salary Rates.** If sufficient data concerning prior Federal employment is not available to make a salary determination concerning the highest previous rate, the rate shall be established initially at the lowest clearly appropriate dollar amount within the grade. The following statement will be placed in the "Remarks" section of the Standard Form (SF) 50-B: "Pay rate subject to retroactive adjustment upon verification of prior Federal service." [For retroactive adjustment of salary rates for physicians and dentists, see paragraph 7f of part IX, this handbook.]

c. **Special Basic Pay Adjustments for Personnel Serving Under 38 U.S.C. 7306, 7401 or 7405(a)(1)**

(1) In unusual circumstances that are not otherwise covered by this chapter, the [appointing official] may initially or subsequently adjust the salary of any person [appointed] under 38 U.S.C. 7306, [7401, or 7405(a)(1), except a] physician or dentist [to any one of the approved step rates of the grade held].

(2) Upon change in assignment without change in grade of an employee who has been granted a special basic rate adjustment authorized in accordance with subparagraph c(1) above, the appropriate appointing official may readjust the rate by fixing it at any step of the grade which is no lower than the step rate the employee otherwise would normally have earned under part III, chapter 5 of this handbook. This authority is available for use when a change in assignment is made:

(a) To a locality or type of duty where circumstances would not be considered sufficiently unusual to warrant continuation of the special basic pay rate;

(b) At the employee's request and primarily for his or her benefit and convenience; or

(c) For personal cause.

[(3) An appointing official may request a market pay review for a physician or dentist at any time in accordance with the provisions of part IX of this handbook.]

d. **Rates of Pay for VHA Facility Directors and Chiefs of Staff.** See appendix II-A of this handbook for pay setting guidance for facility directors and chiefs of staff.

2. SETTING INITIAL RATES OF PAY FOR PERSONNEL SERVING IN TEMPORARY AND PART-TIME POSITIONS UNDER 38 U.S.C. 7405

a. Part-time and intermittent physicians, dentists, podiatrists, chiropractors, optometrists, nurses, PAs, and EFDAs shall receive, dependent upon the number of hours worked each week, the proportionate amount of the approved per annum rate appropriate to the [tier or] grade appointed. The standard VA workweek of 40 hours shall serve as the basis for computation of the salary. The Under Secretary for Health will establish a standard limitation on the number of hours of employment. The Under Secretary for Health, or designee, may make an exception to such limitation on an individual basis when required in the interest of medical need.

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b. Upon appointment or re-appointment under 38 U.S.C. 7405, the pay of part-time and intermittent physicians, dentists, podiatrists, chiropractors, optometrists, nurses, PAs and EFDAs shall be determined by the Under Secretary for Health in a manner consistent with paragraph 1 of this chapter and parts III and IX of this handbook. []

c. [Student nurse technicians with no prior experience will be paid the minimum rate of the appropriate grade under the General Schedule unless a higher rate is authorized under the authority in chapter 3, paragraph 3 of this part to approve an individual appointment above the minimum rate of the grade. The minimum rate should take into account any applicable special salary rate. Student nurse technicians with prior experience may be paid at a rate that does not exceed their highest previous rate, unless a higher rate is authorized under chapter 3, paragraph 3 of this part. Premium pay shall be paid under the provisions of 5 U.S.C., chapter 55. Grade determinations require application of the appropriate classification standard].

d. [Employees in hybrid occupations listed under 38 U.S.C. 7401(3) will be compensated as noted in paragraph 1, subparagraphs (7) and (8) of this chapter].

e. [Employees that have completed a full course of training for an occupation listed under 38 U.S.C. 7401(3) and are pending licensure shall receive a basic rate of pay commensurate with the minimum rate of the grade for which they qualify, unless an above-minimum entrance rate or special salary rate range has been approved for similar licensed employees, in which case the higher rate would apply. The employee may be given a higher rate under the highest previous rate rule because of prior Federal service].

f. [Medical and dental residents are authorized to receive stipends approved by the Under Secretary for Health or designee. Under criteria and procedures established by the Under Secretary for Health, these stipends will be related as closely as practicable to local conditions of remuneration for residents in the hospitals having a major impact on VA's recruitment of house staff. Irrespective of the number of hours of service rendered in a day or a week, no compensation additional to the per annum rate shall be payable to residents by reason of duty at night, on overtime, on Saturday or Sunday, or a legal holiday, or on-call. (See appendix II-E of this part.)]

g. [The authority to set compensation of **consultants, attendings and others employed on a fee basis** has been delegated by the Under Secretary for Health to facility directors. These fees shall conform, insofar as possible, with practices prevailing within the profession concerned. Per annum ceiling limitations shall be imposed by the Under Secretary for Health on such pay and revised from time to time as necessary in the public interest for both patient care and treatment. Except as may be specifically authorized by the Under Secretary for Health or designee, these limitations shall cover all types of services rendered in VA, and are to be applied uniformly. The foregoing requirements, however, shall not obligate VA to utilize the services of these persons to the maximum extent established by the per annum salary ceiling limitations. (See appendix II-F of this part.)]

h. [Each physician, dentist or nurse appointed as an **associate investigator** or Career Development Award-1 (CDA-1) recipient will receive a per annum salary rate related as closely as practicable to local conditions during the appointment. These appointees are not subject to the title 38 pay systems for physicians and dentists or nurses. The salary will be approved by the facility director on the recommendation of the Deans Committee or Medical Advisory Committee but will not under any circumstances exceed the salary level of the GS-13, step 10 (exclusive of locality pay). An appointee will be in an ungraded position for the tenure of this appointment and, as such, is not eligible for advancements, such as promotions, special advancements, longevity step increases] or periodic step increases. However, with the approval of the Director, Office of Medical Research Service (121), these appointees shall receive pay comparability increases consistent with those granted employees paid under the VHA Physician and Dentist Base and Longevity Pay Schedule or Nurse Pay Schedules. This obviates the necessity for the Professional Standards Board to make grade and salary rate recommendations].

[]

(1) If an associate investigator [or CDA-1 recipient] is to be given a regular VA appointment at the completion of training, the effective date of adjustments to the grade and step for which qualified for appointment will be the first day following completion of training.

(2) An on-duty employee serving as an associate investigator [or CDA-1 recipient] whose rate of pay exceeds the appropriate amount paid when converted to a training status may request a voluntary reduction, as appropriate, for the purpose of becoming a trainee. On completion of training, the grade and current equivalent of the salary rate held by such employee prior to entering training may be restored by the approving authority on recommendation of the appropriate Professional Standards Board [or Physician or Dentist Compensation Panel]. Likewise, the rate may be further adjusted to include [market pay considerations, longevity step increases or] periodic step increases which otherwise would have been earned if the individual had not become a trainee. [] The effective date of each such action will be the first day of the appropriate pay period following the completion of training.

