

**HUMAN RESOURCES MANUAL**

**Instruction 590-1**

**Issuance Date: July 2007**

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**SUBJECT: TITLE 38 PHYSICIAN AND DENTIST PAY (PDP)**

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**590-1-00 PURPOSE**

This Instruction implements HHS regulations and procedures for payment of Physician and Dentist Pay (PDP).

**590-1-10 COVERAGE AND EXCLUSIONS**

- A. Coverage: This Instruction covers civilian physicians and dentists (full-time and part-time) at GS-15 and below whom:
1. Provide direct patient care services, or services incident to patient care;
  2. Have been designated for coverage by appropriate authority.
  3. As used in this document, references to physicians include both physicians and dentists.
- B. Categorical Exclusions: This instruction does not apply to physicians who are:
1. Currently serving in the PHS Commissioned Corps;
  2. Serving in an internship or residency training program;
  3. Reemployed annuitants;

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4. In the Senior Executive Service (SES), Executive Schedule (ES), Senior Level/Scientific (SL/ST), Senior Biomedical Research Service (SBRS), Executive Level (EL), or other senior-level systems;
  5. Receiving Physicians Comparability Allowance (PCA) fewer than 5 U.S. Code 5948;
  6. Employed or paid under a Title 42 authority;
  7. Employees serving on intermittent work schedules.
- C. Former Members of the Uniformed Services: Former members of the Uniformed Services, i.e., the Army, Navy, Air Force, Marines, Coast Guard, National Oceanic and Atmospheric Administration and the PHS Commissioned Corps may Receive Physician and Dentists Pay.

### 590-1-20 REFERENCES

- A. 38 U.S. Code, Chapter 74 (law - veterans' health administration - personnel)
- B. 5 U.S. Code 5371 (law - health care positions)
- C. Public Law 93-638, Section 105(e)-(h) (Indian Self Determination and Education Assistance Act)
- D. Public Law 99-221, Section 3(a) (Cherokee Leasing Act)
- E. U.S. Office of Personnel Management Title 38 Delegation Agreement, dated April 2006.

### 590-1-30 DEFINITIONS

- A. Aggregate Pay - The sum of all payments made to a physician or dentist in a calendar year, exclusive of lump sum annual leave, reimbursement of travel, back pay, and severance pay, may not exceed the rate of pay for the President of the United States (currently set at \$400,000).
- B. Annual Pay - The sum of the GS base pay rate and market pay. Annual pay is basic pay only for purposes of computing civil service retirement benefits, lump sum annual leave payments, life insurance, thrift savings plan, work injury compensation claims, severance pay, recruitment, relocation, and retention incentives, continuation of pay, and advances in pay.
- C. Compensation Panel - A group of physicians and/or dentists responsible for the evaluation of physicians or dentists and making recommendations to the approving official for annual pay.
- D. Management Official - A person who has supervisory authority over staff or program management responsibility.

- E. Market Pay - A component of basic pay intended to reflect the recruitment and retention needs for the specialty or assignment of a particular HHS physician or dentist.
- F. Tier - A level within the annual pay range for an assignment or specialty.
- G. Total Compensation – The sum of all payments made to a physician and dentist including base pay, market pay, recruitment, relocation and retention incentives, performance awards, or other cash awards.
- H. Total Pay - The sum of all payments made to a physician and dentist. Includes base pay, market pay, recruitment, relocation, and retention incentives. Excludes cash awards. In Alaska, Hawaii, and Puerto Rico, where the Office of Personnel Management has approved a non-foreign cost-of-living allowance (COLA) under 5 U.S.C. 5941, total pay also includes the COLA.

**590-1-40 POLICY**

- A. Discretionary Application: PDP is available for use to recruit and retain highly qualified physicians. Payment of PDP is optional in each OPDIV. (Throughout this Instruction, references to OPDIV Head infers authorities may be redelegated.)

Within budgetary constraints, HHS policy is to compensate physicians at levels reasonably comparable with those paid to other Federal sector physicians in the same local area.

