

# PROCEDURES FOR SUBMITTING TITLE 38 CASES

## PHYSICIAN AND DENTIST PAY (PDP)

### Eligibility:

To be eligible for Title 38 pay physicians or dentists must be appointed under Title 5 and either:

- Provide direct patient care or services incident to patient care (at least 10% of official time).
  - As part of an active research protocol; or
  - The management of clinical research or service programs requiring clinical skills; or
- Oversee large interventional clinical trials.
  - These physicians are licensed or have obtained a waiver of licensure;
  - Spend at least 10% of time in direct involvement in the clinical trial; and
  - Are medically responsible for the clinical trial

Physicians or dentists are **excluded** from receiving Title 38 pay if they are:

- Serving as members of the PHS Commissioned Corps;
- Serving in an internship or residency program;
- Reemployed annuitants;
- In the SES, SL/ST, SBRS, ES, EL, or other senior-level systems;
- Receiving PCA;
- Employed or paid under a Title 42 authority; or
- Serving on an intermittent work schedule.

### Procedures

#### Required Documentation

The following documentation is required for review by the NCCP.

*Note: In October 2006, physicians receiving Title 38 pay were retroactively converted effective January 8, 2006, to the new Physician and Dentist Pay (PDP) system. Market Pay was calculated based upon PSP, Locality Pay and Retention Incentives (where applicable). In prior years, the pay of physicians whose total compensation was calculated to exceed the \$200,000 pay cap was reduced so as not to exceed this amount. During the 2006 conversion many of these physicians were converted at a salary level that reflected their true unreduced total compensation, so that they are now receiving compensation in excess of \$200,000 (although less than the new NIH \$250,000 Title 38 cap).*

1. Memorandum of recommendation, reviewed by the IC Standing Committee and endorsed by the IC Director, addressing:
  - Nature of Action: Type of action proposed – e.g. placement of physician into Pay Table and Tier Level, and/or Market Pay Adjustment.
  - Position Information: Description of duties, responsibilities and challenges of the NIH position that define placement in Title 38, the Pay Table, and Tier Level.

- Physician Information: The physician's specific qualifications, achievements, awards, publications, etc., and significance with respect to the position information described above.
- Market Pay Justification: If a market pay increase is being recommended the following factors should be considered in justifying the new pay level.
  - Market pay range for specific specialty and tier level
  - Recruitment and retention needs for the specialty or assignment;
  - Level of experience in the specialty;
  - Board Certifications;
  - Healthcare labor market for the specialty or assignment;
  - Previous HHS experience; and
  - Other qualifications of the individual physician or dentist.

*Note: ICs should determine whether a physician's current Market Pay is within the range for the appropriate Pay Table and Tier Level. Pay adjustments under Title 38 can be recommended if the total compensation is less than the Pay Table and Tier Level. If the IC is requesting a market pay increase which will cause the annual pay to exceed the Pay Table and Tier Level, the recommended pay adjustment must be justified as an exception. Following review by the NCCP, the Deputy Director, NIH, has the authority to approve such exceptions.*

2. AAMC Data referencing appropriate specialties and position titles
3. Curriculum Vitae and Bibliography
4. Organizational Chart(s)
5. OF-8 and Position Description (must include statement and description of 10% patient care or services incident to patient care, or medical responsibility for large interventional clinical trials)
6. Form HHS-691 - Request for Title 38 Physician and Dentist Pay (<http://intranet.hhs.gov/forms/HHS/HHS-691.pdf>)
  - Instructions for completing Section 4: Amount of PDP to be Paid:
    - Current Pay Plan/Grade/Step
    - Current Base Pay (excluding Locality Pay)
    - Clinical Specialty(ies)
    - Current Market Pay or Proposed Market Pay, if appropriate
    - Pay Table/Tier Level
    - Recruitment and Relocation Incentives are for new recruits; Retention Incentives may be recommended if justified and if not otherwise appropriately incorporated into Market Pay.
  - Instructions for completing Section 6: Reviews and Approvals
    - Recommending Official – IC Director
    - Compensation Panel Chair – Michael Gottesman, M.D., Chair, NCCP
    - Approving Official (see section on Approvals)
    - Fund Availability – Administrative or Budget Officer
    - Human Resources Review – HR CSD Operating Branch Chief

**One hardcopy original and an electronic copy should be submitted to the Special Programs Branch, Office of Human Resources, NIH, in Building 31, Room 1C-39, Attn: Kim Westervelt, [westervk@od.nih.gov](mailto:westervk@od.nih.gov).**

Please note that changes to previously approved duties and responsibilities, and clinical services require approval by the NCCP. A memo outlining the proposed changes and their continued use for eligibility under Title 38, justification for continuation at the current pay rate, and a classified and revised PD and OF-8 are required documentation.

### **Review Procedures:**

The NCCP (Deputy Director for Intramural Research, NIH, serving as Chair) will review placement into a Pay Table and Tier Level, and market pay adjustments, if requested. The NCCP will make recommendations to the Deputy Director, NIH, or the Deputy Director for Management, NIH, for approval of proposed placements and market pay adjustments on an ad hoc basis. In addition, the NCCP will evaluate the pay table, tier level, and total compensation of each physician every 24 months thereafter.

### **Approvals:**

The approval levels listed below apply to appointments and pay adjustment requests, following review by the NCCP:

#### Deputy Director for Management, NIH:

- All requests for PDP when total pay  $\leq$  EX-1

#### Deputy Director, NIH:

- All requests for PDP when total pay  $>$  EX-1
- Exceptions to the maximum of the annual pay range