[i.] Medical support personnel (i.e., employees other than physicians, dentists, podiatrists, chiropractors, optometrists, nurses, PAs or EFDAs who are not trainees and students) serving under 38 U.S.C. 7405(a)(1)(D), who have no prior Federal civilian service are to be paid the minimum rate of the appropriate grade established for competitive service employees performing similar duties, unless an appointment above the minimum rate of the grade has been authorized (see chapter 3, paragraph 3 of this part). The minimum rate shall also take into consideration any applicable above-minimum entrance rate or special salary rate range. For employees with prior Federal service, a higher rate may be set within the applicable range of rates for competitive service employees performing similar duties. However, such rates may not exceed the current equivalent of the employee's highest previous rate, unless a higher rate is authorized under chapter 3, paragraph 3 of this part.

[j.] **Non-medical consultants** in scientific and other activities allied to medicine will be paid on a per annum or lump-sum fee basis in accordance with the same administrative requirements, including limitations, provided for medical consultants, except that the annual pay limitation is \$7,500. This

**CHAPTER 4. HIGHEST PREVIOUS RATE DETERMINATIONS
(EARNED RATE RULE)****1. HIGHEST PREVIOUS RATE DETERMINATIONS FOR TITLE 38 PERSONNEL**

a. A [step] rate above the minimum may be set as the initial rate of pay for [] podiatrists, chiropractors, optometrists, nurses, PAs, and EFDAs with prior VA or other Federal civilian service whose appointment or reappointment is made under 38 U.S.C. 7401(1). The rate may be set by approving authority at any step rate within the appropriate grade which does not exceed the highest step rate previously attained while rendering such service, unless a higher step rate is determined appropriate under chapter 2, paragraph 1a, subparagraphs (5), (6), or paragraph 1c of this part.

[NOTE: *The step rate for physicians and dentist appointed under 38 U.S.C. 7401(1) is determined based on the individual's tenure in VHA as described in paragraph 7 of part IX, this handbook.]*

b. For [] podiatrists, chiropractors, optometrists, nurses, PAs, and EFDAs, unless a higher step rate is authorized under chapter 2, paragraph 1a, subparagraphs (5), (6), or paragraph 1c, of this part, the specific step rate shall be based on a recommendation from the appropriate Professional Standards Board. The recommendation shall compare the quality of service rendered during such individual's prior employment with the quality of service expected of other persons in the same grade who have attained step rates above the minimum rate of the grade. This provision, however, shall not be construed as precluding reappointment of such person at a higher grade or step for which he or she is qualified.

c. The following restrictions apply in making highest previous rate determinations for personnel listed in paragraph 1a above:

(1) The rate must be based on prior full-time, part-time or intermittent service under an appointment or contractual agreement (38 U.S.C. 513), not limited to 90 days or less, or for a period of not less than 90 days under one or more appointments or contractual agreements without a break in service.

(2) It is generally inappropriate to use above-minimum entrance rates and special salary rate ranges as the highest previous rate when an employee voluntarily moves to a position where lower rates of pay apply. This is because approval of such rates is the result of recruitment or retention problems at a particular VA health-care facility and higher non-Federal pay rates in a specific labor market.

(3) In view of subparagraph c(2) above, above-minimum entrance rates or special salary rates may be used as the highest previous rate only with the prior approval of the facility director. A copy of this approval shall be filed on the right hand side of the Merged Records Personnel Folder and documented in the "Remarks" section of the Request for Personnel Action, or its electronic equivalent.

2. HIGHEST PREVIOUS RATE FOR TITLE 5 POSITIONS

a. Title 5, United States Codes, section 5334(b) sets forth certain minimum pay adjustment rules applicable to promotions of employees between General Schedule positions. Subject to these mandatory requirements, 5 CFR 531.203(c) generally provides agencies with discretion to set the pay of the employee

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APPENDIX A.

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APPENDIX C.
PAY CONVERSION INSTRUCTIONS FOR TITLE 38 STATUTORY RATES

Subject to the provisions of 38 U.S.C. 7404(a) and (b), the rates of basic pay for personnel [] appointed under 38 U.S.C. 7306 or 7401(1) shall be adjusted on the effective date of a general pay increase as follows:

1. Personnel receiving a rate of basic pay immediately prior to the effective date of a general pay increase at one of the step rates of a grade or position on the pay schedules applicable to appointees under section 7306 or 7401(1) of title 38, U.S.C. shall receive the rate of basic pay for the corresponding numerical step rate of that grade or position which is in effect on and after the effective date of the increase. [For physicians and dentists, the general increase shall only apply to the base pay rate (i.e., longevity step) and not the market pay component.]
2. Rates of basic pay for temporary full-time, part-time and intermittent physicians, dentists, podiatrists, chiropractors, optometrists, PAs, and EFDAs appointed under 7405(a)(1)(A) shall be adjusted in the same manner authorized for personnel in paragraph 1 above.
3. Rates of basic pay for VHA General Schedule patient care employees receiving above-minimum entrance rates or special salary rate ranges shall be adjusted in accordance with part II, chapter 3 of this handbook.
4. The salary rate of an employee receiving a retained rate of pay under part III, chapter 6, paragraph 6, shall be increased as described therein, specifically, by 50 percent of the increase in the maximum rate of the grade. In computing the new rate, fifty cents or more shall be rounded to the next higher dollar amount.

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(a) Details of surveys conducted, to include the names of officials and the health care establishments contacted, the date of the contact, information regarding what specific services or duties are included in quoted prices, and any other pertinent information used as a factor in setting rates; or

(b) If fee rates are being set using Medicare or other fee schedules, documentation regarding specific procedure codes, how discounts were calculated, and the basis for the discounts (e.g., subtracting out a portion of the Medicare rate since services are being provided at the facility); or

(c) Copies of local or regional compensation survey information published by a third party; or

(d) Information on other method(s) used in setting fee basis rates of pay.]

c. **Special Duty Nurses.** These individuals will be compensated on a fee basis according to the specific service or procedure performed. Fees will not exceed those charged in the community for similar work.

d. **Physicians Performing Medical Officer of the Day or Admitting Physician Duties**

(1) Facility directors will establish and approve fees for periods of coverage for Medical Officers of the Day (MODs) providing medical supervision on wards, and for Admitting Physicians providing medical supervision in admitting areas during nights, evenings, weekends, and holidays, when VA staff physicians do not perform these assignments as part of their assigned patient care duties. Periods of coverage will be determined according to need, with fees set according to the average locality rate for similar coverage, not to exceed the hourly equivalent of [the step 1 rate on the Physician and Dentist Base and Longevity] Pay Schedule. The following factors will be considered in setting these fees:

(a) Fees paid in community health care facilities, particularly as they relate to the level of activity and number of patients seen and the complexity of patient care.