- B. Establishment of PDP Amounts: PDP amounts for physicians will be established on an individual basis according to GS Base Pay and Market Pay (See Section 70, Market Pay), and 509-1-A, which describes approval authorities.
- C. Relationship to Basic Pay: PDP is basic pay for all benefits including retirement.
- D. Relationship to Premium Pay Under Title 5: Physicians who receive PDP may not:
  - 1. Be paid overtime for work in excess of 8 hours per day, 40 hours per week, or 80 hours per pay period;
  - 2. Earn compensatory time off; or
  - 3. Receive any other form of premium pay under Chapter 55 of Title 5, U.S. Code, e.g., Sunday, holiday, night pays.

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- E. Physicians and Dentists receiving PDP will be covered by the HHS Performance Management Appraisal Program.
- F. Other Discretionary Pay Under Title 5: Physicians who receive PDP may receive other forms of discretionary pay under Title 5, such as awards, Recruitment, Relocation, and Retention Incentives (5 U.S. Code 5753 and 5754). However, they are not eligible to receive a Physicians Comparability Allowance under 5 U.S. Code 5948.

The sum of base pay and any discretionary pay which is paid to a physician or dentist under Title 5 authority, (e.g., cash awards, performance awards, and recruitment, retention, and relocation incentives) is limited on an annual basis to the rate of pay for Executive Level 1 (EX-1).

- G. Aggregate Compensation Limits: Total compensation of physicians receiving PDP under Title 38 authority, basic pay, and other supplemental pay under Title 5 cannot exceed the amount of annual pay received by the President of the United States as specified in Section 102 of Title 3.
- H. Effective Dates: PDP will usually be effective at the beginning of the pay period immediately following approval by the approving official or on a later date specified on HHS Form 691 (See Exhibit 509-1-B). PDP may not be approved retroactively. However, depending on the circumstances, an administrative error may be corrected retroactively. (PDP will be paid on a bi-weekly basis.)
- I. Outside Work: Because of the work obligation associated with PDP, physicians who wish to perform outside work must submit a prior written request under established agency procedures. Any activity interfering or conflicting with the employee's work obligation will be disapproved.
- J. Part-Time Service: Part-Time physicians who have a tour of duty of at least 20 hours per pay period may be offered PDP.
- K. Relationship to Leave Under Title 5: Physicians who receive PDP continue to be covered by the leave provisions of Chapter 63 of Title 5.

## 590-1-50 RESPONSIBILITIES

- A. Operating Division (OPDIV) Heads
  - 1. Responsible for ensuring that merit system principles and the requirements of the Title 38 statute, the OPM and HHS delegation agreement, and this Instruction are followed in their use of Physician and Dentist Pay.

2. Responsible for reviewing requests for approval of outside work activities from physicians and dentists for possible conflict of interest with work obligations.
  3. Responsible for maintaining auditable program records, and participating in evaluation of this authority by OPM, HHS, or other administrative authority.
- B. Office of the Assistant Secretary for Administration and Management (ASAM)
1. The ASAM, Office of Human Resources (OHR) is responsible for obtaining the concurrence of the Interagency Committee for Health Care Occupations on the HHS Physician and Dentist Pay Plan.
  2. The ASAM/OHR is responsible for preparing the annual report of use of PDP as required by OPM.
- C. Approving Officials (OPDIV Head designee): Responsible for reviewing and certifying that PDP requests comply with the provisions of law, the OPM and HHS delegation agreement, and this Instruction.

#### **590-1-60 CASE DOCUMENTATION, PROCEDURES AND PROCESSING**

- A. New or Renewal Actions: Management officials proposing Physician and Dentist Pay must complete HHS Form 691 and provide:
1. A copy of the candidate's/employee's qualifications statement or curriculum vitae;
  2. The position description; and
  3. Written market pay justification.
- B. Information listed in A. should be forwarded by the recommending official to the approving official for review and approval.
- C. Once approved, cases will be forwarded with supporting documentation to the servicing HR Center for:
1. Processing of a Notification of Personnel Action (SF-50); and
  2. Maintenance of records in the employee's Official Personnel Folder (OPF).

