

# FEDERAL PHYSICIAN



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## 12 Weeks of Paid Parental Leave for Most, but not for Title 38 Employees, Yet

In December, the President signed the 2020 National Defense Authorization Act, which extends paid family leave benefits to federal employees for the first time. The new benefit offers 12 weeks of paid leave for federal workers to care for a newborn, adoption or fostering of a child. The provision only applies to workers who have worked for the government for at least a year, and mandates that they must stay for at least another 12 weeks after their return, though this requirement can be waived if the parent or child suffers an uncontrollable medical issue that prevents the parent's return to work.

The new benefit is effective October 1, 2020. Eight states and the District of Columbia have passed laws providing employees with paid leave for new parents.

As part of its effort to implement the new benefit, the Office of Personnel Management (OPM) proposed legislative changes to the law which OPM said were needed to cover employees paid under pay systems not covered in the original law, such as federal physicians at the Department of Veterans Affairs (VA) paid under Title 38.

**A spokesperson for the VA said the agency plans to extend the paid parental leave benefit to its Title 38 employees because "...VA has the discretion to permit Title 38 employees to have the same benefits as other VA employees. This is what VA plans to do with the paid parental leave provision" as soon as OPM issues implementing regulations.**

In addition, the OPM plan would cap the

*See LEAVE page 9*

Federal Physicians working on COVID-19 programs are urged to send FPA a short paragraph about their work if they believe they are working in a hazardous work environment. Please send to [staff@fedphy.org](mailto:staff@fedphy.org).

## VA Issues Notice of 2020 VA Pay Ranges for Physicians, Dentists

Last year, the Department of Veterans Affairs issued a notice of annual pay ranges, which includes base pay and market pay for physicians, dentists and podiatrists in the Veterans Health Administration. The annual pay ranges were effective February 16, 2020. The notice of pay ranges is required to be issued once every two years. Under U.S. Code, the total compensation cannot exceed the annual compensation (less expenses) of the President of the United States, which is \$400,000.

Other federal agencies which use the modified title 38 (VA pay system) are expected to adopt these new pay ranges.

VA uses salary survey data from the Association of American Medical Colleges, Hospital and Healthcare Compensation Service, Sullivan, Cotter, and Associates, Sullivan Cotter and Associates Inc. an independent consulting firm which focuses on physician compensation, Medical Group Management Association, and the Survey of Dental

Practice published by the American Dental Association. The preponderance of weight was given to those surveys which most closely resembled the environment of the VA.

In developing the annual pay ranges, two principles were considered. The first principle is to ensure that both the minimum and maximum salary is set at a level that accommodates special employment situations, from fellowships to internationally renowned clinicians. The second principle is to provide ranges large enough to accommodate career progression, geographic differences, sub-specialization and other special factors. Clinical specialties are grouped into four clinical pay ranges that reflect comparable complexity in salary, recruitment and retention considerations.

The current and revised pay ranges are published on beginning on page 3. There were no changes to Tables 3, 4 and 6. The longevity pay ranges for 2020 will be increased as follows: the

*See VA PAY page 3*

## Senate Passes "Department of Veterans Affairs Provider Accountability Act"

On December 19, 2019, the Senate passed S. 221 to amend title 38 (which governs pay for Department of Veterans Affairs physicians and dentists) to require the Under Secretary of Health to report major adverse personnel actions by physicians and other medical personnel to the National Practitioner Data Bank and to applicable State licensing boards. The legislation prohibits the VA from entering into settlement agreements regarding a claim by a VA employee under which it would be required to conceal a serious medical error or purge a negative record from an employee's personnel file. The Senate passed bill has been sent to the House Committee on Veterans Affairs for consideration.

## Proposed Rules Promote the Firing of Poor Performers

The Office of Personnel Management has issued proposed personnel rules that, if finalized, will speed-up the process for imposing performance improvement plans and firing poor performers. The rules reflect the Trump Administration's desire to streamline the steps for disciplining employees and introducing greater employee accountability into the federal workplace. The proposed rules were announced in mid-September with a 30-day comment period that has expired.

Here are the key features of the proposed rules:

First, the new rules limit the length of agency performance improvement plans (PIPs) for poorly-performing employees to 30 days. Previously, PIPs could stretch to as long as 120 days to permit the demonstration of acceptable performance.

