

Office of Personnel Management

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maintaining family members at a location other than Johnston Island.

[61 FR 27244, May 31, 1996]

§ 591.403 Amount of payment.

(a) The annual rate of the separate maintenance allowance paid to an employee shall be determined by the number of individuals, including a spouse and/or one or more other family members, that are maintained at a location other than Johnston Island.

(b) The annual rates for the separate maintenance allowance paid to employees assigned to Johnston Island shall be the same as the annual rates for the separate maintenance allowance established by the Department of State in its *Standardized Regulations (Government Civilians, Foreign Areas)*. The annual rates shall not vary by location of the separate household.

(c) The annual rates of the separate maintenance allowance shall be adjusted on the first day of the first pay period beginning on or after July 1, 1996 and, subsequently, on the first day of the first pay period beginning on or after the effective date established for adjustment of annual rates for the separate maintenance allowance in the *Standardized Regulations (Government Civilians, Foreign Areas)*.

[61 FR 27244, May 31, 1996]

§ 591.404 Method of payment.

(a) Separate maintenance allowance rates are paid from the employee's date of arrival at Johnston Island to the employee's date of departure from Johnston Island. No deductions are necessary for details away from Johnston Island or for partial days. The separate maintenance allowance shall be computed and paid at daily rates as follows:

(1) Divide the annual rate of payment by the number of days in the applicable calendar year to obtain a daily rate (counting one half-cent and over as a whole cent);

(2) Multiply the daily rate by 14 to obtain a biweekly rate; and

(3) Multiply the daily rate by the number of days involved to obtain the rate for any period.

(b) A separate maintenance allowance is not part of an employee's rate of basic pay for any purpose.

(c) The rate for any pay period shall be computed at the daily rate applicable on the first day of that pay period.

§ 591.405 Responsibilities of agencies.

Agencies with employees stationed at Johnston Island may require reasonable verification of relationship and dependency.

[61 FR 27244, May 31, 1996]

§ 591.406 Records and reports.

So that the Office of Personnel Management can evaluate agencies' use of this authority and provide the Congress and others with information regarding the use of a nonforeign separate maintenance allowance, each agency shall maintain such records and submit to the Office of Personnel Management reports and data as requested.

PART 595—PHYSICIANS' COMPARABILITY ALLOWANCES

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AUTHORITY: 5 U.S.C. 5948; E.O. 12109, 44 FR 1067, Jan. 3, 1979.

SOURCE: 44 FR 40876, July 13, 1979, unless otherwise noted.

§ 595.101 General.

Section 5948 of title 5, United States Code, authorizes the payment of allowances to certain eligible Federal physicians who enter into service agreements with their agencies. These allowances are paid only in the case of categories of physicians for which the agency is experiencing recruitment and retention problems, and are fixed at the minimum amounts necessary to deal with such problems. The President has delegated regulatory responsibility for this program to the Director of the

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Office of Personnel Management, acting in consultation with the Director of the Office of Management and Budget. This part contains the regulations, criteria, and conditions which the Director of the Office of Personnel Management, in consultation with the Director of the Office of Management and Budget, has prescribed for the administration of the physicians' comparability allowance program. This part supplements and implements the provisions of 5 U.S.C. 5948, and must be read together with that section of law.

§ 595.102 Coverage and exclusions.

(a) Subsection (g)(1) of 5 U.S.C. 5948 defines those covered by the physicians' comparability allowance program as individuals employed as physicians under certain Federal pay systems listed in that subsection. For the purposes of this part, an individual is "employed as a physician" only if he or she is serving in a position the duties and responsibilities of which could not be satisfactorily performed by an incumbent who is not a physician.

(b) Subsection (b) of 5 U.S.C. 5948 prohibits the payment of physicians' comparability allowances to certain physicians, including physicians who are reemployed annuitants. For the purpose of that subsection, a "reemployed annuitant" means an individual who is receiving or has title to and has applied for an annuity under any retirement program of the Government of the United States, or the government of the District of Columbia, on the basis of service as a civilian employee in the civil service.

(c) Physicians employed and paid under title 38, United States Code, and Commissioned Corps officers of the Public Health Service under title 42, United States Code, are not eligible for physicians' comparability allowances.

[44 FR 40876, July 13, 1979, as amended at 58 FR 65537, Dec. 15, 1993; 64 FR 72458, Dec. 28, 1999]

§ 595.103 Establishment of categories of physicians.

(a) Under subsection (c) of 5 U.S.C. 5948, the head of each agency employing physicians is required to determine categories of physician positions for which there is a significant recruit-

ment and retention problem, and physicians' comparability allowances may be paid only to physicians serving in positions in such categories.

(b) In determining categories of physician positions, the head of each agency must, as a minimum, establish as separate categories the following types of positions:

(1) Positions primarily involving the practice of medicine or direct service to patients, involving the performance of diagnostic, preventive, or therapeutic services to patients in hospitals, clinics, public health programs, diagnostic centers, and similar settings, but not including positions described in paragraph (b)(3) of this section;

(2) Positions primarily involving the conduct of medical research and experimental work, including the conduct of medical work pertaining to food, drugs, cosmetics, and devices (or the review or evaluation of such medical research and experimental work), or the identification of causes or sources of disease or disease outbreaks;

(3) Positions primarily involving the evaluation of physical fitness, or the provision of initial treatment of on-the-job illness or injury, or the performance of preemployment examinations, preventive health screenings, or fitness-for-duty examinations; and

(4) Positions not described by paragraph (b) (1), (2), or (3) of this section, including positions involving disability evaluation and rating, the performance of medicolegal autopsies, training activities, or the administration of medical and health programs, including the administration of patient care or medical research and experimental programs.