NOTE: Maintain supporting documentation on the left side of the OPF.

**590-1-70 MARKET PAY**

- A. Each physician and dentist covered by this part is eligible for market pay. Market pay is intended to reflect the recruitment and retention needs for the specialty or assignment of a particular physician or dentist at an HHS facility.
- B. At least once every two years, the VA Secretary prescribes nationwide minimum and maximum amounts of annual pay (base pay plus market pay) that will be paid under this paragraph. These amounts are published in the Federal Register for not less than 60 days prior to the effective date. The VA Secretary may prescribe different ranges for different specialties or assignments. In determining pay ranges, at least two or more national surveys of pay for physicians and dentists are consulted. National surveys consulted include data that describes overall physician and dentist income by specialization or assignment and benefits in broad geographic scope.
  - 1. When the VA increases the nationwide minimum and/or maximum amounts of annual pay under this paragraph, physicians and dentists are not automatically entitled to a corresponding increase in their individual annual pay rates. Only physicians and dentists whose existing rate of annual pay falls below the newly prescribed nationwide minimum for their designated pay range will automatically receive an increase in market pay to make their annual pay rate equivalent to the new nationwide minimum. Compensation Panels review the market pay rates for individual physicians and dentists on a periodic basis.
  - 2. In the event that the nationwide minimum and maximum amounts of annual pay are reduced under this paragraph, physicians and dentists already on HHS rolls will not experience a reduction in market pay.
- C. There may be up to four tiers of annual pay for each specialty or assignment for which a separate range of pay has been approved. Each tier reflects different professional responsibilities, professional achievements, or administrative duties. "See Exhibit 590-1-C."
- D. The amount of market pay and appropriate tier for a particular physician or dentist is recommended to the approving official.
- E. The determination of the amount of market pay of a particular physician or dentist shall take into consideration:
  - 1. The level of experience of the physician or dentist in the specialty or assignment;

2. The need for the specialty or assignment of the physician or dentist at the facility;
  3. The appropriate health care labor market for the specialty or assignment of the physician or dentist;
  4. The board certifications, if any, of the physician or dentist;
  5. The accomplishments of the physician or dentist in the specialty or assignment;
  6. Consideration of unique circumstances, qualifications or credentials, if any, and the comparison of these circumstances to the equivalent compensation level of non-HHS physicians or dentists in the local health care labor market; and
- F. Each OPDIV will establish **one** “Compensation Panel” that will be responsible for PDP Program oversight and guidance. These Panels will ensure that there is consistency and appropriateness of pay determinations within the OPDIV and periodically review physician and dentist pay under the PDP Program.

All Compensation Panel recommendations are taken into consideration by the appropriate approving official. The approving official determines the amount of market pay to be paid a physician or dentist after consideration of the range and tier recommended by the panel. The approving official’s decision is final.

## **590-1-80 EXCEPTIONS TO THE MAXIMUM OF THE ANNUAL PAY RANGE**

### **A. GENERAL**

1. Except as provided in paragraphs A.2 through A.4, and B., below, the annual pay for a physician or dentist may not exceed the maximum amount in the nationwide pay range prescribed by the Secretary of the Department of Veterans Affairs for a specialty or assignment.
2. It is expected that the maximum amount in the nationwide pay range will meet most pay and staffing needs. However, the OPDIV Head may grant an exception to the maximum on an individual, specialty or assignment, and/or facility-specific basis if such action is necessary to recruit or retain well qualified physicians and dentists.
3. Exceptions to the maximum amount in the nationwide pay range will only be considered if failure to approve the exception would significantly impair an organization’s ability to recruit and retain well qualified physicians and dentists.

4. Exceptions to the maximum amount of a nationwide pay range are not required for physicians and dentists who will exceed the pay range due to a GS step increase or a statutory general increase in pay.

