NEWS FOR MEMBERS OF THE FEDERAL PHYSICIANS ASSOCIATION

THIRD QUARTER 2012 Vol. XXVIII, No 2

FEDERAL PHYSICIAN

Understanding the Rules Governing Federal Physician Pay is No Easy Task

In a Federal Physicians Association (FPA) survey conducted in 2008-2009, over 62 percent of respondents did not know if their agency had physician pay policies, had not seen their agency policy or thought their agency had no policy. The majority of survey respondents also did not know their agency's maximum physician pay. This is in spite of the fact that every agency employing physicians has detailed compensation policies which establish rules governing pay and benefits.

One of the goals of the Federal Physicians Association is to educate physicians on the rules governing their pay and to provide detailed pay information on the pay of physicians by specialty and geographic area so that there is equity in the pay of federal physicians.

FPA has published agency physician pay policies on the website. There are some major differences in the pay policies of each agency based on the pay systems governed by sections of the United States Code. The United States Code (USC) is a compendium of federal laws passed by Congress and is comprised of 50 separate "titles" and each title deals expressly with a particular area of federal law. Federal physician pay for civilian employees is governed by several main titles including:

- Title 5 which covers federal employees and Chapter I, Subchapter B, Part 595, which provides the authority for the physicians comparability allowance (PCA),
- Title 10, Armed Forces,
- Title 38, Veterans Benefits, and
- Title 42, Public Health and Welfare.

Title 37 governs physicians with the HHS Public Health Service Commissioned Corps or physicians on military duty.

This article is the beginning of a series that attempts to explain the differences in the pay policies in each agency to educate physicians on what they and their colleagues are entitled to regarding base pay, premium pay and benefits.

In fiscal year 2011 there were 20,003 full-time physicians employed by the federal government. The majority of those federal physicians were employed by the Department of Veterans Affairs, using the authorities in Title 38. Until recently, most of the physicians paid under Title 5 were with the Departments of Health and Human Services (HHS) and Defense (DOD). However, under a delegation of authority from OPM, most HHS and DOD physicians are now paid under modified Title 38 authorities. The Bureau of Prisons, Department of State and NASA are the largest agencies using Title 5 and the PCA.

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Congress Extends Federal Pay Freeze, Faces "Fiscal Cliff"

On September 28, 2012, the president signed a six-month stopgap spending measure that included an extended pay freeze for federal employees and members of Congress. The six month funding bill is the result of the failure of the Congress to approve a Fiscal Year 2013 budget and the expiration of Fiscal Year 2012 spending on September 30. The House has approved seven of the 12 annual funding bills, but the Senate has not approved any funding bills for FY 2013.

The continuing resolution (CR) extends government funding for Fiscal Year 2013 through March 27, 2013 and avoids a government shutdown during the next six months. The CR continues funding at the current rate of operations for federal agencies, programs and services. To meet the bipartisan agreement between the House, Senate and White House that ensured a total rate of operations at $1.047 trillion, a government-wide, across-the-board increase of 0.6 percent is included in the CR.

The CR fails to provide an annual pay increase for federal civil servants, thereby extending the two-year pay freeze now in effect for at least six more months. President Obama has indicated his intent to provide a 0.5 percent pay raise for federal workers in 2013, but conditioned his action upon Congressional passage of the FY 2013 budget. That means that a pay raise will not be available until at least April 2013, assuming Congress by then approves a Fiscal Year 2013 funding bill. It is uncertain whether any pay

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raise approved next year will be retroactive to Jan. 1, 2013.

The CR includes provisions allowing additional funding for the Veterans Administration to meet an increase in the disability claims workload. The CR directs agencies to submit spending plans to Congress within 30 days of the mandatory budget cuts (sequestration), if the automatic spending cuts take effect as scheduled in January 2013.

The Fiscal Cliff's Significant Impacts on Federal Physicians

Congress, when it returns from the November elections for a lame-duck session between Thanksgiving and Christmas, will be faced with the perils of the so-called "fiscal cliff"– increased taxes and reduced spending (sequestration) – that will take effect on January 2, 2013, unless Congress acts otherwise. Sequestration would impose a 9.4% annual cut in nonexempt defense spending and an 8.2% annual cut on nondefense spending. Because the cuts begin January 2, the FY 2013 cuts are effectively 13.9% and 11.9%. The majority of agency human resource managers expect reductions in the number of federal employees as a result of the cuts.

The Congressional Budget Office (CBO) estimates that if all the tax increases and budget cuts take effect, unemployment would increase by 2 million workers and the country would fall into a recession in 2013.