(b) Benefits provided, particularly the value of VA's malpractice coverage.

(c) Variations in qualifications requirements.

(2) If the fees determined under subparagraph (1) above exceed the [step 1 rate on the Physician and Dentist Base and Longevity Pay Schedule] and it is not possible to obtain MOD and admitting coverage, the facility director may approve an exception to the fee limitation. If an exception is approved, facilities should document how rates are set and must maintain all information used to establish fee rates in order to make periodic rate reviews.

(3) In no case will part-time or intermittent appointments be used to obtain MOD or Admitting Physician services. However, individuals with part-time or intermittent appointments may also receive fee basis compensation under this paragraph for a separate portion of time, subject to the annual limitation in paragraph 4. See also chapter 5 of part VIII for information about dual employment restrictions.

(4) In no case may non-career residents be used for MOD service or for a combination of MOD and Admitting Physician duties.

e. Use of Non-Career Residents as Admitting Physicians

(1) Facility directors may appoint non-career residents as fee-basis Admitting Physicians during nights, weekends, and holidays only when the following conditions have been met, as certified by the Director in the approval document:

(a) The Deans Committee has determined that admitting physician duty is not a valid part of the residents' training experience.

(b) No other means of obtaining admitting coverage is available.

(2) Fees will be established in the same manner as outlined in subparagraph d(1), above, and paid to non-career residents in addition to their stipends.

(3) An exemption to the dual compensation restrictions has been granted for non-career residents performing Admitting Physician duties only; they may not be used for any other purpose.

4. ANNUAL LIMITATIONS ON PAY

a. The total of payments to the following fee basis categories may not exceed \$15,000 in a calendar year:

(1) Consultants and attendings (excluding nurse anesthetist), whether paid on a lump sum or per annum basis.

(2) On-station fee basis (excluding special duty nurses).

b. The total of payments to the following fee basis categories may not exceed \$5,000 in a calendar year:

(1) Nurse anesthetist attendings.

(2) Special duty nurses.

c. Exceptions to the annual limitations in the above paragraphs may be approved by the facility director. However, in no case may the total of fee payments exceed the rate for EL-V.

d. For employees who hold both fee basis and part-time and intermittent appointments, the combination of their basic pay and fees may not exceed the basic salary of a seven-eighths part-time individual at the same [annual pay rate] in a fiscal year. For example, a part-time physician who is also appointed on a fee basis may receive in base pay and fees not more than [his or her annual salary (sum of base and market pay)] prorated at 7/8ths[]. Facilities needing to pay more to dual appointees may submit requests for exceptions to the Assistant Deputy Under Secretary for Health (10N/055).

e. Nothing in this paragraph or appendix shall obligate VA to use the services of fee basis personnel to the maximum extent permitted.

CHAPTER 2. PROMOTIONS/ADVANCEMENTS

1. ADVANCEMENTS FOR PERSONNEL APPOINTED UNDER 38 U.S.C. 7401

a. **Promotion of [Podiatrists, Chiropractors, Optometrists, Physician Assistants (PAs) and Expanded Function Dental Auxiliaries (EDFAs)].** Podiatrists, chiropractors, optometrists, PAs and EDFAs] appointed under 38 U.S.C. 7401(1) [] shall receive, upon promotion, the lowest step rate within the higher grade that exceeds his or her existing step rate by not less than two step increases of the lower grade.

[NOTE: *Physicians and dentists appointed under 38 U.S.C. 7401(1) are not subject to promotion rules as these are single grade occupations. See paragraph 15, part IX of this handbook for changes in assignment for physicians and dentists.*]

b. **Promotion of Hybrid Employees.** Employees in occupations listed under 38 U.S.C. 7401(3) who are promoted to a higher grade are entitled to have their pay set in accordance with 5 U.S.C. 5334(b), unless they are entitled to a higher rate of pay under the provisions of part II, chapter 4, paragraph 2, or the grade and pay retention provisions of part III, chapter 6 of this handbook and 5 CFR, part 536.

NOTE: *Refer to paragraph 4 of chapter 7, this part, for promotions involving special rates. Refer to chapter 4 of this part [and part IX of this handbook] for assignment changes for personnel appointed under 38 U.S.C. 7306 [and 7401].*

c. **Promotion of Nurses and Nurse Anesthetists.** Except as provided in subparagraphs 1c(1),(2), and (3), nurses and nurse anesthetists promoted shall receive basic pay at the lowest rate of the higher grade which exceeds the employee's existing rate of basic pay by not less than two step increments of the grade from which promoted, unless pay retention rules apply (see par. 6 of chapter 6, this part).

(1) **Promotion Simultaneous with Reassignment or Transfer to Another VA Facility.** Nurses or nurse anesthetists promoted effective the same date they are reassigned or transferred to another VA facility shall have their promotion calculated using the pay schedule of the losing location. Once the new grade and step rate are determined, the employee's salary rate is determined under the provisions in par. 1c(2) of chapter 4, this part.

(2) **Head Nurses**

(a) A head nurse promoted to a non-head nurse assignment receives the lowest step in the higher grade that equals or exceeds his or her existing rate of basic pay (excluding head nurse pay) by not less than two steps of the grade from which promoted. For example, a head nurse at Nurse II, step 7 (which includes the two additional steps for being a head nurse) would first have the 2 steps removed, then receive a two-step promotion and be placed on the lowest step in Nurse III that equals or exceeds Nurse II, step 7.

(b) The entitlement of head nurses promoted while remaining in a head nurse assignment will be determined as follows:

1. Remove the additional two steps for the head nurse assignment. **NOTE:** *These steps will be returned to the employee after calculating the promotion.*

grade which equals or exceeds the employee's existing rate of basic pay (including the higher rate based on specialized skills) by not less than one step increment within the grade from which promoted.

Example: An employee at Nurse I, step 5, based on possession of specialized skills receives the lowest step of Nurse II that equals or exceeds Nurse I, step 6.

(4) **Promotion Simultaneous with Placement on a Specialty Schedule.** Nurses or Nurse Anesthetists promoted effective the same date they are assigned to a specialty schedule shall have their promotion calculated using the pay schedule to which assigned immediately prior to the promotion. Once the new grade and step are determined, the employee is then placed at the same grade and step on the specialty schedule.

d. Advancement of Nurses and Nurse Anesthetists to a Higher Level Upon Attainment of Additional Qualifications

(1) Nurses and Nurse Anesthetists advanced to a higher level within Nurse I will receive two steps or be placed at the first step of the appropriate level, if that step is greater. However, except as noted for head nurses in chapter 8 of this part, no advancement may exceed the maximum authorized step of the grade. For example, an employee in Level 1 of Nurse I who is at step 1 would be advanced two steps upon attaining the qualifications for Nurse I, Level 2; however, the employee would be advanced to the beginning step of Level 2 if the beginning step of Level 2 is higher than step 3 of the grade.