**B. CRITERIA FOR APPROVAL.** Each organization submitting a request for an exception to the maximum in the pay range for an individual, specialty or assignment, and/or facility-specific basis must demonstrate that a higher maximum is necessary to maintain adequate staffing. Factors to consider include:

1. Exceptions to the Maximum Annual Pay Ranges

- (a) Higher Maximum Rates

- (1) There is substantial evidence or anecdotal information that the maximum rates in the community are higher than the Department's maximum rate for the specialty or assignment. However, higher rates in the community may not be the sole basis for making a request for an exception to the maximum of the market pay range; and

- (2) Employees are quitting for pay and the potential exists for an adverse impact on the organization;

- (b) Alternative Job Offers. There is evidence that applicants and employees are being offered higher rates of pay for the same assignment or specialty in the labor market. Historical evidence indicates that the quality of or a lack of candidates is unacceptable for the assignment or specialty. Documentation of specific recruitment efforts must be provided to support this factor; and

- (c) Other Criteria. The organization may submit any evidence of pay-related staffing problems which seriously hamper or have the potential to seriously hamper its ability to recruit and retain physicians and dentists in the specialty or assignment.

2. Individual Exception to the Maximum of the Annual Pay Range

- (a) The individual should have outstanding qualifications in a medical or dental specialty or possess a unique combination of education and experience that meets a special need of the organization that may be project specific or critical to the HHS mission.



- (b) A discussion of what factors distinguish the individual when compared with other physicians or dentists with like length of service, specialty, and assignment; or a discussion of the rare combination of education and experience which the individual has and how it meets a special need of the organization or the mission of HHS.

C. **REQUESTING EXCEPTIONS.** Requests for exceptions to the maximum of the nationwide pay range will be sent to the OPDIV head with a recommendation from the Compensation Panel. Requests shall include the following:

- 1. The individual or specialty or assignment for which the exception is requested;
- 2. The amount of maximum pay requested;
- 3. The reasons for the request, including documentation specific to the criteria in paragraph B; and
- 4. Any other pertinent information.

**590-1-90** **EFFECTIVE DATE:** This policy was effective on January 8, 2006.

**EXHIBIT 1-A, Summary of Title 38 Physician and Dentist Pay Approval Authority**

<b>AUTHORITY</b>	<b>HELD BY</b>	<b>DELEGATED TO</b>
1. Establish Title 38 Physician and Dentist Pay regulations and procedures.	ASAM	
2. Approve requests for PDP when proposed total compensation exceeds \$250,000.	ASAM	
3. Approve requests for PDP when proposed total compensation exceeds Executive Level I (EX-1).	ASAM	OPDIV Heads
4. Approve PDP for individuals reporting directly to the OPDIV head	ASAM	OPDIV Heads
5. Approve exceptions to the maximum of the annual pay range.	ASAM	OPDIV Heads

