

**Opening Statement of the Honorable Joe Pitts**  
**Subcommittee on Health**  
**Hearing on “Title 42 – A Review of Special Hiring Authorities”**  
**September 14, 2012**  
*(As Prepared for Delivery)*

Title 42 of the Public Health Service Act provides authority to appoint and set pay for difficult to fill, critical scientific and medical positions in the Public Health Service.

The Department of Health and Human Services (HHS) uses this authority, which allows them to pay individuals above the salary limits of other government employees, to attract and retain top-notch scientists and researchers who might otherwise go into academia or the private sector.

Clearly, the Secretary needs some flexibility to attract and retain the best and brightest in science and medicine. But, these authorities should be limited and transparent.

Laws passed by Congress and regulations promulgated since the 30s and 40s show that the program was intended for special use when there was no other way to hire needed experts. It was never intended to be used as an alternative compensation program. Yet, in 2010, almost 7,000 employees at HHS were appointed using Title 42 authority, a 25 percent increase over five years.

Some of those annual salaries have reached levels higher than \$350,000. HHS has recently moved to lower the caps on these salaries. Yet, the Secretary of HHS can still approve pay levels higher than the caps, which may give her more hiring and compensation authority than anyone else in the federal government.

In 2005, the Environmental Protection Agency began hiring experts using the Title 42 authority, once again to fill critical science positions. Now, 15 of the 17 positions at the EPA are paid at or above Executive Level IV.

The extensive use of Title 42 and the unprecedented authority of the Secretary to compensate some experts at extraordinarily high rates led the committee to ask the GAO to analyze the laws that govern Title 42 and audit its use at HHS and EPA.

Today, we have asked GAO to share the results of that study.

Rep. Joe Barton has introduced H.R. 6214, the HHS Employee Compensation Reform Act of 2012, which makes simple, commonsense changes to the use of Title 42 authorities.

It limits the use of Title 42 authority to HHS; caps the number of Title 42 hires to 5 percent of the total number of employees at HHS; ensures that compensation may not exceed 150 percent of Executive Level I; allows up to 50 employees to be paid without regard to compensation limitation if the secretary determines the position is vital; and requires a report to Congress six months after enactment.

I commend Mr. Barton for his work on this issue.

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