On September 14, 2012 the Administration released a 400 page report on the amount of the cuts by agency and program.

In FY 2013, sequestration would cut programs affecting federal physicians, including:

- A $2.4 billion budget cut to the National Institutes of Health budget which would force NIH to fund 2,300 fewer grants than currently available.
- A $464 million cut to Centers for Disease Control and Prevention-wide activities and programs and a $318 million cut to CDC salaries and expenses.
- A $509 million cut to Health Resources and Services functions.
- A $317 million cut to Indian Health Service programs.
- A $318 million cut in the programs of the Food and Drug Administration.

If the projected cuts occur, federal physicians are expected to be furloughed. Veterans Health Administration programs and physicians are exempt from the mandated cuts.

Federal Employees Overpaid or Underpaid – Who Knows?

The *Federal Physician* has published articles in the last two years on reports that federal employees are overpaid when compared to their private sector counterparts. The President's Pay Agent annually reports that federal employees are underpaid. In June 2012, the Government Accountability Office released a report analyzing the federal pay studies.

Results of "Studies on Federal Pay Varied Due to Differing Methodologies" and concluded that the various reports differed "because they used different approaches, methods and data."

GAO did not say that any of the studies were incorrect or faulty. But it did conclude that because they are so different, "comparing their results to help inform pay decisions is potentially problematic." GAO also said that "given the different approaches of the selected studies, their findings should not be taken in isolation as the answer to how federal pay and total compensation compares to other sectors."

GAO also reiterated the Pay Agent's "serious concerns" about the current method for setting pay under the General Schedule, which requires a single, across-the-board adjustment for all employees in each locality. This means that everybody— accountants, clerks, engineers, etc.— gets the same raise, even if the market for clerks grew softer that year while engineers became harder to find. The pay of federal physicians under title 38 pay systems is based on surveys of private sector physicians by medical specialty. Many believe that this method of adjusting federal pay based on occupational comparisons in the private sector should be used to determine the pay of all federal employees. The Pay Agent has called for the government to re-examine the method it uses to determine the federal-private pay gap.

President Obama has called on Congress to create a commission to reform federal compensation; such a commission has not yet been established.

Federal Physician

The News Magazine of the Federal Physicians Association

ISSN# 1070-9029

The *Federal Physician* is edited by Dennis W. Boyd, and published by

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In Brief

Health Insurance Premiums to Rise 3.4 Percent in 2013

The Office of Personnel Management (OPM) has announced that the average premium for the Federal Employees Health Benefits Program will increase an average of 3.4 percent in 2013. The increase is less than the 3.8 percent increase in 2012. The average premium increase for the dental and vision programs will be less than one percent. According to OPM, yearly increases have declined since 2009 when the annual increases averaged seven percent.

Locality Pay Unchanged in 2013

Although the Federal Salary Council requested that the government expand locality pay to five additional metropolitan areas, the President's Pay Agent (PPA) rejected the plan. PPA is an advisory panel made up of the Secretary of Labor Secretary Hilda Solis and the Directors of the Office of Management and Budget and Office of Personnel Management Director. The PPA said that granting employees in additional high costs areas pay raises would cost the government too much money.

Employee Surveys on Pay and Job Satisfaction

Pay is not most important factor in job satisfaction Earlier this year, the Partnership for Public Service released a report indicating that federal employees overall satisfaction with pay dropped from 65 percent in 2010 to 59 percent in 2011, likely reflecting the pay freeze. However, the report also indicated that federal employees rank pay behind good leadership and good management as the most important factors in determining overall job satisfaction. The report is based on the 2011 Office of Personnel Management (OPM) Employee Viewpoint Survey.

The highest satisfaction with pay (74.1 percent satisfied) is among GS-12 to GS-15 employees; however, only 57 percent of Senior Executive Service (SES) members, federal employees paid an average of $166,000 a year, were satisfied with pay. The SES views on pay are consistent with the OPM SES survey results that indicated only 39 percent agreed or strongly agreed that "SES pay and benefits are helpful in attracting high quality senior executives," a decrease from 50 percent in the 2008 SES survey.

2012 federal employee survey. The 2012 Federal Employee Viewpoint Survey (FEVS) has been distributed to federal employees. The annual survey, first used in 2002, measures employees' perceptions of the various conditions that characterize successful organizations. The survey, administered by OPM, was sent to about 1.8 million federal employees, up from about 560,000 employees last year.