**EXHIBIT 1-B (HHS Form 691)**

<b>REQUEST FOR TITLE 38 PHYSICIANS AND DENTISTS PAY (PDP)</b>			
<b>1. SPECIAL PAY REQUEST</b> Physician _____ Dentist _____		<b>2. ACTION REQUESTED</b> Recruitment__ Retention__	
<b>3. EMPLOYEE INFORMATION</b>			
Name _____			SSN _____
Position Title/P.D. Number _____			
Organization (Agency/Center/Division) _____			
Official Tour of Duty _____		Full Time _____	Part Time _____
If part time, regularly scheduled hours per pay period _____			
<b>4. CURRENT PAY INFORMATION</b>			
Grade/Step _____		GS Base Pay _____	\$ _____
Clinical Specialty/Board Certification _____			
Table # _____		Tier # _____	Current Market Pay \$ _____
			Total PDP \$ _____
Recruitment Incentive _____	Retention Incentive _____	Relocation Incentive _____	3 R's Pay \$ _____
			Total Annual Compensation\$ _____
<b>5. PROPOSED PAY INFORMATION</b>			
Table # _____		Tier # _____	Proposed Market Pay \$ _____
			Proposed Total PDP \$ _____
Recruitment Incentive _____	Retention Incentive _____	Relocation Incentive _____	3 R's Pay \$ _____
			Proposed Total Annual Compensation \$ _____
<b>6. REVIEWS AND APPROVALS</b>			
<b>Recommending Official (print name below)</b>	<b>Title &amp; Signature</b>		<b>Date</b>
<b>Compensation Panel Chair (print name below)</b>	<b>Title &amp; Signature</b>		<b>Date</b>
<b>Approving Official (print name below)</b>	<b>Title &amp; Signature</b>		<b>Date</b>
<b>Funds are available (print name below)</b>	<b>Title &amp; Signature</b>		<b>Date</b>
<b>HR Review (print name below)</b>	<b>Title &amp; Signature</b>		<b>Date</b>
<b>7. EFFECTIVE DATE</b> _____			

Attachments: Current CV, Board Certification, PD, and Justification

**EXHIBIT 1-C, OPDIV PHYSICIAN AND DENTIST TIER DESCRIPTIONS**

<b>OPDIV</b>	<b>COVERAGE – Food and Drug Administration (FDA)</b>
<b>TIER 1</b>	Non Supervisory Medical Officers and Dentist
<b>TIER 2</b>	1 <sup>st</sup> Level Supervisors (Branch Chief) and Team Leaders
<b>TIER 3</b>	Medical Officers/Dentist (Division and Deputy Division Directors) with independent resources (personnel, budget and space).
<b>TIER 4</b>	Medical Officers/Dentist (Office, Deputy Office Director and Center Director) that has responsibility for a complex group or organization that has agency-wide or nation-wide impact.

<b>OPDIV</b>	<b>COVERAGE – Indian Health Service (IHS)</b>
<b>TIER 1</b>	Staff Physician or Dentist
<b>TIER 2</b>	First level supervisor, Clinical Department Head, Clinical Director at outpatient or free standing clinic.
<b>TIER 3</b>	2 <sup>nd</sup> level supervisor, Clinical Director of Hospital/Medical Center
<b>TIER 4</b>	National Program Responsibilities (Normally a Headquarters Function)

<b>OPDIV</b>	<b>COVERAGE – Centers for Medicare and Medicaid Services (CMS)</b>
<b>TIER 1</b>	Staff Physician or Dentist
<b>TIER 2</b>	Supervisor, Program Manager, Division Director, Team Director
<b>TIER 3</b>	2 <sup>nd</sup> level Supervisor, managing an organizational unit that is subdivided into distinct functional groups (i.e., Group Director)
<b>TIER 4</b>	Director or Deputy over a complex group of organizations that have National Program Responsibilities (i.e., Center/Office Director/Deputy)

**EXHIBIT 1-C, OPDIV PHYSICIAN AND DENTIST TIER DESCRIPTIONS**

<b>OPDIV</b>	<b>COVERAGE - National Institutes of Health (NIH)</b>
<b>TIER 1</b>	Non-supervisory physician/dentist providing patient care services in support of biomedical research.
<b>TIER 2</b>	Supervisory or Program Manager physician/dentist functions as a fully credentialed, fully trained clinician with patient care responsibility.
<b>TIER 3</b>	Physician/Dentist with independent resources (personnel, budget and space) who provides patient-related activities. Publishes and presents original peer-reviewed scientific research at national meetings.
<b>TIER 4</b>	Physician or Dentist that has responsibility for a complex group or organization that has agency-wide or nation-wide impact. Growing body of published and presented original peer-reviewed scientific research at national and international meetings. Recognized by receipt of national and international awards.