(2) Advancement based on the attainment of a higher level in Nurse I is an equivalent increase and will cause the employee to begin a new waiting period for a PSI.

(3) Employees who are advanced to a higher level based upon attainment of additional qualifications effective the same date that they are reassigned or transferred to another VA facility shall have their advancement calculated using the pay schedule of the losing location (i.e. advanced two steps or to the first step of the next higher level, whichever is greater). Once the new grade and step rate is determined, the employee's salary rate is determined under the provisions in paragraph 1c(2) of chapter 4, this part.

2. PROMOTIONS FOR PERSONNEL APPOINTED UNDER 38 U.S.C. 7405. Upon promotion under 38 U.S.C. 7405, the pay of part-time and intermittent [] podiatrists, chiropractors, optometrists, nurses, PAs, and EFDAs shall be determined by the Under Secretary for Health in a manner consistent with paragraph 1 of this chapter.

NOTE: Refer to chapter 7, paragraph 4, of this part for promotions involving special rates.

3. PROMOTIONS FOR POSITIONS SUBJECT TO 5 U.S.C, CHAPTER 51

a. **Promotion.** On promotion, including transfer with promotion, an employee's salary will be set in accordance with the mandatory provisions of 5 U.S.C. 5334(b) (the "Two-Step Rule") or the provisions of this handbook regarding the application of the earned rate rule.

CHAPTER 3. CHANGE TO LOWER GRADE

1. CHANGE TO LOWER GRADE FOR PERSONNEL APPOINTED UNDER 38 U.S.C. 7401. In any voluntary movement to a lower grade, the employee's salary rate may be set by the approving authority at any rate within the range of rates for the new grade which does not exceed the highest previous rate (earned rate rule). This shall be the employee's rate unless a higher rate is authorized under part II, chapter 2, subparagraphs 1a(5) and (6) or 1c of this handbook.

[NOTE: Physicians and dentists appointed under 38 U.S.C. 7401(1) are not subject to change to lower grade rules as these are single grade occupations. See paragraph 15, part IX of this handbook for changes in assignment for physicians and dentists.]

2. CHANGE TO LOWER GRADE FOR POSITIONS PAID FROM THE GENERAL SCHEDULE. The earned rate rule is for application in changes to lower grade. The earned rate rule criteria shall be considered to be met when employee is to be involuntarily changed to a lower grade for non-disciplinary reasons. This will obviate the necessity for consideration of entitlement to pay retention, except where the existing salary rate of the employee is in excess of the maximum scheduled rate of the lower grade to which he is being reduced. See chapter 6 of this part for information on grade and pay retention.

3. CHANGES TO LOWER GRADE FOR EMPLOYEES IN POSITIONS UNDER THE FWS

a. Except as provided in paragraph b below, an employee changed to a lower grade may be paid at any rate of the grade, which does not exceed his or her highest previous rate.

b. An employee changed to a lower grade following an action which conveys entitlement covered by pay retention (see chapter 6 of this part) is entitled to the lowest scheduled rate of basic pay in the employee's grade after the action is taken which equals or exceeds his or her current rate of basic pay. If there is no such rate, the employee is entitled to retain his or her existing rate of basic pay or 150 percent of the maximum rate of basic pay for the grade after the action is taken, whichever is less. See chapter 6 of this part for additional guidance on grade and pay retention.

CHAPTER 4. OTHER ASSIGNMENT CHANGES AND MOVEMENTS**1. PERSONNEL APPOINTED UNDER 38 U.S.C. 7306 AND 7401**

a. **[Physicians and Dentists.** The salary rate of a physician or dentist upon change in assignment will be determined in accordance with the provisions of paragraph 15 of part IX, this handbook.]

b. **Associate Investigators [and Career Development Award-1 (CDA-1) Recipients].** Notwithstanding part II, chapter 2, paragraph 1a(4), the approving authority, upon recommendation of the appropriate Professional Standards Board [or Compensation Panel for physicians or dentists] may restore the grade and equivalent salary rate held by an employee prior to his or her becoming an Associate Investigator [or CDA-1 recipient] when such training is completed. Likewise, the rate may be further adjusted to include [market pay considerations, longevity step increases or] periodic step increases which the employee would have earned had the employee not become an Associate Investigator [or CDA-1 recipient]. The above provision shall not be construed as precluding appointment to a higher grade or rate of pay for which the employee otherwise may qualify upon reappointment upon completion of training.

c. **Nurses and Nurse Anesthetists under the Locality Pay System (LPS)**

(1) **Pay Rates Incident to Certain Personnel Actions.** Except for promotions and advancements simultaneous with transfers and reassignments, pay rates at the gaining location will normally be used when personnel actions involve more than one facility or geographically separate elements of the same facility using different LPS pay schedules.

(2) **Intra-VA Transfers and Reassignments Between Geographically Separate Elements of the Same Facility**

(a) **At Employee's Request.** An employee who is transferred or reassigned without a break in service from one VA facility to another or between separate elements of the same facility normally receives:

1. The rate of pay applicable to the employee's grade and step at the gaining location (e.g., an employee at Nurse II, step 2 receives the rate for that grade and step at the gaining location). Employees at Level 2 or 3 of Nurse I receive the rate for their current step or the minimum beginning step for their level at the gaining location if that step is higher;

2. The maximum step of the grade at the gaining location if the employee is on pay retention at the losing location (pay retention ceases);

3. The maximum step of the grade at the gaining location if, at the losing location, the employee is on a step on an extended rate range under chapter 4, Exceptions to the 133 Percent Rate Range, which is not authorized at the gaining location (e.g., an employee at step 14 will be placed at step 12 upon transfer to a facility with only twelve steps in the employee's grade); or

CHAPTER 5. WITHIN GRADE INCREASES AND PERIODIC STEP INCREASES**1. PERIODIC STEP INCREASES FOR PERSONNEL APPOINTED UNDER 38 U.S.C. 7401**

a. **General.** Periodic step increases may be granted to any [] optometrist, chiropractor, podiatrist, nurse, PA or EFDA who is receiving less than the maximum rate of his or her grade. That employee shall be advanced to the next higher step rate within such grade subject to meeting the eligibility requirements and waiting periods listed below. Step increases for hybrid employees in occupations listed under 38 U.S.C. 7401(3) shall be made under the provisions of the General Schedule salary system and the provisions of paragraph 5 of this chapter.