Roth Thrift Savings Plan Contributions Have Started

The Thrift Savings Plan began to accept Roth TSP contributions in May. The new Roth option lets civilian federal employees and uniformed service members contribute after-tax dollars to any of the TSP funds, and to withdraw contributions and earnings tax-free, subject to IRS rules. Employee's contributions to a Roth TSP will be made from an employee's after-tax salary, unlike contributions to the traditional TSP which are made from an employee's gross salary. Therefore, withdrawals from Roth TSP contributions will not be taxable, provided withdrawals are made when an employee is at least age 59.5 or disabled and the withdrawal is made at least five years after the beginning of the year in which the first Roth TSP contribution was made. More information on the Roth TSP is available at www.tsp.gov/PDF/formspubs/tsplf30.pdf.

BOP Facing Furloughs and Job Cuts

Attorney General Eric Holder recently said that the Department would face job cuts and furloughs averaging 25 days if the automatic budget cuts approved by Congress in August 2011 take affect January 1, 2013. (See Fiscal Cliff, pg. 1) The automatic cuts would be about $2.1 billion from FY 2013 budget request of $27.1 billion, an eight percent reduction in all DOJ programs.

2013 Per Diem Rates Frozen at 2012 Amounts/City Pairs Changes

GSA has announced that it will freeze fiscal 2013 travel reimbursement rates for lodging and other related expenses at fiscal 2012 levels. The move is part of the Office of Management and Budget's directive to agencies to reduce all travel spending in FY 2013 by 30 percent from FY 2010.

Federal employees have 1,000 fewer options for reduced airline fares beginning October 1, 2012. The number of routes dropped from more than 6,000 to about 5,000 City Pairs. Federal employees can save up to 73% off commercial airfares under the City Pairs program. The program has also been changed to give airlines the authority to cancel reservations that have not been paid for 48 hours before the flight is to depart. Rates in the City Pairs program are fixed for one year and there are no blackout periods.

2013 Retirement COLA

The Congressional Budget Office predicts that the 2013 cost-of-living-adjustment for federal and military retirees will be 1.3 percent in 2013, smaller than the 2.6 increase in 2012.

Court Rules that "Noncritical Sensitive" Federal Employees Cannot Appeal to MSPB

In late August, the U.S. Court of Appeals for the Federal Circuit ruled that the Merit Systems Protection Board did not have the authority to review the actions of two Defense Department employees who were suspended and demoted because they were ineligible for security clearances. The Court ruled that national security procedures replace civil service appeals and merit systems rights for employees removed from "noncritical sensitive" positions.

Efforts Underway to Trim STOCK Act Financial Disclosure Requirements

The Stop Trading on Congressional Knowledge Act (STOCK Act), originally enacted to prevent insider trading by members of Congress and their staff was amended at the last minute to require the on-line publication of financial disclosure statements by senior level federal employees. According to groups that oppose the publication of financial information, the internet disclosure of the identity of federal officials, as well as the revelation of detailed personal information about them, could bring about harm and retribution by disgruntled defendants and co-conspirators. In addition, the new public disclosure requirements mandated by the STOCK Act will have the potential to leave federal employees vulnerable to identity theft, allow public employees serving abroad to be scrutinized by foreign interests, negatively impact Inspector General investigations, poison manager-employee relationships, and wastefully exhaust valuable employee energy and agency resources.

While financial reporting (via SF 278) had already been required of supervisors and other executive-branch officials, the STOCK Act will infringe upon the privacy and safety of the reporting officials through internet posting. In the past the financial disclosure reports have been available to the public in a controlled manner that has safeguarded the privacy and integrity of the financial information. The law, which Congress passed and President Obama signed in April, had been set to take effect August 31. 2012.

On September 14, 2012, a federal judge temporarily halted enforcement of the STOCK Act; ruling in favor of groups that argued the law's online financial disclosure requirement violates constitutional rights.

On September 28, 2012 the President Obama signed legislation, S. 3625 that delays the online posting of senior executives' personal finances until December 8, 2012. The delay does not affect the September 30, 2012 deadline for the public financial disclosure requirement for the president, vice president, lawmakers, congressional candidates and political appointees.

New Defense Health Headquarters Opens

The new Defense Health headquarters is open and it has consolidated U.S. military health system administration in one location. More than 3,000 Military Health System (MHS) employees are located at the new Falls Church, Virginia location. The headquarters is the new home of the DOD Office of Health Affairs, the Army Office of Surgeon General, the Air Force Surgeon General's Office, the Navy Bureau of Medicine and the Tricare Management Activity. The MHS facilities include 59 military hospitals, 364 medical clinics and 281 dental clinics. In 2010, in an average week, the MHS admitted 23,000 patients and delivered 2,400 babies.

