

concerned with the functions or activities of the Department; or

(B) in connection with acceptance of significant awards or with activity related thereto concerned with functions or activities of the Department.

(2) Any such payment may be retained by such officers and employees to cover the cost of such expenses or shall be deposited to the credit of the appropriation from which the cost of such expenses is paid, as may be provided in such regulations.

(Added Pub. L. 102-40, title IV, § 401(b)(3)(B), May 7, 1991, 105 Stat. 230; amended Pub. L. 102-405, title III, § 302(c)(1), Oct. 9, 1992, 106 Stat. 1984.)

PRIOR PROVISIONS

Provisions similar to those in this section were contained in sections 4108(d) and 4113 of this title prior to the repeal of those sections as part of the complete revision of chapter 73 of this title by Pub. L. 102-40.

AMENDMENTS

1992—Subsec. (a). Pub. L. 102-405 substituted “Under Secretary for Health” for “Chief Medical Director”.

§ 7425. Employees: laws not applicable

(a) Physicians, dentists, nurses, and other health-care professionals employed by the Administration and appointed under section 7306, 7401(1), 7405, or 7406 of this chapter are not subject to the following provisions of law:

- (1) Section 413 of the Civil Service Reform Act of 1978.
- (2) Subchapter II of chapter 31 of title 5.
- (3) Subchapter VIII of chapter 33 of title 5.
- (4) Subchapter V of chapter 35 of title 5.
- (5) Subchapter II of chapter 43 of title 5.
- (6) Section 4507 of title 5.
- (7) Subchapter VIII of chapter 53 of title 5.
- (8) Subchapter V of chapter 75 of title 5.

(b) Notwithstanding any other provision of law, no provision of title 5 or any other law pertaining to the civil service system which is inconsistent with any provision of section 7306 of this title or this chapter shall be considered to supersede, override, or otherwise modify such provision of that section or this chapter except to the extent that such provision of title 5 or of such other law specifically provides, by specific reference to a provision of this chapter, or such provision to be superseded, overridden, or otherwise modified.

(Added Pub. L. 102-40, title IV, § 401(b)(3)(B), May 7, 1991, 105 Stat. 231.)

REFERENCES IN TEXT

Section 413 of the Civil Service Reform Act of 1978, referred to in subsec. (a)(1), is section 413 of Pub. L. 95-454, title IV, Oct. 13, 1978, 92 Stat. 1175, which is set out as a note under section 3133 of Title 5, Government Organization and Employees.

PRIOR PROVISIONS

Provisions similar to those in this section were contained in sections 4101(e) and 4119 of this title prior to the repeal of those sections as part of the complete revision of chapter 73 of this title by Pub. L. 102-40.

§ 7426. Retirement rights

(a) Except as provided in subsection (b), persons appointed to the Administration shall be

subject to the provisions of and entitled to benefits under subchapter III of chapter 83 of title 5 or subchapter II of chapter 84 of title 5, whichever is applicable.

(b)(1) In computing the annuity under subchapter III of chapter 83, or subchapter II of chapter 84, of title 5 of an individual who retires under such subchapter (other than under section 8337 or 8451 of such title) after December 31, 1981, and who served at any time on a less-than-full-time basis in a position in the Administration to which such individual was appointed under subchapter I—

(A) for the purpose of determining such individual's average pay, as defined by section 8331(4) or 8401(3) of title 5, whichever is applicable, the annual rate of basic pay for full-time service shall be deemed to be such individual's rate of basic pay; and

(B) the amount of such individual's annuity as computed under section 8339 or 8415 of title 5 (before application of any reduction required by subsection (i) of section 8339) shall be multiplied by the fraction equal to the ratio that that individual's total full-time equivalent service bears to that individual's creditable service as determined under section 8332 or 8411 of title 5, whichever is applicable.

(2) For the purposes of paragraph (1)(B), an individual's full-time equivalent service is the individual's creditable service as determined under section 8332 or 8411 of title 5, whichever is applicable, except that any period of service of such individual served on a less-than-full-time basis shall be prorated based on the fraction such service bears to full-time service. For the purposes of the preceding sentence, full-time service shall be considered to be 80 hours of service per biweekly pay period.

(3) A survivor annuity computed under section 8341, or subchapter IV of chapter 84, of title 5 based on the service of an individual described in paragraph (1) shall be computed based upon such individual's annuity as determined in accordance with such paragraph.

(c) The provisions of subsection (b) shall not apply to the part-time service before April 7, 1986, of a registered nurse, physician assistant, or expanded-function dental auxiliary. In computing the annuity under the applicable provision of law specified in that subsection of an individual covered by the preceding sentence, the service described in that sentence shall be credited as full-time service.

(Added Pub. L. 102-40, title IV, § 401(b)(3)(B), May 7, 1991, 105 Stat. 231; amended Pub. L. 102-585, title V, § 522, Nov. 4, 1992, 106 Stat. 4959; Pub. L. 106-398, § 1 [[div. A], title X, § 1087(g)(5)], Oct. 30, 2000, 114 Stat. 1654, 1654A-294; Pub. L. 107-135, title I, § 132, Jan. 23, 2002, 115 Stat. 2454.)