[NOTE: Longevity step increases for physicians and dentists appointed under 38 U.S.C. 7306 and 7401 shall be determined under paragraph 8, part IX of this handbook.]

b. **Conditions of Eligibility for a Periodic Step Increase (PSI).** A PSI will be granted when:

- (1) An employee's work is of an acceptable level of competence;
- (2) No "equivalent increase" in compensation was received during the period under consideration; and
- (3) The benefit of successive step increases shall be preserved for any person whose continuous service is interrupted by active military duty.

c. **Waiting Period.** The minimum time requirement of creditable service without an equivalent increase is either 52 or 104 weeks of creditable service as indicated below:

- (1) [P]odiatrists, chiropractors, optometrists - upon completion of a 104-week waiting period.
- (2) PAs and EFDAs at step 1 or 2 on the *regular* rate range of Junior or Associate grade-upon completion of a 52-week waiting period.
- (3) PAs and EFDAs (including *any* PA or EFDA on an above-minimum entrance rate or special salary rate range)-upon completion of a 104-week waiting period.
- (4) Nurses and Nurse Anesthetists in grade Nurse I, Level 1 at steps 1 through 3 of the grade - upon completion of 52 calendar weeks of creditable service.
- (5) Nurses and Nurse Anesthetists in grade Nurse I, Level 1 at steps 4 and higher of the grade - upon completion of 104 calendar weeks of creditable service.
- (6) Nurses and Nurse Anesthetists in grade Nurse I, Level 2 at steps 1 through 3 of the level - upon completion of 52 calendar weeks of creditable service.

(3) Leave without pay not to exceed in total 30 calendar days for [] podiatrists, chiropractors, and optometrists; 176 hours for PAs and EFDAs within the period required for one periodic step increase; 80 hours for nurses and nurse anesthetists when the waiting period is 52 calendar weeks and 160 hours when the waiting period is 104 weeks. The number of hours of LWOP taken by nurses on the Baylor Plan shall be multiplied by 1.667 when determining creditable service.

(4) Except as provided in subparagraph (7) below, paid employment on a full-time, part-time, or intermittent basis under the authority of 38 U.S.C. 7401(1), or 7405(a)(1)(A) rendered prior to a non-pay period (including separation), provided that such non-pay period did not exceed 52 calendar weeks.

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

(6) 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.

(7) 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.

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

f. **Equivalent Increase in Compensation.** The total of any increase or increases in basic compensation (except general increases in basic compensation provided by statute) which is equal to the smallest step increase in any grade in which the employee has served during a period under consideration constitutes an equivalent increase. Instructions regarding equivalent increase determinations, when above-minimum entrance rates or special salary rate ranges are approved, are contained in chapter 7 of this part.

g. **Effective Date.** Periodic step increases shall be made effective at the beginning of the next pay period following the completion of the required waiting period and compliance with other required conditions of eligibility. When a step increase is delayed beyond its proper effective date solely through an administrative error or oversight, the step increase shall be made retroactively effective as of the date it was properly due. When employees are promoted in grade on the date of a periodic step increase, they shall first be credited with the periodic step increase, then promoted.

h. **Effect of Special Advancements on Waiting Periods.** Special advancements for performance or achievement for personnel appointed under 38 U.S.C. 7401[, except physicians and dentists,] are not considered equivalent increases under paragraph 5, subparagraph f below. However, these increases and advancements may place an employee in a waiting period that requires an additional 52 calendar weeks of creditable service before the employee is entitled to receive his or her next within-grade increase. [Physicians and dentists appointed under 38 U.S.C. 7401 are not covered under the provisions of special advancements for performance or achievement.]

**PART III
CHAPTER 5****2. PERIODIC STEP INCREASES FOR PERSONNEL APPOINTED UNDER 38 U.S.C. 7405**

a. **General.** Temporary full-time, part-time and intermittent [] optometrists, chiropractors, podiatrists, nurses, PAs, and EFDAs shall be granted periodic step increases under the same provisions applicable to full-time employees appointed under 38 U.S.C. 7401, except as provided in subparagraphs b and c. Step increases for hybrid employees in occupations listed under 38 U.S.C. 7401(3) shall be made under the provisions of the General Schedule salary system and the provisions of paragraph 5 of this chapter.

[NOTE: Longevity step increases for physicians and dentists appointed under 38 U.S.C. 7405 shall be determined under paragraph 8, part IX of this handbook.]

b. Waiting Period Requirements for Intermittent Employees

(1) 260 days of creditable service in a pay status over a period of not less than 52 calendar weeks, for advancement of intermittent PA's and EFDAs to steps 2 and 3 on the regular range of Junior and Associate grades.

(2) 520 days of creditable service in a pay status over a period of not less than 104 calendar weeks, for advancement of intermittent [] podiatrists, chiropractors, and optometrists to step 2 and above for all grades, and all intermittent PAs and EFDAs, except those in subparagraph (1) above. This includes any PA or EFDA on an above-minimum entrance rate or special salary rate range.

c. **Leave Without Pay Service Credit for Part-Time Employees.** In computation of the waiting periods for part-time employees, leave without pay may be credited in an amount not to exceed 22 workdays within the period of service required for one periodic step increase.

d. **Within-Grade Increases for Medical Support Personnel Serving Under 38 U.S.C. 7405(a) (Other Than Trainees or Students).** Employees covered by this subparagraph who are appointed for a period in excess of one year are eligible for within grade increases, i.e., if they are given a 2-year or 3-year appointment. Employees given appointments of one year or less are not eligible for within-grade increases.

e. **Trainees and Students Serving Under 38 U.S.C. 7405.** These employees are paid either on a per annum training rate basis or a stipend basis and are ineligible for within-grade increases.

3. ADMINISTRATIVE STEP INCREASES FOR PERSONNEL APPOINTED UNDER 38 U.S.C. 7306

a. For positions at or below [Service] Director grade for which a range of rates is provided, an administrative pay increase to the next higher step rate available for use shall be granted upon completion of 104 weeks of service at the lower rate within the grade. This provision does not apply to a nurse appointed under this authority, whose pay will be set and adjusted under the provisions of the Nurse Locality Pay System and the following subparagraph.

b. Nurses appointed under 38 U.S.C. 7306 shall receive advancements within the grade in the same manner as described in paragraph 1, for nurses appointed under 38 U.S.C. 7401.

**PART III
CHAPTER 6****6. PAY RETENTION UNDER TITLE 38 (OTHER THAN NURSES)****a. Coverage**

(1) Employees appointed under or moving into positions appointed under the provisions of title 38 U.S.C. 7306, 7401(1) and 7405(a)(1)(A), except for [physicians and dentists covered under part IX of this handbook and] nurses and nurse anesthetists who are covered by paragraph 7 below, who undergo the following actions are *entitled* to retention of their basic rate of pay:

(a) Employees whose rates of basic pay would otherwise be reduced as a result of a reduction or termination of a special rate schedule;

(b) Employees whose rates of basic pay would be reduced because of a transfer or reassignment initiated by management for reasons other than cause. This includes employees who choose to accept reassignment to a lower graded position in lieu of separation as a result of a management action, such as reorganization or transfer of function.