PAY *from page 1*

Comparison of Physician Pay Systems

	DOD Physicians and Dentists Pay Plan (PDPP)	HHS Title 38 Physician and Dentists Pay (PDP)	VA Title 38	Title 5 including PCA
Maximum Aggregate 1/ Pay	$400,000	$400,000	$400,000	$230,700 (for SES)
Pay based on	VA clinical specialty and tier 2/	VA clinical specialty and tier	Length of service, VA clinical specialty and tier	Physician category 3/ length of service & contract, agency policy
Basic pay includes	Base pay, market pay 4/ and 3 R incentives 6/	Base pay, market pay and 3 R incentives	Base pay 5/, market pay performance pay	GS, locality, premium pay, PCA
Auth to approve requests for pay above max annual pay range	HPCCSC 7/ concurrence	Operating Division Heads 8/	Facility Directors	Not applicable since limits set in law
Basic workweek	24 hours/day, 7 day/week	24 hours/day, 7 days/week	24 hours/day, 7 days/week	40 hours, 5 days/week
Premium pay 9/	No premium pay	No premium pay	No premium pay	Premium pay allowed

1/ Aggregate pay includes basic pay and the total amount of allowances, differentials, bonuses, awards, or other similar payments an employee may receive in a calendar year

2/ Tier is a level within the annual pay range that takes into account the physician's position, e.g. staff physician or director or deputy

3/ Physician categories are: clinical, research, occupational health, disability evaluation and health and medical administration

4/ Market pay is a component of basic pay intended to reflect the recruitment and retention needs for the specialty or assignment of a particular physician at an HHS facility. At least once every two years the VA Secretary prescribes nationwide minimum and maximum amounts of annual pay (base pay plus market pay). Pay ranges are based on two or more national physician pay surveys. VA has not changed nationwide rates because of the federal employee pay freeze.

5/ Base pay is based on the Physicians and Dentist Base and Longevity Pay Schedule which includes 15 rates of pay factoring in length of service

6/ 3R incentives includes recruitment bonuses, relocation bonuses, and retention allowances

7/ DOD Health Profession Civilian Compensation Standing Committee

8/ Director, NIH, Administrator FDA, etc.

9/ Premium pay includes, but is not limited to, overtime, comp time, night differential, holiday pay

Primary Care Physicians Compensation Increases

According to the Medical Group Management Association (MGMA), primary care physicians reported a 5.16% increase in medium compensation in 2011. Physicians in family practice (without OB) reported medium earnings of $200,114 and those in pediatric/adolescent medicine earned $203,948. In comparison, radiologists, among the highest paid specialists, reported smaller increases in 2011. Psychiatrist's compensation increased 3.86% from 2010 to 2011.

Annual Report on Physician Pay Includes Only **Eight** Percent of Federal Physicians

According to the annual Office of Personnel Management (OPM) report, during FY 2011, **of the nearly 20,000 full-time civilian physicians employed by the Federal Government, 1,445, or about eight percent,** received the Physicians Comparability Allowance (PCA). According to OPM, total PCA payments in FY 2011 were $24.5 million. Over the past five years, OPM has reported the following on the use of the PCA:

Year	Physicians Eligible to Receive PCA	Physicians Receiving PCA	Percentage Eligible Receiving PCA	Total PCA Payments
FY 2011	Not available	1,545	N/A	$ 24.5 million
FY 2010	1,833	1,419	77 percent	$ 27 million
FY 2009	3,196	1,274	40 percent	$ 28 million
FY 2008	3,334	1,422	41 percent	$ 33 million
FY 2007	4,188	1,883	45 percent	$ 40 million
FY 2006	3,539	1,737	49 percent	$ 37 million

The OPM report states that physicians employed under title 38 authorities by the Department of Veterans Affairs "…receive significantly higher salaries than title 5 physicians, even with the PCA and performance bonuses included."

Background

The PCA statute authorizes agencies documenting severe recruitment and retention problems to pay an allowance to physicians of up to $14,000 per year for physicians with 24 months or less of service as a government physician and up to $30,000 per year for physicians with more than 24 months of service as a government physician. The PCA incentive was originally authorized by Public Law 95-603 in 1978 (5 U.S.C. 5948) after extensive lobbying by the Federal Physicians Association.