Second, the new rules make clear that an agency is not required to use progressive discipline in connection with adverse actions taken against employees. Further, suspension should not be

a substitute for removal where removal may be appropriate. Agencies need not create or honor tables of penalties to address misconduct, the new rules note. Disciplinary action should be calibrated to the specific facts and circumstances of each individual employee's situation "to promote the efficiency of the service" as the law requires.

Third, the new rules speed-up the agency firing process. They require agencies to issue decisions on proposed removals within 15 business days of the end of the employee reply period following a notice of proposed removal.

Finally, the new rules prevent agencies from erasing, removing, altering or withholding information from an employee's personnel file as part of a settlement or agreement. Such agreements have traditionally been referred to as "clean record" agreements. The new rules would still permit agencies to correct inaccuracies in an employee's personnel records or remove references to illegal actions taken against an employee.

## 2020 Pay Increase Largest in 10 Years

The 2020 pay increase of 3.1% is the largest increase for the federal workforce since 2009. In 2009, the pay increase was 3.9% which followed a raise of 3.5% in 2008. For 2019, the average pay raise was 1.9%. Employees in the San Jose-San Francisco-Oakland area will receive the largest locality pay increase.



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### FEDERAL PHYSICIANS ASSOCIATION

*Views expressed are those of the Federal  
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VA PAY from page 1

new minimum will be \$131,239 and the maximum will be \$160,100.

Although there are a number of increases in pay rates, as noted in the physician pay policy of the Department of Health and Human Services (HHS), Instruction 590-1: “When the VA increases the nationwide minimum and/or maximum amounts of annual pay ..., physicians are not automatically entitled to a corresponding increase in their individual annual pay rates. Only physicians 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 on a periodic basis.”

The HHS Instruction 590-1 further states that “The determination of the amount of market pay of a particular physician shall take into consideration:

1. The level of experience of the physician in the specialty or assignment;
2. The need for the specialty or assignment of the physician at the facility;
3. The appropriate health care labor market for the specialty or assignment of the physician;

4. The board certifications, if any, of the physician;
5. The accomplishments of the physician 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 in the local health care labor market.

Physicians employed by the Bureau of Prisons (BOP) and the State Department do not receive pay under the title 38 (VA pay) system.

Pay Table 1 – Clinical Specialty					
2019 Ranges		2020 Ranges			
Minimum	Maximum	Minimum	Maximum	Coverage	
Tier 1	\$103,395	\$225,000	\$104,843	\$243,000	Staff Physician, Dentist, or Podiatrist
Tier 2	\$110,000	\$234,000	\$110,000	\$252,720	Supervisor, Program Manager, Section Chief
Tier 3	\$120,000	\$262,000	\$120,000	\$280,340	Service Chief, Service that exceeds Tier 2, Network Level Assignment, Line Manager, or assignment, Nat'l Program Responsibilities

Specialties include Endocrinology, Endodontics, General Practice-Dentistry, Geriatrics, Infectious Diseases, Internal Medicine/Primary Care/ Family Practice, Palliative Care, Periodontics, Preventive Medicine, Prosthodontics, Rheumatology and all other specialties not requiring specific specialty training.

Pay Table 2 – Clinical Specialty					
2019 Ranges		2020 Ranges			
Minimum	Maximum	Minimum	Maximum	Coverage	
Tier 1	\$103,395	\$264,000	\$104,843	\$282,480	Staff Physician, Dentist, or Podiatrist
Tier 2	\$115,000	\$292,000	\$115,000	\$306,600	Supervisor, Program Manager, Section Chief
Tier 3	\$130,000	\$320,000	\$130,000	\$336,000	Service Chief, Service Line Manager, or assignment that exceeds Tier 2, Network Level Assignment, Nat'l Program Responsibilities Specialties include Allergy, Hospitalist, Nephrology, Pathology, PM&R/SCI and Psychiatry.