(2) Pay retention *may* also be authorized for employees appointed under or moving into positions appointed under title 38 U.S.C. 7306, 7401(1) and 7405(a)(1)(A), whose rates of basic pay would otherwise be reduced, when the placement of the employee is not for cause, including performance or misconduct, or at the employee's request, and when the employee is not otherwise eligible for pay retention under subparagraph a(1) above. Placement of an employee in a position initiated or directed by management is not considered to be taken at the employee's request even though the employee may have previously asked the Department to consider his or her personal situation.

[NOTE: *See part IX of this handbook regarding a change in assignment and applicability of pay retention for physicians and dentist appointed under 38 U.S.C. 7306, 7401(1), and 7405(a)(1)(A).]*

b. Pay Administration

(1) On the date the reduction in base pay was to have occurred, employees are to be placed in the lowest step of the grade that equals or exceeds their existing rate of basic pay immediately preceding the action. If no such rate exists, employees are placed in pay retention and retain the rate of basic pay held immediately before the action, not to exceed 150 percent of the maximum of the grade for the new position.

(2) The rate of basic pay retained by eligible employees is also limited by the provisions of 38 U.S.C. 7404(d)(1) and (d)(2) to Level IV or Level V of the Executive Schedule, as applicable.

(3) Employees placed in pay retention shall receive 50 percent of any subsequent general pay increases in the maximum rate of the grade of the new positions held. Pay retention terminates when the maximum authorized rates of the new positions equal or exceed the employees' retained rates, as adjusted herein.

PART III

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(4) Employees on pay retention who are subsequently promoted will have their new rates of basic pay determined as if they were being promoted from the maximum rate of the grade for their positions. If the new rates upon promotion, as determined in accordance with the provisions of paragraphs 1 or 2, chapter 2 of this part, are lower than the employees' retained rates of basic pay, they will be placed in the lowest steps that equal or exceed their retained rates. If their retained rates exceed the maximum rates of the grades to which promoted, the employees will remain on pay retention.

**APPENDIX B.
COMPUTING A LUMP-SUM PAYMENT FOR
ACCUMULATED AND ACCRUED ANNUAL LEAVE**

PAY TO BE INCLUDED IN A LUMP-SUM PAYMENT

1. The greatest of:
 - a. An employee's rate of basic pay, including a special rate[,] pay under VA's nurse locality pay system (LPS)[, or market pay for physicians and dentists]; or
 - b. A locality rate of pay under subpart F of part 531 of the CFR; or
 - c. A special law enforcement adjusted rate of pay under subpart C of part 531 of the CFR, including a rate continued under 5 CFR 531.307; or
 - d. A continued rate of pay under subpart G of part 531 of the CFR.
2. Any statutory adjustments or any general system-wide increases in pay that become effective during the lump-sum leave period. This includes an adjustment to a special rate[, LPS, or Base and Longevity Pay Schedule] from which the employee was paid immediately prior to separation.
3. For a prevailing rate employee, the employee's scheduled rate of pay and any applicable adjustments in rates that become effective during the lump-sum leave period.
4. A within-grade increase if the employee has met the requirements of 5 CFR 531.404 or 5 CFR 532.417, [] a periodic step increase if the employee has met the requirements of part III, chapter 5 this handbook[, or a longevity step increase if the physician or dentist has met the requirements of paragraph 8 of part IX of this handbook] prior to the date the employee becomes eligible for a lump-sum payment.
5. [Additional steps paid to individuals under 38 U.S.C. 7452(a)(2) and 38 U.S.C. 7452(c), if they were in receipt of the additional payments immediately prior to the date the employee became eligible for the lump-sum payment].
6. [The following types of premium pay under title 5 and title 38, to the extent such premium pay was actually payable to the employee:
 - a. Night differential under 5 U.S.C. 5343(f) at the percentage rate received by a prevailing rate employee for the last full workweek immediately prior to separation, death, or transfer;
 - b. Pay for standby duty or administratively uncontrollable work under 5 U.S.C. 5545(c) or availability pay under 5 U.S.C. 5545a, if the employee was receiving this type of premium pay for the pay period immediately prior to the date the employee became eligible for a lump-sum payment;

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APPENDIX B**

c. Overtime pay under 5 U.S.C 5545b and 5 CFR 550.1304 for overtime hours in an employee's uncommon tour of duty as defined in 5 CFR 630.201, e.g., firefighter. The uncommon tour must be applicable to the employee for the pay period immediately prior to the date the employee became eligible for a lump-sum payment.

d. An employee's work schedule will not be changed for the sole purpose of avoiding or providing payment of premium pay under this paragraph in a lump-sum payment.

7.] Overtime pay under the Fair Labor Standards Act (FLSA) for overtime work that is regularly scheduled during an employee's established uncommon tour of duty, as defined in 5 CFR 630.201(b)(1), and established under 5 CFR 630.210(a), for which the employee receives standby duty pay under 5 U.S.C. 5545(c)(1). FLSA overtime pay must be included in a lump-sum payment if an uncommon tour was applicable to the employee for the pay period immediately prior to the date the employee became eligible for a lump-sum payment.

[8.] A supervisory differential based on the percentage rate (or dollar amount) received by the employee for the pay period immediately prior to the date the employee became eligible for a lump-sum payment. **NOTE:** *The authorization of a supervisory differential under 5 U.S.C. 5755 requires a discretionary determination by the appropriate approving official and is contingent on the continued employment of a higher paid, non-GS subordinate. A supervisory differential should be terminated and should not be included in the lump-sum payment if it is deemed likely that a qualifying higher paid non-GS subordinate will not continue to be employed during the period covered by the lump-sum payment. The differential must be terminated prior to separation to be excluded from the lump sum payment.*

[9.] A cost-of-living allowance and/or post differential in a non-foreign area, if the employee's official duty station is in the non-foreign area when he or she becomes eligible for a lump-sum payment.

[10.] A post allowance in a foreign area, if the employee's official duty station is in the foreign area when he or she becomes eligible for a lump-sum payment.

[]

PAY TO BE EXCLUDED FROM A LUMP-SUM PAYMENT

1. Any periodic step increase, within-grade increase, [longevity step increase,] or periodic advancement that the employee would have earned had the employee remained in service.
2. On-call pay under 38 U.S.C. 7453(h) and 7457 is excluded, as is all overtime pay for FLSA-exempt title 5 and title 38 personnel.
3. Sunday premium pay under title 5 and weekend premium pay under title 38.

4. Physicians' comparability allowances under title 5.
5. Uniform allowances.
- [6.] The following forms of premium pay under title 5 or title 38:
 - a. Overtime pay for General Schedule employees under 5 U.S.C. 5542;
 - b. Shift differential for General Schedule employees under 5 U.S.C. 5545(a);
 - c. Shift differential for hybrids and title 38 employees under 38 U.S.C. 7453(b);
 - d. Overtime pay for hybrids and title 38 employees under 38 U.S.C. 7453(e);
 - e. Additional pay under 38 U.S.C. 7456 (the Baylor Plan).