Further FPA lobbying resulted in the program being authorized on a permanent basis by Public Law 106-571 in December 2000 and the maximum allowable PCA was increased from $20,000 to $30,000 per year in October 1998 by Public Law 105-266.

The statute authorizes PCA payments to solve significant physician recruitment and retention problems. For the purposes of this allowance, severe recruitment and retention problems are considered to exist if all of the following conditions apply: long-lasting position vacancies; high turnover rates in positions requiring well-qualified physicians; applicants lacking the superior qualifications necessary for the position; and difficulties in filling existing vacancies with well-qualified candidates without PCA payments.

These PCA-eligible physicians were generally covered by title 5, United States Code, as General Schedule (GS) employees or Senior Executive Service (SES) members. Most of the non-PCA Federal civilian physicians were covered by the Department of Veterans Affairs physicians pay system (authorized under title 38, U.S. Code).

Summary of PCA Usage in the Federal Government

The recruiting and retention needs that justify use of PCA payments vary widely across the Government. Some agencies require physicians with special expertise in areas such as biomedical research or oversight of medical disability program criteria. Some agencies require physicians to live and work in remote areas. Other agencies face challenges because local non-Federal competition for physicians has pushed compensation requirements above the rates provided by the GS and SES pay systems.

Largest PCA Users. Agencies reported additional information on organizational components that employ more than 100 physicians receiving PCA. The table below summarizes information on the largest users of the PCA incentive.

The largest users of PCA in FY 2011 were five sub-agency components of the Departments of Defense, Justice, and Health and Human Services, as follows: Department of the Army (333), Bureau of Prisons (BOP) (202), National Institutes of Health (NIH) (172), Indian Health Service (IHS) (105), and Centers for Disease Control and Prevention (CDC) (73). These five sub-components accounted for nearly 70 percent of all PCA recipients.

Agency Use of PCA in FY 2010

	No. Physicians Receiving PCA	Average PCA	Average Salary*
Dept of Defense	821	$ 10,556	$ 156,370
Dept of Health & Human Services	354	$ 20,641	$ 141,817
Dept of Justice, Bureau of Prisons	206	$ 25,375	$ 143,588
Dept of State	94	$ 28,000	$ 157,000
NASA	27	$ 20,438	$ 156,341

*Not including PCA

The average PCA in DOD dropped from $15,463 in FY 2010 to $10,556 in 2011.

Other agencies using the PCA include the Department of Homeland Security, Environmental Protection Agency, Department of Labor and the Social Security Administration. Eight physicians in the Department of Veterans Affairs received the PCA.

FPA has written to OPM to ask for more detail on the annual use of the PCA, since the 2011 report does not contain the detail of prior reports, e.g., the number of physicians eligible to receive the PCA.

FPA Member is Employee of the Year

Lynne M. Mofenson received the Federal Employee of the Year medal at the annual Samuel J. Heyman Service to America Medals ceremony. The medal recognizes her role in battling AIDS among children by developing ways to prevent mother-to-child transmission The medal is accompanied by a $10,000 award. The awards are presented annually by the nonprofit, nonpartisan Partnership for Public Service to celebrate excellence in the federal civil service.

As the number of children with AIDS increased dramatically in the United States and around the world in the late 1980s, the depressing fact was that little could be done to prevent infants from getting HIV, the virus that causes the terrible disease. Fast forward more than two decades to November 2011 when Secretary of State Hillary Clinton pronounced that creating an AIDS-free generation worldwide, one in which no children are born with the HIV infection, is not only possible, but a U.S. policy priority. Among those who played a pivotal role in curtailing the deadly epidemic among children is Dr. Lynne Mofenson, a National Institutes of Health (NIH) physician who helped design and conduct a seminal pediatric AIDS clinical trial, and has since dedicated her career to conducting additional research and influencing national policy in the field.

Mofenson, a pediatric infectious disease specialist, arrived at the NIH's Eunice Kennedy Shriver National Institute of Child Health and Human Development in 1989, and two years later became involved in starting a bold and controversial clinical study that used the only available anti-AIDS drug, zidovudine, or AZT, as a prevention strategy for the children of HIV-infected pregnant women. At the time, no one had thought of using this drug as a way to stop mothers from passing the disease to their babies, and many couldn't quite believe its efficacy, said Ambassador Eric Goosby, the U.S. Global AIDS Coordinator. "Frankly, we were blown away," he said.