Pay Table 3 – Clinical Specialty					
2019 Ranges		2020 Ranges			
Minimum	Maximum	Minimum	Maximum	Coverage	
Tier 1	\$104,843	\$348,000	\$107,569	\$348,000	Staff Physician, Dentist, or Podiatrist
Tier 2	\$120,000	\$365,000	\$120,000	\$365,000	Supervisor, Program Manager, Section Chief
Tier 3	\$135,000	\$385,000	\$135,000	\$385,000	Service Chief, Service Line Manager, or assignment that exceeds Tier 2, Network Level Assignment, Nat'l Program Responsibilities

Specialties include Pain Management (Interventional and Non-Operating Room Anesthesiology, Cardiology (Non-Invasive), Emergency Medicine, Gynecology, Hematology-Oncology, Nuclear Medicine, Ophthalmology, Oral Surgery, Pulmonary

See VA PAY page 4

Pay Table 4 – Clinical Specialty					
2019 Ranges		2020 Ranges			
	Minimum	Maximum	Minimum	Maximum	Coverage
Tier 1	\$104,843	\$400,000	\$107,569	\$400,000	Staff Physician, Dentist, or Podiatrist
Tier 2	\$125,000	\$400,000	\$125,000	\$400,000	Supervisor, Program Manager, Section Chief, Service Chief, Service Line Manager, Natl Program Responsibilities

Specialties include Anesthesiology, Cardiology (Invasive/Non-Interventional, Cardio-Thoracic Surgery, Critical Care, Dermatology, Dermatology MOHS, Gastroenterology, General Surgery, Interventional Cardiology, Interventional Radiology, Neurosurgery, Orthopedic Surgery, Otolaryngology, Plastic Surgery, Radiology (Diagnostic), Radiation Oncology, Urology, Vascular Surgery

Table 5 – Chief of Staff and Network Chief Medical Officers					
2019 Ranges		2020 Ranges			
	Minimum	Maximum	Minimum	Maximum	Coverage
Tier 1	\$150,000	\$309,000	\$150,000	\$350,000	Network Chief Medical Officer, Chief of Staff - Complexity Level 1a and 1b Facilities
Tier 2	\$145,000	\$325,000	\$147,000	\$325,000	Chief of Staff – Complexity Level 1c & 2 Facilities
Tier 3	\$140,000	\$270,000	\$145,000	\$300,000	Chief of Staff – Level 3 Facilities & Facilities with no designation level
Tier 4	N/A	N/A	\$140,000	\$285,000	Deputy Network Chief Medical Officer, All Deputy Chiefs of Staff

Table 6 – Executive Assignments					
2019 Ranges		2020 Ranges			
	Minimum	Maximum	Minimum	Maximum	Coverage
Tier 1	\$145,000	\$265,000	\$145,000	\$304,750	Principal Deputy; other Deputy Under Secretaries for Health, Chief Officers. Network Directors, Medical Center Directors
Tier 2	\$145,000	\$245,000	\$145,000	\$249,900	Executive Directors; other Assistant Under Secretaries for Health; VACO Chief Consultants National Directors; National Program Managers
Tier 3	\$130,000	\$235,000	\$130,000	\$235,000	All VACO physicians, dentists, or podiatrists not otherwise defined

## House Letter Requests New Benefits for Federal Physicians, Except for Those Working at HHS/State

On Monday, April 27, 2020, more than 150 House Democrats urged congressional leadership to include worker safety provisions protecting front-line federal workers in the next coronavirus response legislation.

The letter calls for an emergency temporary new standard to protect essential federal workers who face elevated risk of exposure to Covid-19 with provisions that include increased hazard pay, parity in union bargaining, and expanded telework. The letter includes health care providers from the VA, Bureau of Prisons and DOD. It does not include health care workers at the Department of Health and Human Services or the Department of State. A copy of the House letter is on the home page of the FPA website: [www.fedphy.org](http://www.fedphy.org).

The Federal Physicians Association will prepare a letter to the Speaker about these oversights if federal physicians from HHS and State send us some paragraphs about exactly what you are doing that puts you at risk because of COVID-19. Send your anonymous paragraph to [staff@fedphy.org](mailto:staff@fedphy.org). Please include only your medical specialty and agency.

## Major Reorganization of Federal Government Proves Difficult

On June 21, 2018 the Trump Administration proposed a number of significant federal agency reorganizations that included a possible merger of the Education and Labor Departments and relocating many social safety net programs into a new megadepartment, which would replace the Department of Health and Human Services and possibly include the word “welfare” in its title.