[]

CHAPTER 4. SUPERVISORY DIFFERENTIALS

1. COVERAGE. This chapter applies to first level supervisory employees occupying General Schedule (GS) positions paid under U.S.C. 5332. A supervisory differential may be paid to a GS supervisor who is regularly responsible for providing direct technical and administrative supervision of the work of one or more non-GS employees if any of the subordinates would, in the absence of a supervisory differential, be paid more than the supervisor. GS employees competitively promoted or reassigned on a temporary basis to supervisory positions with higher paid subordinates for more than 120 days are eligible for a supervisory differential.

2. CRITERIA FOR AUTHORIZING AND PAYING A SUPERVISORY DIFFERENTIAL

a. **Supervisory Differential is Not Basic Pay.** A supervisory differential is not considered part of the supervisor's rate of basic pay for any purpose. Therefore, a differential under this authority is not an equivalent increase because it does not change the rate of basic pay. For this same reason, the reduction or termination of a differential is not an adverse action; it is not used to calculate promotions; nor is it used for retirement calculation purposes.

b. Limitations on Subordinate's Pay

(1) A subordinate's retained rate of pay may not be used to calculate a differential. Only the maximum rate of basic pay established for the grade of the subordinate's position may be used.

(2) [Market] paid to a physician or dentist under 38 U.S.C. 7431 may not be used to calculate a differential. However, the rate of [base] pay will be considered in determining eligibility for and the amount of a supervisory differential.

c. **Subordinate's Basic Pay Above GS-15/10.** A supervisory differential will not be paid when the subordinate's rate of basic pay, exclusive of additional payments of any kind, exceeds the maximum rate of basic pay for grade GS-15 of the General Schedule (GS-15/10). The following criteria will be used to determine whether the subordinate's rate of basic pay exceeds the rate for GS-15/10:

(1) In areas where the supervisor is paid from the nationwide General Schedule, a differential may not be paid if the subordinate's pay exceeds the rate of basic pay GS-15/10 on the nationwide schedule.

(2) In areas where the supervisor receives GS locality payments, a differential may not be paid if the subordinate's pay exceeds the rate for GS-15/10 including locality payments. If the subordinate and supervisor are not located in the same area, the rate for GS-15/10 at the supervisor's location will be used.

(3) If there is a special salary rate range at the GS-15 level for the supervisor's position, a differential may not be paid if the subordinate's pay exceeds the rate for GS-15/10 on the special salary rate range. If

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- (1) Basic pay not to exceed the maximum rate for the position and grade (retained rates are excluded);
 - (2) A locality comparability payment extended by OPM to a non-GS pay system;
 - (3) Premium pay paid on an annual basis; and
 - (4) Any other continuing payment, except night or environmental differentials, Saturday, Sunday or holiday pay, similar payments under title 5, or [market] pay for physicians and dentists.
- d. **Use of Annual Rates.** A multiplier of 2,087 will be used to calculate the annual equivalent for hourly rates for FWS and hourly rate Veterans Canteen Service employees. Salaries, which are stated as annual amounts, will be compared to the annual rate of the GS supervisor.
- e. **Part-Time Employees.** Computation of basic pay and continuing payments for part-time supervisors and subordinates and the amount of the differential will be calculated as if both supervisor and subordinate were full-time. Payment of the differential, however, will be prorated according to the proportion that the supervisor's part-time employment bears to full-time employment.
- f. **Rounding of Calculations.** A supervisory differential may not cause the continuing pay of the supervisor to exceed the subordinate's pay by more than 3 percent. Therefore, calculation of a 3 percent differential must always be rounded down to avoid exceeding the limit. Differentials of lesser percentages will be rounded to the nearest whole dollar (counting 50 cents or more as a whole dollar).

NOTE: See appendices VI-G and VI-H of this part for computation examples.

4. RESPONSIBILITIES

- a. Administration Heads, Assistant Secretaries, Other Key Officials, Deputy Assistant Secretaries, and facility directors are responsible for the fair, equitable, and fiscally responsible administration of this policy and for ensuring that supervisory differentials are determined, calculated, adjusted, and terminated in accordance with the criteria and procedures contained in this chapter. Management officials are responsible for ensuring that these differentials are adjusted or terminated, as appropriate, whenever pay disparities change, whether due to staffing changes or within-grade, periodic step, or comparability increases.
- b. The Office of Human Resources Management (OHRM) (055) is responsible for advising management officials on the procedures contained in this chapter, conducting technical reviews of requests submitted for centralized approval, auditing approvals for noncentralized positions, and for ensuring that approvals, adjustments, and terminations of differentials are included in the Department's regular submission to OPM's Central Personnel Data File.

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CHAPTER 5**

e. **Rate of Basic Pay.** The rate of pay fixed by law or administrative action for the position held by an employee, including annual premium pay under 5 U.S.C. 5545(c); night differential for prevailing rate employees under 5 U.S.C. 5343(f); a special rate established under 5 U.S.C. 5305, 5 CFR 532.231, or other legal authority (such as 38 U.S.C. 7455); and locality-based comparability payments under 5 U.S.C. 5304, competitive pay for nurses and other health-care personnel established under 38 U.S.C. 7451, [market pay for physicians and dentists under 38 U.S.C. 7431,] any applicable interim geographic adjustment, special rate of pay for law enforcement officers, or special pay adjustment for law enforcement officers under section 302, 403, or 404 of the Federal Employees Pay Comparability Act of 1990 (Pub. L. 101-509). Rate of basic pay does not include additional pay of any other kind, such as [] recruitment, relocation, or retention incentives, or on-call pay.

CHAPTER 6. SPECIAL SALARY RATES

1. GENERAL. This chapter contains mandatory procedures for approving or requesting special salary rates (SSR) for General Schedule and title 38 positions.

a. **Exclusions.** The following personnel are excluded from the provisions of this chapter:

(1) Physicians and dentists [paid] under 38 U.S.C. 7431.

(2) Residents appointed under 38 U.S.C. 7406.

(3) Residents and trainees appointed under 38 U.S.C. 7405(a)(1)(D).

(3) Personnel employed on a per annum fee basis or lump-sum fee basis under 38 U.S.C. 7405(a)(2).

b. **Use of Special Salary Rates.** Special salary rates may be requested or approved only to:

(1) Provide basic pay in amounts competitive with, but not exceeding, the amount of the same type of pay paid to the same category of personnel at non-Federal facilities in the same labor market; and

(2) Enable VA to recruit or retain well-qualified employees, or categories of employees, where recruitment or retention problems are being caused by higher non-Federal rates of pay;

(3) Achieve adequate staffing at particular facilities; or

(4) Recruit personnel with specialized skills, especially those skills which are difficult or demanding.

c. **Preconditions.** Submission of a special rate request or authorization presupposes all recruitment possibilities have been exhausted and full attention has been given to addressing any retention consideration such as working conditions and duty assignments. A request for special salary rates for General Schedule positions also presupposes sound and effective position management, as well as properly classified positions.

d. **Other Limitations**

(1) The authorities in this chapter are to be used as a management tool to enable VA to recruit and retain sufficient numbers of capable, well-qualified personnel. However, pay rates may not be set at levels above those necessary to meet recruitment and retention needs.