The seminal clinical trial demonstrated a two-thirds reduction in the risk of HIV transmission from mother to child, down from 25 percent to 8 percent. It turned the tide on pediatric AIDS. "We were quite amazed that it worked so well," Mofenson said. The clinical trial was the beginning of a long-term collaboration among researchers—called the Pediatric AIDS Clinical Trials Group—that conducted a series of successful studies to identify and optimize strategies to block mother-to-child transmission of HIV, the primary way children become infected.

She worked with multiple agencies to implement these recommendations, including the Centers for Disease Control and Prevention to recommend universal HIV testing for all pregnant women, the Food and Drug Administration to obtain approval for use of AZT in pregnant women, and Medicaid to ensure that health insurance covered use of the drug.

The landmark policy had a rapid and dramatic impact. By 1996, 80 percent of HIV-infected pregnant women in the United States were receiving zidovudine, and the number of HIV infections in children had dropped from more than 1,600 per year to less than 500. Mofenson led the NIH's collaborative research networks to identify ways to reduce transmission risk to less than 1 percent, and continued to serve as the primary policymaker on pediatric AIDS, leading the working groups at the Department of Health and Human Services that update federal guidelines based on evolving research. She also has substantively influenced the fight against pediatric AIDS through nearly 300 scientific articles and book chapters, hundreds of local, national and international presentations, and collaborative relationships with countless pediatric AIDS researchers.

Today, the number of HIV cases in U.S. children has dropped to less than 150 a year.

Mofenson now serves as a leader in research and policy on the world stage, expanding the clinical trials network to developing countries in Africa and elsewhere to fight pediatric AIDS, and is an indispensable contributor to World Health Organization policy development.

Through U.S. programming and funding to other countries, it is estimated that 200,000 infant HIV infections were prevented last year alone.

"Her mission is to wipe out pediatric AIDS," said Dr. Sten Vermund, director of the Institute for Global Health at the Vanderbilt University School of Medicine. "She really wants to make a difference for moms and kids, first in the U.S. and now in the developing world," he said.

Dr. Mofenson has been a member of the Federal Physicians Association since 1980. The FPA Board congratulates her on the award.

Prescription Drug User Fee Act Reauthorized

On July, 10, 2012, the President signed into law a historic reauthorization of the Prescription Drug User Fee Act. Senate bill 3187, the Food and Drug Administration Safety and Innovation Act, passed in a 92-4 vote on June 26. Under the law, starting Oct. 1, the generic drug industry will pay $299 million a year in user fees over the next five years, which will help pay for more FDA staff and help clear a backlog of some 2,500 generic drug applications and more inspections of manufacturers' production plants. The law also creates a user fee program for companies that make biosimilar drugs.

FPA is Monitoring Congressional Legislation Affecting Federal Physicians

One of the benefits of membership in the Federal Physicians Association is regular updates on congressional legislation affecting federal physicians. While Congress is on recess and faces a very difficult lame duck session on the fiscal cliff (see page 1) after the elections, there are a number of bills being considered that could still be enacted this Congress or are certain to be reintroduced in the 113th Congress. A summary of some of this legislation follows.

H.R.3813, Securing Annuities for Federal Employees Act of 2012

Sponsored by Representative Dennis Roth (R-FL), the legislation would increase the employee contribution to the Civil Service Retirement System (CSRS) and to the Federal Employees Retirement System (FERS) by .5% of salary in each of calendar years 2013, 2014, and 2015 and reduces the employer contribution to CSRS and FERS by the amount of the increased employee contribution. The bill establishes new annuity computation rules for federal employees and Members of Congress who begin service after December 31, 2012, and who have less than five years of civilian service creditable under CSRS or any other retirement system for federal employees (secure annuity employees). It increases the employee contribution for secure annuity employees and calculates annuities for such employees based upon the average of their highest five years of salary (for current federal employees, the calculation is based on the highest three years of salary).

The legislation eliminates the FERS annuity supplement for employees not subject to mandatory retirement who separate from service after December 31, 2012. It allows federal employees to contribute payments received for accumulated and accrued annual or vacation leave to the Thrift Savings Fund.

Status: Passed the House Oversight and Government Reform Committee on February 7, 2012.

S. 743, Whistleblower Protection Enhancement Act of 2011

Sponsored by Senator Daniel Akaka (D-AK), the legislation would strengthen protections for federal employees who come forward to disclose government waste, fraud, abuse, and mismanagement. The legislation, which has been under consideration since 2001, expands the types of employee disclosures of violations of laws, rules and regulations that are protected. The legislation clarifies that any disclosure of gross waste or mismanagement, fraud, abuse, or illegal activity may be protected, but not disagreements over legitimate policy decisions. The bill clarifies that whistleblowers may disclose evidence of censorship of scientific or technical information under the same standards that apply to disclosures of other kinds of waste, fraud, and abuse.

