

(Added Pub. L. 95-454, title VIII, §801(a)(1), Oct. 13, 1978, 92 Stat. 1220; amended Pub. L. 101-508, title VII, §7202(f), Nov. 5, 1990, 104 Stat. 1388-336; Pub. L. 108-411, title III, §301(a)(6), Oct. 30, 2004, 118 Stat. 2317.)

PRIOR PROVISIONS

A prior section 5365, added Pub. L. 91-34, §1(a), June 30, 1969, 83 Stat. 41; amended Pub. L. 94-183, §2(20), Dec. 31, 1975, 89 Stat. 1058, which related to the police force of National Zoological Park, was renumbered section 5375 of this title by Pub. L. 95-454, title VIII, §801(a)(3)(A)(ii), Oct. 13, 1978, 92 Stat. 1221.

AMENDMENTS

2004—Subsec. (b). Pub. L. 108-411 inserted “(subject to any conditions or limitations the Office may establish)” after “provisions of this subchapter” in introductory provisions.

1990—Subsec. (b). Pub. L. 101-508 inserted at end “Individuals with respect to whom authority under paragraph (2) may be exercised include individuals who are moved without a break in service of more than 3 days from employment in nonappropriated fund instrumentalities of the Department of Defense or the Coast Guard described in section 2105(c) to employment in the Department of Defense or the Coast Guard, respectively, that is not described in section 2105(c).”

EFFECTIVE DATE OF 2004 AMENDMENT

Amendment by Pub. L. 108-411 effective on the first day of the first applicable pay period beginning on or after the 180th day after Oct. 30, 2004, with provisions relating to conversion rules, see section 301(d) of Pub. L. 108-411, set out as a note under section 5363 of this title.

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101-508 applicable with respect to any individual who, on or after Jan. 1, 1987, moves from employment in nonappropriated fund instrumentality of Department of Defense or Coast Guard, that is described in section 2105(c) of this title, to employment in Department or Coast Guard, that is not described in section 2105(c), or who moves from employment in Department or Coast Guard, that is not described in section 2105(c), to employment in nonappropriated fund instrumentality of Department or Coast Guard, that is described in section 2105(c), see section 7202(m)(1) of Pub. L. 101-508, set out as a note under section 2105 of this title.

TRANSFER OF FUNCTIONS

For transfer of authorities, functions, personnel, and assets of the Coast Guard, including the authorities and functions of the Secretary of Transportation relating thereto, to the Department of Homeland Security, and for treatment of related references, see sections 468(b), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

§ 5366. Appeals

(a)(1) In the case of the termination of any benefits available to an employee under this subchapter on the grounds such employee declined a reasonable offer of a position the grade or pay of which was equal to or greater than his retained grade or pay, such termination may be appealed to the Office of Personnel Management under procedures prescribed by the Office.

(2) Nothing in this subchapter shall be construed to affect the right of any employee to appeal—

(A) under section 5112(b) or 5346(c) of this title, or otherwise, any reclassification of a position; or

(B) under procedures prescribed by the Office of Personnel Management, any reduction-in-force action.

(b) For purposes of any appeal procedures (other than those described in subsection (a) of this section) or any grievance procedure negotiated under the provisions of chapter 71 of this title—

(1) any action which is the basis of an individual’s entitlement to benefits under this subchapter, and

(2) any termination of any such benefits under this subchapter,

shall not be treated as appealable under such appeals procedures or grievable under such grievance procedure.

(Added Pub. L. 95-454, title VIII, §801(a)(1), Oct. 13, 1978, 92 Stat. 1221.)

SUBCHAPTER VII—MISCELLANEOUS PROVISIONS

AMENDMENTS

1978—Pub. L. 95-454, title VIII, §801(a)(3)(A)(i), Oct. 13, 1978, 92 Stat. 1221, redesignated former subchapter VI as VII.

§ 5371. Health care positions

(a) For the purposes of this section, “health care” means direct patient-care services or services incident to direct patient-care services.

(b) The Office of Personnel Management may, with respect to any employee described in subsection (c), provide that 1 or more provisions of chapter 74 of title 38 shall apply—

(1) in lieu of any provision of chapter 51 or 61, subchapter V of chapter 55, or any other provision of this chapter; or

(2) notwithstanding any lack of specific authority for a matter with respect to which chapter 51 or 61, subchapter V of chapter 55, or this chapter, relates.

(c) Authority under subsection (b) may be exercised with respect to any employee holding a position—

(1) to which chapter 51 applies, excluding any Senior Executive Service position and any position in the Federal Bureau of Investigation and Drug Enforcement Administration Senior Executive Service; and

(2) which involves health care responsibilities.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 473, §5361; renumbered §5371 and amended Pub. L. 95-454, title VIII, §801(a)(3)(A)(ii), title IX, §906(a)(2), Oct. 13, 1978, 92 Stat. 1221, 1224; Pub. L. 101-509, title V, §529 [title II, §205(A)], Nov. 5, 1990, 104 Stat. 1427, 1456; Pub. L. 102-378, §2(31), Oct. 2, 1992, 106 Stat. 1350.)

HISTORICAL AND REVISION NOTES

| <i>Derivation</i> | <i>U.S. Code</i> | <i>Revised Statutes and Statutes at Large</i> |
|-------------------|-------------------|-------------------------------------------------------------------------------------------------------------------------|
| | 5 U.S.C. 1162(b). | Oct. 4, 1961, Pub. L. 87-367, §202 “Sec. 2(b)”, 75 Stat. 790. Oct. 11, 1962, Pub. L. 87-793, §1001(a)(1), 76 Stat. 863. |

The authority to fix rates of pay is added on authority of former section 1161, which is carried into section 3104.