<b>OPDIV</b>	<b>COVERAGE - Centers for Disease Control (CDC)</b>
<b>TIER 1</b>	Staff Physician or Dentist, Non-Supervisory Research Scientist
<b>TIER 2</b>	Supervisor, Program Manager, Branch Chief, Team Chief/Leader, peer-reviewed Senior Research Scientist having significant impact on the field
<b>TIER 3</b>	Second-Level Supervisor who manages an organizational unit that is subdivided into distinct functional groups (i.e., Division Director)
<b>TIER 4</b>	Director or Deputy over a complex group of organizations that have National Program Responsibilities (i.e., Center or Institute Director/Deputy)

**NEW APPROVED PAY RANGES FOR PHYSICIANS AND DENTISTS  
 EFFECTIVE JULY 22, 2007**

**EXHIBIT 1-D, DEPT. of VETERANS AFFAIRS TITLE 38 PAY TABLES AND  
 COVERED CLINICAL SPECIALTIES**

**PAY TABLE 1. AND CLINICAL SPECIALTIES**

<b>TIER LEVEL</b>	<b>MINIMUM</b>	<b>MAXIMU M</b>
TIER 1 .....	\$91,530	\$175,000
TIER 2 .....	110,000	200,000
TIER 3 .....	120,000	215,000
TIER 4 .....	130,000	225,000

**Covered Clinical Specialties** – Allergy and Immunology, Endocrinology, Dentistry, Geriatrics, Infectious Diseases, Internal Medicine/Primary Care/Family Practice/Admitting Physician, Neurology, Preventive Medicine, Psychiatry, Rheumatology, and All other specialties and assignments not requiring a specific specialty training or certification

**PAY TABLE 2. AND CLINICAL SPECIALTIES**

<b>TIER LEVEL</b>	<b>MINIMUM</b>	<b>MAXIMU M</b>
TIER 1 .....	\$91,530	\$200,000
TIER 2 .....	115,000	215,000
TIER 3 .....	130,000	225,000
TIER 4 .....	140,000	235,000

**Covered Clinical Specialties** – Critical Care (board certified) Emergency Medicine, Gynecology, Hematology - Oncology, Nephrology, Pathology, PM&R/SCI, and Pulmonary

**PAY TABLE 3. AND CLINICAL SPECIALTIES**

TIER LEVEL	MINIMUM	MAXIMUM
TIER 1 .....	\$91,530	\$245,000
TIER 2 .....	120,000	265,000
TIER 3 .....	135,000	275,000
TIER 4 .....	145,000	285,000

**Covered Clinical Specialties** – Cardiology (Non-invasive), Dermatology, Gastroenterology, Nuclear Medicine, Ophthalmology, Oral Surgery, and Otolaryngology

**PAY TABLE 4. AND CLINICAL SPECIALTIES**

TIER LEVEL	MINIMUM	MAXIMUM
TIER 1 .....	\$91,530	\$270,000
TIER 2 .....	125,000	285,000
TIER 3 .....	140,000	295,000
TIER 4 .....	150,000	305,000

**Covered Clinical Specialties** – Anesthesiology, Cardiology (Invasive), General Surgery, Plastic Surgery, Radiology, Therapeutic Radiology, Urology, and Vascular Surgery

**PAY TABLE 5. CHIEF OF STAFF**

TIER LEVEL	MINIMUM	MAXIMUM
TIER 1 .....	\$150,000	\$260,000
TIER 2 .....	145,000	240,000
TIER 3 .....	140,000	220,000

**PAY TABLE 6. EXECUTIVE ASSIGNMENTS**

TIER LEVEL	MINIMUM	MAXIMUM
TIER 1 .....	\$110,000	\$230,000
TIER 2 .....	110,000	250,000

**PAY TABLE 7. AND CLINICAL SPECIALTIES**

TIER LEVEL	MINIMUM	MAXIMUM
TIER 1 .....	\$91,530	\$325,000
TIER 2 .....	140,000	350,000

**Covered Clinical Specialties** – Cardio-Thoracic Surgery, Orthopedic Surgery, Radiology  
 “Interventionalist”, and Neurosurgery