The bill also amends the Intelligence Reform and Terrorism Prevention Act of 2004 to require the development of policies and procedures that permit individuals who, in good faith, challenge a security clearance determination to remain employed while the challenge is pending and prohibits the revocation of a security clearance or access determination in retaliation for a protected whistleblower disclosure.

Status: Passed the Senate by unanimous consent on May 8, 2012. The House version passed the House Oversight and Government Reform Committee in November 2011.

S. 1910, Domestic Partnership Benefits and Obligations Act of 2011

Sponsored by Senator Joseph I. Lieberman (CT), the legislation would apply the same employment benefits and obligations to federal employees in same-sex domestic partnerships and to their domestic partners as apply to married federal employees and their spouses. The bill modifies provisions relating to CSRS and the FERS to extend eligibility for annuity and survivor benefits to domestic partners of federal employees on the same basis as married employees. It makes domestic partners of federal employees eligible for: (1) the Federal Employee Group Life Insurance (FEGLI) program, (2) Federal Employees Health Benefits (FEHB), (3) dental and vision benefit plans, and (4) long-term care insurance coverage.

The bill applies to domestic partners provisions of federal civil service law and regulations relating to voluntary transfers of leave and the voluntary leave bank program and , unpaid leave to care for family members under the Family and Medical Leave Act of 1993Amends the Ethics in Government Act of 1978 to make provisions of that Act relating to financial disclosure, limitations on outside earned income and employment, and gifts to superiors and to federal employees applicable to federal employees in a domestic partnership and their domestic partners.

Status: Passed the Senate Homeland Security and Governmental Affairs Committee on May 16, 2012.

Members Only Page of FPA Website

The "Members Only" page of the FPA website, www.fedphy.org, has been updated, and it now includes Questions and Answers on the phased retirement program and agency policies on the payment of fees for certifications. Other information on agency pay and benefits for federal physicians will be added in the future.

Members log in to the "Members Only" page using their email address and membership ID number which is at the top of the mailing label on the newsletter. FPA members who need their login information should send an email to staff@fedphy.org. Access to the "Members Only" section of the website is suspended if dues are unpaid.

GAO Critical of Health and Human Services Use of Title 42

The Department of Health and Human Services (HHS) uses special hiring authorities to hire physicians in medicine and science because the salaries available under typical federal hiring authorities are not competitive with those of the private sector for individuals in highly specialized fields. One special hiring authority, available to only HHS and the Environmental Protection Agency is Title 42 §§ 209(f) and 209(g). Section 209(f) authorizes the employment of special consultants to assist and advise in the operations of HHS's Public Health Service (PHS) and section 209(g) authorizes fellowships for PHS scientists.

Under Title 42, HHS has set the maximum annual pay at $250,000 a year with total compensation not to exceed $275,000 a year unless approved by the Secretary. The salary and compensation limits were lowered by HHS in February 2012 from the March 2007 limits, which were $350,000 and 375,000 respectively. (Total compensation includes base pay, recruitment and retention bonuses and cash awards.) HHS has used Title 42 to appoint individuals from the private sector and to convert federal government employees under other pay systems to Title 42.

Health and Human Services' (HHS) use of special hiring authorities under 42 U.S.C. §§ 209(f) and (g) has increased from 5,361 positions in 2006 to 6,697 positions in 2010, an increase of around 25 percent. Nearly all HHS Title 42 employees work in one of three HHS operating divisions: the National Institutes of Health (NIH), the Food and Drug Administration (FDA), and the Centers for Disease Control and Prevention (CDC). Title 42 employees at HHS serve in a variety of areas, including scientific and medical research support and in senior, director-level leadership positions.

HHS Use of Title 42

	NIH	CDC	FDA
Number of Title 42 2010	4,879	929	862
Increase in Title 42 employee 2006 – 2010	15%	81%	54%
Title 42 employees as a percent of total employees	25 %	10%	6%
Title 42 employees as a percent of researchers and clinicians	44%	16%	9%

Source: GAO Report GAO-12-1035T

In 2010, more than 20 percent of Title 42 employees earned a base salary above $155,000 and 629 were paid in excess of $199,700.