(c) The agency head may establish as separate categories any additional subdivisions of these four categories of positions, based on any factors the agency head determines relevant. These may include such factors as the location, grade or level, and medical specialization of the positions, and the level of qualifications sought by the agency for physicians in the category.

§ 595.104 Determination of recruitment and retention problem.

A significant recruitment and retention problem shall be considered to

exist for each category of physician position established under § 595.103 of this part only if the four following conditions are met with respect to the category:

(a) Such evidence as vacant positions, an unacceptably high turnover rate, or other positive evidence indicates that the agency is unable to recruit and retain physicians for the category;

(b) The qualification requirements being used as a basis for considering candidates for the vacant positions in the category do not exceed the qualifications that are actually necessary for successful performance of the work of the positions in the category;

(c) The agency has made efforts to recruit qualified candidates for any vacant positions in the category and to retain physicians presently employed in positions in the category; and

(d) A sufficient number of qualified candidates is not available to fill the existing vacancies in the category at the rate of pay the agency may offer if no comparability allowance is paid.

§ 595.105 Determination of amount of comparability allowance.

(a) The amount of the comparability allowance payable for each category of physician position established under § 595.103 of this part must be the minimum amount necessary to deal with the recruitment and retention problem identified under § 595.104 of this part for that category of position. In determining this amount, the agency head shall consider the relative earnings, responsibilities, expenses, workload, working conditions, conditions of employment, and personnel benefits for physicians in each category and for comparable physicians inside and outside the Federal Government.

(b) A physician with 24 months or less of service as a Government physician may not be paid a physicians' comparability allowance in excess of \$14,000 per annum. A physician with more than 24 months of service as a Government physician may not be paid a physicians' comparability allowance in excess of \$30,000 per annum.

(c) In determining length of service as a Government physician, agencies must exclude periods of leave without

pay. However, agencies may credit any prior service as a Government physician, including—

(1) Prior service as a physician under sections 7401 and 7405 of title 38, United States Code; and

(2) Prior active service as a medical officer in the Commissioned Corps of the Public Health Service under title II of the Public Health Service Act (42 U.S.C. chapter 6A).

(d) Under subsection (b)(1) of 5 U.S.C. 5948, a physician who is employed on less than a half-time or intermittent basis is excluded from the physicians' comparability allowance program altogether. A physician who is employed on a regularly scheduled part-time basis of half-time or more is eligible to receive an allowance in accordance with this part, but any such allowance shall be prorated according to the proportion of the physicians' work schedule to full-time employment.

(e) A physician who is serving with the Government under a loan repayment program shall have the amount of loan being repaid deducted from any allowance for which he or she is eligible in accordance with this part, and may receive only that portion of such allowance which exceeds the amount of loan being repaid by service during the period in question.

[44 FR 40876, July 13, 1979, as amended at 53 FR 8141, Mar. 14, 1988, and 53 FR 24011, June 27, 1988; 64 FR 72458, Dec. 28, 1999]

§ 595.106 Termination of service agreement.

(a) Under subsection (f) of 5 U.S.C. 5948, each service agreement entered into by an agency and a physician under the comparability allowance program may prescribe the terms under which the agreement may be terminated and the amount of allowance, if any, required to be refunded by the physician for each reason for termination. In the case of each service agreement covering a period of service of more than one year, the service agreement must include a provision that, if the physician completes more than one year of service pursuant to the agreement, but fails to complete the full period of service specified in the agreement either voluntarily or because of misconduct by the physician,

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the physician shall be required to refund the amount of allowance he or she has received under the agreement for the 26 weeks of service immediately preceding the termination (or for a longer period, if specified in the agreement).

§ 595.107 Approval of agency plans.

(a) An agency may not enter into any service agreement under 5 U.S.C. 5948 until the agency's plan for implementing the physicians' comparability allowance program has been submitted to and approved by the Office of Management and Budget in accordance with this section and such instructions as the Office of Management and Budget may prescribe.

(b) The agency shall submit to the Office of Management and Budget a complete description of its plan for implementing the physicians' comparability allowance program, including the following:

(1) An identification of the categories of physician positions that the agency has established under § 595.103 of this part, and of the basis for such categories;

(2) An explanation of the determination that a recruitment and retention problem exists for each such category, in accordance with the criteria in § 595.104 of this part; and

(3) An explanation of the basis for the amount of comparability allowance determined necessary for each category of physician position under § 595.105 of this part.

(c) The Office of Management and Budget shall review each agency's description of its plan for implementing the physicians' comparability allowance program and determine if the plan is consistent with the provisions of 5 U.S.C. 5948 and the requirements of this part, and shall advise the agency within 45 calendar days of receipt of the agency's plan by the Office of Management and Budget whether the plan is so consistent or what changes need to be made in the agency's plan to make it so consistent.

[44 FR 40876, July 13, 1979, as amended at 53 FR 8142, Mar. 14, 1988, and 53 FR 24011, June 27, 1988]

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§ 595.108 Reports.

(a) Because of the experimental and temporary nature of the physicians' comparability allowance program, it will be necessary for the Office of Personnel Management to collect information on the administration of the program by the agencies, and on the effects the program has on the recruitment and retention of Government physicians. The Office of Personnel Management will prescribe the number, contents, timing, and format of the reports necessary to collect this information, and every agency using the physicians' comparability allowance program is required to submit such reports as the Office may prescribe. These reports must include, among other things, the following:

(1) A listing of the amount of allowance actually paid to the agency's physicians; and

(2) An assessment of the effect of the physicians' comparability allowance program on the agency's recruitment and retention of physicians.

(b) The Central Intelligence Agency and the National Security Agency are not subject to the requirements of this section.

PART 610—HOURS OF DUTY

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WORKWEEK

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- 610.121 Establishment of work schedules.
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