PRIOR PROVISIONS

Provisions similar to those in this section were contained in sections 4107(i) and 4109 of this title prior to the repeal of those sections as part of the complete revision of chapter 73 of this title by Pub. L. 102-40.

AMENDMENTS

2002—Subsec. (c). Pub. L. 107-135 added subsec. (c).

2000—Subsec. (c). Pub. L. 106-398 struck out subsec. (c) which read as follows: “The Secretary may author-

ize an exception to the restrictions in subsections (a), (b), and (c) of section 5332 of title 5 if necessary to meet special or emergency employment needs which result from a severe shortage of well-qualified candidates in physician positions, and registered nurse positions, which otherwise cannot be readily met. The authority of the Secretary under the preceding sentence with respect to registered-nurse positions expires on December 31, 1994.”

1992—Subsec. (c). Pub. L. 102-585 substituted “December 31, 1994” for “September 30, 1992”.

SUBCHAPTER III—PAY FOR PHYSICIANS AND DENTISTS

CODIFICATION

This subchapter was originally added by Pub. L. 102-40, May 7, 1991, 105 Stat. 187, and amended by Pub. L. 102-405, Oct. 9, 1992, 106 Stat. 1972; Pub. L. 104-262, Oct. 9, 1996, 110 Stat. 3177; Pub. L. 103-446, Nov. 2, 1994, 108 Stat. 4645; Pub. L. 106-419, Nov. 1, 2000, 114 Stat. 1822. This subchapter is shown here, however, as having been added by Pub. L. 108-445, §3(b), Dec. 3, 2004, 118 Stat. 2636, without reference to those intervening amendments because of the general amendment of this subchapter by Pub. L. 108-445.

AMENDMENTS

2004—Pub. L. 108-445, §3(b), Dec. 3, 2004, 118 Stat. 2636, substituted “PAY FOR PHYSICIANS AND DENTISTS” for “SPECIAL PAY FOR PHYSICIANS AND DENTISTS” in subchapter heading.

§ 7431. Pay

(a) ELEMENTS OF PAY.—Pay of physicians and dentists in the Veterans Health Administration shall consist of three elements as follows:

- (1) Base pay as provided for under subsection (b).
(2) Market pay as provided for under subsection (c).
(3) Performance pay as provided under subsection (d).

(b) BASE PAY.—One element of pay for physicians and dentists shall be base pay. Base pay shall meet the following requirements:

- (1) Each physician and dentist is entitled to base pay determined under the Physician and Dentist Base and Longevity Pay Schedule.
(2) The Physician and Dentist Base and Longevity Pay Schedule is composed of 15 rates of base pay designated, from the lowest rate of pay to the highest rate of pay, as base pay steps 1 through 15.
(3) The rate of base pay payable to a physician or dentist is based on the total number of the years of the service of the physician or dentist in the Veterans Health Administration as follows:

Table with 2 columns: 'For a physician or dentist with total service of:' and 'The rate of base pay is the rate payable for:'. Rows range from 'two years or less' (step 1) to 'more than 12 years' (step 6).

Table with 2 columns: 'For a physician or dentist with total service of:' and 'The rate of base pay is the rate payable for:'. Rows range from 'more than 12 years and not more than 14 years' (step 7) to 'more than 28 years' (step 15).

(4) At the same time as rates of basic pay are increased for a year under section 5303 of title 5, the Secretary shall increase the amount of base pay payable under this subsection for that year by a percentage equal to the percentage by which rates of basic pay are increased under such section for that year.

(5) The non-foreign cost of living adjustment allowance authorized under section 5941 of title 5 for physicians and dentists whose pay is set under this section shall be determined as a percentage of base pay only.

(c) MARKET PAY.—One element of pay for physicians and dentists shall be market pay. Market pay shall meet the following requirements:

- (1) Each physician and dentist is eligible for market pay.
(2) Market pay shall consist of pay intended to reflect the recruitment and retention needs for the specialty or assignment (as defined by the Secretary) of a particular physician or dentist in a facility of the Department of Veterans Affairs.
(3) The annual amount of the market pay payable to a physician or dentist shall be determined by the Secretary on a case-by-case basis.
(4) The determination of the amount of market pay of a physician or dentist shall take into account—

- (A) the level of experience of the physician or dentist in the specialty or assignment of the physician or dentist;
(B) the need for the specialty or assignment of the physician or dentist at the medical facility of the Department concerned;
(C) the health care labor market for the specialty or assignment of the physician or dentist, which may cover any geographic area the Secretary considers appropriate for the specialty or assignment;
(D) the board certifications, if any, of the physician or dentist;
(E) the prior experience, if any, of the physician or dentist as an employee of the Veterans Health Administration; and
(F) such other considerations as the Secretary considers appropriate.

(5) The amount of market pay of a physician or dentist shall be evaluated by the Secretary