HHS reported that Title 42 enables the agency to quickly fill knowledge gaps so medical research can progress and to respond to medical emergencies. HHS further reported Title 42 provides the compensation flexibility needed to compete with the private sector. In 2010, 1,461 of HHS's Title 42 employees earned salaries over $155,500. The highest base pay amount under the General Schedule – the system under which most federal employees are paid – was $155,500 in 2010. Under certain types of Title 42 appointments, statutory pay caps may apply. 2010 was the last year of HHS data available at the time of GAO's review.

On September 14, 2012, the General Accountability Office (GAO) released a report that stated: "HHS does not have reliable data to manage and provide oversight of its use of Title 42. Moreover, HHS did not consistently adhere to certain section of its Title 42 section 209(f) policy. For example, the policy states that 209(f) appointments may only be made after non-Title 42 authorities have failed to yield a qualified candidate, but GAO found few instances where such efforts were documented."

The GAO also stated its legal opinion:" that an appropriations pay cap applies to certain, but not all employees appointed under Title 42 U.S.C. §§ 209(f) and (g). If Congress desires upper pay limits for appointments not currently subject to the pay cap, it may wish to consider legislation to specifically establish such limits."

The Federal Physicians Association has asked Congress to revise the annual report on the use of the Physicians Comparability Allowance (see page 7) to require that all federal agencies report annually on the pay and compensation of all federal physicians, including those paid under Title 42.

FPA Agency Contacts

In order to keep members of the Federal Physicians Association informed of actions or issues affecting federal physicians, and to make sure federal physicians are made aware of FPA's activities, FPA is developing contacts in all agencies employing federal physicians. The goal is to have an FPA contact in each NIH institute, at each Indian Health Service hospital, at each DoD installation, etc.

To start developing these contacts, FPA needs an agency contact at the Department of Veterans Affairs. FPA members interested in serving as agency contacts should contact the office at 1-877-333-7497, or staff@fedphy.org.

Federal Physicians Association Membership Application

Name: ______________________ (*last*) ______________________ (*first*) Office Phone: ____________________

Address: ______________________ (*street*) Email: ____________________

Address: ______________ (*city*) ______________ (*state*) ______________ (*zip*)

Agency: ______________________ Medical Specialty: ______________________

Grade: __________ Yrs Service: __________ Type Pay System: __________ (**PCA, T38, PDPP*) Total Pay: __________

☐ Annual: $100/year $185/2 years   ☐ Check enclosed payable to FPA

☐ Amex   ☐ MasterCard   ☐ Visa   Account Number: ______-______-______-______ Exp Date: _____ / _______

Mail to: FPA, 12427 Hedges Run Dr, Suite 104, Lake Ridge, VA 22192

May we print your name as a new member in the newsletter? ☐ yes ☐ no

50% of dues is attributable to nondeductible lobbying activity and is therefore not deductible under Internal Revenue Code Section 162 as an ordinary and necessary business expense.

3rd Qtr 2012

President Signs Transportation Bill with Phased Retirement Provision

On July 6, 2012 the President signed Public Law 112-141, the transportation bill, that includes a provision making an important change in how federal employees plan for retirement. The law allows retirement-eligible federal employees to phase into retirement by working part-time, while receiving a partial annuity. As a condition of participation in this plan, 20 percent of an employee's time would be spent mentoring other employees. Employees who work part-time will continue to earn credit toward their annuity as if they were working full-time and will be able to contribute to the Thrift Savings Plan.

Employees selecting the phased retirement option will be able to work from one to four days a week and be retired for the reminder of the week, although initially individuals will only be able to transition to a half-time schedule.

Employees who take phased retirement will be eligible for pay step increases and cost-of-living adjustments. An employee on phased retirement would be able to return to full-time status if the agency agrees but would not be able to select phased retirement a second time.

Participation in the phased retirement options is entirely voluntary, and requires the mutual consent of both the employee and employing agency. In order to participate, an individual must have been employed on a full-time basis for the preceding three years. Under CSRS, the individual must be eligible for immediate retirement with at least 30 years of service at age 55, or with 20 years of service at age 60. Under FERS, the individual must be eligible for immediate retirement with at least 30 years of service at the minimum retirement age of 55-57 depending upon year of birth, or with 20 years of service at age 60. No unused sick leave can be used in the computation of the phased retirement annuity.

Phased retirees will be treated as employees for purposes of health insurance and life insurance coverage and survivor benefits. When phased retirees retire completely, annuity benefits will be paid in full, with increases reflecting the additional working time.

There is an extensive Q&A on phased retirement on the FPA website on the "Members Only" page.

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