

**HHS Instruction 590-1, Title 38 Physician and Dentist Pay (PDP)**

**Material Superseded:**

HHS Instruction 590-1, Title 38 Physician Special Pay (PSP)

**Background:**

The reason for issuing this Instruction is to implement provisions of the "Department of Veteran's Affairs (VA) Health Care Personnel Enhancement Act of 2004 " (Public Law 108-445, dated December 3, 2004) as it relates to pay for Veterans Health Administration (VHA) physicians and dentists. This new pay system is effective January 8, 2006.

This Instruction contains mandatory procedures on PDP. The pages in this handbook replace the corresponding page numbers in HHS Instruction 590-1, Title 38 Physician Special Pay (PSP). Significant changes include:

- a. Establishes a two-component system of pay for DHHS physicians and dentists consisting of General Schedule (GS) base pay, and market pay.
- b. Eliminates special pay agreements, obligated service requirements and special pay refund liability.
- c. Eliminates 15-year service and 8-year phase-in requirements for special pay to be fully creditable for the computation of retirement benefits.

This issuance is effective January 8, 2006. Implementation under this issuance must be carried out in accordance with applicable laws, the USOPM/DHHS delegation agreement, and bargaining agreements.

**Filing Instructions:**

File new material. Post receipt of this transmittal to the HHS Check List of Transmittal and file this transmittal in sequential order after the check list.

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## **TITLE 38 PHYSICIAN and DENTIST PAY**

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### ***590-1-00 PURPOSE***

This Instruction describes HHS regulations and procedures for payment of Physicians and Dentists Pay (PDP), to physicians and dentists.

### ***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 who:

1. provide direct patient care services, or services incident to patient care; and
2. have been designated for coverage by appropriate authority.
3. As used in this document, references to physicians include both physicians and dentists, unless otherwise noted.

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;
4. in the SES, ES, SL/ST, SBRS, EL, EX, or other senior-level systems;
5. receiving Physicians Comparability Allowance (PCA) under 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 102(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 December 19, 2005

**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. Physicians and dentists appointed under 38 U.S.C. 305, 7306, 7401(1), and 7405(a)(1)(A) may not be paid aggregate compensation in a calendar year higher than the annual pay (excluding expenses) received by the President of the United States.

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 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 DHHS physician or dentist.

f. Tier - A level within the annual pay range for an assignment or specialty.

g. 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.

1/Throughout this Instruction, references to OPDIV head infers authorities may be re-delegated.

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 in lieu of locality payments and special rates according to Section 590-1-70 (Market Pay) and HHS Form 691 - Request for Physician and Dentist Pay for physicians and dentists.

Exhibit 590-1-C, 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.

E. Physicians and Dentist receiving PDP will be covered by DHHS PM&A system.

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 all pay components paid to a physician under Title 5 authority 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 (\$400,000 as of the effective date of this Instruction).

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. PDP may not be approved retroactively. However, 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. OPDIV heads are responsible for ensuring that merit system principles and the requirements of the Title 38 statute, the USOPM/DHHS delegation agreement, and this Instruction are followed in their use of Physician and Dentist Pay.

- B. OPDIV heads are responsible for reviewing requests for approval of outside work activities from physicians and dentists for possible conflict of interest with work obligations.
- C. OPDIV heads are responsible for maintaining auditable program records, and participating in evaluation of this authority by USOPM, DHHS, or other administrative authority.
- D. The Assistant Secretary for Administration and Management (ASAM) is responsible for obtaining the concurrence of the Interagency Committee for Health Care Occupations on the HHS Physician and Dentist Pay Plan.
- E. Approving officials are responsible for reviewing and certifying that PDP requests comply with the provisions of law, the USOPM/DHHS 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 personnel office 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 a 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 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 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.



- (1) Tier 1. Staff
- (2) Tier 2. Service chiefs, section chiefs and other supervisors or program managers
- (3) Tier 3. Network-level program manager and/or Network-level supervisory responsibilities within the specialty
- (4) Tier 4. National program responsibilities that may include designation as a Chief Officer or Chief Consultant, or other assignment that meets the level of responsibility equivalent to that of a national level.

***\*See Exhibit 590-1-C, For individual OPDIV Tier definitions.***

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-DHHS physicians or dentists in the local health care labor market; and

f. Each OPDIV will establish one or more "Compensation Panels" 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**

#### 1. GENERAL

a. The annual pay for a physician or dentist may not exceed the maximum amount in the nationwide pay range prescribed by the Secretary Veterans Administration for a specialty or assignment.

b. It is expected that the maximum amount in the nationwide pay range will meet most pay and staffing needs. However, the OPDiv Head or designee 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.

c. Exceptions to the maximum amount in the nationwide pay range will only be considered if failure to approve the exception would significantly impair an organizations ability to recruit and retain well qualified physicians and dentists.

d. 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.

2. 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:

a. Specialty or Assignment, and/or Organization-

## Specific Exception to the Maximum of the Annual Pay Range

### (1) Higher Maximum Rates

(a) There is evidence or anecdotal information that the maximum rates in the community are higher than the Departments'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

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

(2) Quality of Candidates. Historical evidence indicates that the quality of or a lack of candidates is unacceptable because of higher pay rates being offered in the labor market for the assignment or specialty. Documentation of specific recruitment efforts must be provided to support this factor;

(3) 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; and

(4) 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.

### b. Individual Exception to the Maximum of the Annual Pay Range

(1) 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 DHHS mission.

(2) 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 DHHS.

4. REQUESTING EXCEPTIONS. Requests for exceptions to the maximum of the nationwide pay range will be sent to the OPDiv head or designee. Requests shall include the following:

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

**EXHIBIT 590-1-A (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</b> (print name below)	<b>Title &amp; Signature</b>		<b>Date</b>
<b>Compensation Panel Chair</b> (print name below) or NA	<b>Title &amp; Signature</b>		<b>Date</b>
<b>Approving Official</b> (print name below)	<b>Title &amp; Signature</b>		<b>Date</b>
<b>Funds are available</b> (print name below)	<b>Title &amp; Signature</b>		<b>Date</b>
<b>Personnel Review</b> (print name below)	<b>Title &amp; Signature</b>		<b>Date</b>
<b>7. EFFECTIVE DATE</b> _____			

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

**EXHIBIT 590-1-C, PHYSICIAN AND DENTIST PAY TABLES and TIER DESCRIPTIONS**

Pay Tables 1 -4, OPDIV Specific Clinical Specialty Tier Descriptions

OPDIV	COVERAGE - National Institutes of Health (NIH)
<b>TIER 1</b>	Physician/Dentist providing entry level patient care services in support of biomedical research.
<b>TIER 2</b>	Physician/Dentist functions as a fully credentialed, fully trained clinician with patient care responsibility. Promotes and supports research programs by independently informing themselves of new approaches, technological or otherwise, and by being knowledgeable about scientific resources. Co-authorship on peer-reviewed publications.
<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.

OPDIV	COVERAGE - Centers for Disease Control (CDC)
<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)

**EXHIBIT 590-1-C, PHYSICIAN AND DENTIST PAY TABLES and TIER DESCRIPTIONS**

Pay Tables 1 -4, OPDIV Specific Clinical Specialty 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>	3 <sup>rd</sup> and 4 <sup>th</sup> Level Supervisors (Office, Deputy Office Director and Center Director)
<b>TIER 4</b>	3 <sup>rd</sup> and 4 <sup>th</sup> Level Supervisors (Office, Deputy Office Director and Center Director)

<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)