However, even a “modest” reorganization proposal, i.e. the dismantling of the Office of Personnel Management (OPM), appears to be dead. The plan prepared by the Office of Management and Budget included sending the National Background Investigations Bureau, responsible for security clearance investigations across government, to the Defense Department, part of a

congressional effort to move security clearance checks out of OPM. HR Solutions, retirement claims processing and administration of the Federal Employees Health Benefits Program was to be transferred to the General Services Administration, renamed the Government Services Agency, while OPM’s policy arm would become part of the Executive Office of the President.

Many federal employee groups opposed the plan; some concerned that the transfer of OPM’s policy office would politicize the civil service. Both Republicans and Democrats in Congress had doubts that the reorganization plan would save money or reduce the number of federal employees. In addition, the Inspector General of OPM was also against the plan, partly because

there was no documented plan for the changes.

The National Defense Authorization Act blocks further efforts to abolish OPM and requires a detailed study by the National Academy of Public Administration to determine what, if any actions, should be taken regarding OPM.

The Administration’s plan to eliminate the 5500 employee agency was to be the first in a series of efforts to reduce the size of the federal government. The elimination of OPM would have been the first stand-alone federal agency eliminated in decades.

The Administration has implemented three small agency relocations as part of its plans to reduce the number of federal agencies and employees in the Washington DC area.

## Stimulus Bill Provides More Money for HHS and VA

The \$2.2 trillion stimulus bill includes \$340 million for federal agency operations and COVID-19 response efforts. The Department of Health and Human Services (HHS) received additional funds to hire more staff. HHS and the Department of Veterans Affairs (VA)

received additional funds to support overtime for employees working on the coronavirus response. VA also received \$20 billion for increasing health services at its facilities. HHS and the Bureau of Prisons received funds for Personal Protective Equipment (PPE.) Many agencies

received additional funding to support an expansion of telework. HHS received \$127 million for the Public Health and Social Services Emergency Fund to reimburse hospitals and health care providers and reimburse the strategic national stockpile of equipment and drugs.

## Changes Made to Federal Long-Term Care Insurance Program (FLTCIP)

Beginning October 21, 2019, the FLTCIP included a premium stabilization provision which OPM said “is designed to reduce the potential need for future premium increases.” The new provision is included in FLTCIP 3.0. FLTCIP 1.0 was started in 2002, FLTCIP 2.0 coverage started in 2010. Federal employees currently enrolled in the program could re-enroll to take advantage of the FLTCIP 3.0 but their premiums would be based on their current age rather than the age when they originally enrolled. For detailed information on the FLTCIP see the website: <https://www.ltcfeds.com/planning-tools/resources>.

The FLTCIP helps pay for long term care services in a variety of settings (at home or in a facility, such as an assisted

living facility, an adult daycare, or a nursing home) and your choice of caregiver. The FLTCIP has a stay-at-home benefit that includes a range of services that support in home care, helping maintain quality of life in familiar surroundings. Informal care provided by friends and family members is covered, as long as the caregiver isn’t a spouse or domestic partner and doesn’t live in the home at the time an individual becomes eligible for benefits. Benefits for care provided by family members is limited to 500 days. The FLTCIP is portable and guaranteed renewable, which means individuals can continue to keep coverage as long as premiums are paid. The FLTCIP provides benefits for covered services received outside of the United States.



## Professional Liability Insurance for Federal Physicians

FEDS PLI covers the exposures that make Federal Physicians vulnerable to:

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- State Medical Board Investigations & Proceedings arising out of the performance of your federal duties
- Disciplinary Actions
- Criminal Investigations
- Civil Lawsuits/Bivens Actions for alleged violations of a patient's constitutional rights

FEDS \$1,000,000 Annual Policy

**\$290**

Some physicians (and all physicians classified as mgrs & supervisors) are eligible for agency reimbursement up to half the cost for a net premium of

**only \$145**

FEDS also offers a \$2,000,000 policy for \$390.

There is a reason this coverage is available and affordable to all federal employees. Obtaining counsel or representation experienced in federal matters - after a claim is made against you - will cost many multiples of our annual premium!

**Call the FPA or visit our website at [www.fedsprotection.com](http://www.fedsprotection.com) for more information or to enroll today! You can even enroll by phone at 866-955-FEDS with payroll deduction available.**

## OPM Allows Agencies to pay Higher Limits on Recruitment and Retention Incentives

Recruitment, relocation and retention incentives (3Rs) are compensation flexibilities available to help federal agencies recruit and retain employees. In early February, OPM issued new 3R tools for employees in high demand positions, such as health care workers.