(2) The maximum rate established for a grade under this chapter (except in the case of nurse anesthetists, pharmacists and licensed physical therapists) may not exceed the minimum rate prescribed by statute for the grade by more than 90 percent. The maximum rate of basic pay for any employee so increased may not exceed the rate payable for Level V of the Executive Schedule.

CHAPTER 3. BASIC PAY AND LOCALITY COMPARABILITY PAY LIMITS

The following table identifies basic pay and locality pay limitations for the pay systems/occupations listed.

Pay System/Occupation	Basic Pay Limit	Locality Pay Limit
General Schedule/Hybrid Title 38	Level V	Level IV
Federal Wage System	Level V	Not Applicable
Senior Executive Service	Level III	Not Applicable
Executive Schedule	Varies	Not Applicable
Senior-Level	Level IV	Level III
Physicians/Dentists	[Annual pay received by the President of the United States as specified in 3 U.S.C. 102]	Not Applicable
Podiatrists/Optometrists/ Chiropractors/ PAs/EFDAs	Level V	Level IV
Board of Veterans' Appeals	Level IV	Level III
Board of Contract Appeals	Level IV	Level III
Veterans Canteen Service	None	
Deputy Under Secretary for Health	Level IV	Not Applicable
Registered Nurses and Nurse Anesthetists (LPS)	Level V	Not Applicable

CHAPTER 5. DUAL COMPENSATION

1. GENERAL. Except as specifically provided otherwise by statute or the Office of Personnel Management (OPM), 5 U.S.C. 5533(a) provides that an employee is not entitled to receive basic pay from more than one Federal position for more than an aggregate of 40 hours of work in 1 calendar week (Sunday through Saturday). Further, 5 U.S.C. 5536 prohibits receipt of extra Federal pay for extra services unless specifically authorized by law and appropriation (see 41 Comp. Gen. 741 and 37 Comp. Gen. 29). Accordingly, except as indicated in paragraph 2 below, a full-time employee may not hold more than one Federal position; a part-time or intermittent employee may hold more than one Federal position provided basic pay does not exceed pay for 40 hours and there are no conflicts in duty schedules or other prohibitions. Such part-time or intermittent dual employment in VA may be authorized only when there is no other administratively feasible alternative. For dual VA employment of persons appointed under 38 U.S.C. chapters 73 and 74, refer to part II, chapter 3, section A, paragraph 3b of VA Handbook 5005, Staffing [and paragraph 17 of part IX, this handbook].

2. EXCEPTIONS TO DUAL COMPENSATION RESTRICTIONS

a. **Statutory Exceptions.** The provisions of 5 U.S.C. 5533(a), concerning the 40-hour basic pay limitation, do not apply to the types of pay outlined in 5 U.S.C. 5533(d), principal types of which are summarized below.

(1) Pay on a when-actually employed basis received from more than one consultant or expert position refers to individuals utilized under 5 U.S.C. 3109 and 5 CFR, part 304; consultants and attendings utilized under 38 U.S.C. 7405 will not be paid by VA for more than one visit a day. (See appendix II-F.)

(2) Pay consisting of fees paid on other than a time basis includes consultants, attendings, and others utilized under 38 U.S.C. 7405 on a fee-per-service basis.

(3) Pay within the purview of 13 U.S.C. 23(b) concerns enumerators and others involved in the fieldwork of the Bureau of Census, Department of Commerce.

b. Regulatory Exceptions

(1) **Emergencies.** 5 CFR 550.503 provides that 5 U.S.C. 5533(a) does not apply for certain emergency services.

(2) **General and Specific Exceptions.** Each official authorized in VA Handbook 5005 to make appointments is considered the appropriate authority to determine that personal services otherwise cannot be readily obtained in the application of 5 CFR 550.504 and 550.505. Section 550.504(a) applies only to positions for which OPM has authorized special salary rates under 5 U.S.C. 5303 and does not apply to positions not specifically designated in OPM issuances.

CHAPTER 6. BACKPAY

1. GENERAL. A VA employee who meets backpay entitlement requirements as a result of an unjustified or unwarranted personnel action may be entitled to backpay.

2. ENTITLEMENT DETERMINATIONS

a. An employee who suffers a loss or diminution of pay and other benefits as the result of an unjustified or unwarranted personnel action will have such pay and benefits restored on determination of his entitlement to back pay under the provisions of 5 CFR 550.801 through 550.808.

b. [Title 5 e]employees covered by this chapter are entitled to backpay under 5 U.S.C. 5596 and 5 CFR, part 550, subpart H, if an appropriate authority finds that an unjustified or unwarranted personnel action resulted in the withdrawal, reduction or denial of all or a part of pay, allowances or differentials otherwise due the employee. [Title 38 employees covered by this chapter are entitled to back pay under this chapter if an appropriate authority finds that an unjustified or unwarranted personnel action resulted in the withdrawal, reduction or denial of all or a part of pay, allowances or differentials otherwise due the employee.] This includes, among other things, basic pay [(for physicians and dentists, basic pay includes the market pay component)], additional pay, [] premium pay, leave, [] cost-of-living allowances, and post differentials. The appropriate authority is typically the official having authority to approve the applicable personnel action. For further information, see 5 CFR, part 550, subpart H [and 38 U.S.C. 7462(d)(1)].

c. Corrective actions will be processed as indicated in VA Manual MP-6, part V, supplement No. 1.5, chapter 4, section C, and in 5 CFR, part 550, subpart H.

3. WAIVERS OF SALARY OVERPAYMENTS. Title 5, United States Code, section 5584, authorizes waiver under certain conditions of claims of the Government arising out of erroneous payment of pay and allowances. Examples include overpayment of basic pay, [] additional pay and premium pay. For further information concerning such waivers, see OF Bulletin 97GC1.03.

4. RESPONSIBILITIES

a. The Secretary, or designee, is the approving official for backpay for employees occupying positions centralized to that office.

b. Administration Heads, Assistant Secretaries, Other Key Officials, and Deputy Assistant Secretaries, or their designees, may authorize backpay for employees occupying VA Central Office positions in their organizations that are not centralized to the Secretary; and employees occupying field positions centralized to their offices.

c. Network directors and VA equivalents may authorize backpay for employees occupying non-centralized positions in their organizations.