Federal agencies already have the authority to approve recruitment and retention incentives up to 25 percent of an employee's annual rate of basic pay times the number of years in a service agreement, not to exceed four years or 100 percent of annual basic pay without

approval from the Office of Personnel Management (OPM.) Agencies have the authority to pay a retention incentive of up to 10 percent of basic pay to an entire group or category of employees, such as health care employees. The new cap for 3R incentives is now increased from 25 percent to 50 percent. Agencies may request that OPM waive one or more of these limits to address a critical agency need, such as agency programs or projects related to the President's declaration of a national emergency concerning the COVID-19 pandemic.

The 3R change is part of several OPM initiatives to help federal agencies with their increased workload due to COVID-19, including allowing agencies to require current employees to perform work outside of the typical work assignment, creating a special section of the [usa-job.gov](http://usa-job.gov) website for position related to the COVID-19 response, streamlining the process for hiring temporary employees, and allowing agencies to rehire retirees without the regular reduction in their annuities equal to their salary.

## News from the Thrift Saving Plan

In February, the Thrift Savings Plan (TSP) issued a proposed rule to announce that it will increase the default amount that new federal employees contribute to the federal government's 401(k)-style retirement savings program from 3% to 5% beginning October 1, 2020. Although the automatic contribution amount when employees are first hired will be 5%, employees can increase or decrease it if they wish. "The TSP's goal is to help federal employees and members of the uniformed services retire with dignity," the proposal stated. "As of December 31, 2018, 26% of TSP participants were contributing less than 5% to their accounts, which means they were not receiving the full amount of agency/service matching contributions they are entitled to."

Another change announced is the cost of living adjustment (COLA) applied to TSP life annuities with the increasing payments feature is now a flat 2% beginning with annuities purchased on or after March 2, 2020. Annual adjustments for TSP annuities purchased before then will continue to vary between 0% and 3% depending on the Consumer Price Index. Annual adjustments for all TSP annuities take place on the anniversary of the first payment. The information provided here is **not** related to the "basic annuity" or "pension" that is part of retirement coverage under FERS or CSRS.

Federal Retirement Thrift Investment Board has also issued a proposed rule to change how it calculates annual cost of living adjustments associated with some of its offerings for retirees. When TSP participants take a post-separation withdrawal, they have the option to receive the money over time in the form of an annuity with an increasing payment option, which is based on an annual cost-of-living adjustment calculation. Currently, these annual adjustments are tied to inflation, as measured by the annual change in the consumer price index, with a cap of 3% per year. The TSP contracts annuity services to a vendor and that vendor charges fees based on an annual increase of 3% per year, even when the actual annual adjustment is less than that. Under the proposed rule, the TSP would stop tying annual cost of living increases to inflation, and instead provide an annual fixed increase of 2% per year. According to the TSP, the change would allow participants who take an annuity to receive, on average, a 10% to 15% higher initial monthly payment, due to reduced fees to the annuity vendor. The change was effective January 18, 2020.

Finally, the Board published a proposed rule in February that would expand hardship withdrawal options to allow TSP participants to withdraw funds for expenses and losses, including loss of income, related to natural disasters. Currently TSP withdrawals are allowed for (1) negative monthly cash flow, (2) certain medical expenses, (3) payments for repairs or replacement of property resulting for personal casualty losses and (4) Attorney's fees and court costs associated with a participants separation or divorce.

## Department of Veterans Affairs

Veterans Health Administration  
Title 38, U.S.C. Sec. 7431  
**PHYSICIAN, DENTIST, AND PODIATRIST  
BASE AND LONGEVITY PAY SCHEDULE**

STEP	TENURE (in years)	SALARY
1	2 or less	\$107,569
2	2 to 4	\$111,155
3	4 to 6	\$114,741
4	6 to 8	\$118,327
5	8 to 10	\$121,913
6	10 to 12	\$125,499
7	12 to 14	\$129,085
8	14 to 16	\$132,671
9	16 to 18	\$136,257
10	18 to 20	\$139,843
11	20 to 22	\$143,429
12	22 to 24	\$147,015
13	24 to 26	\$150,601
14	26 to 28	\$154,187
15	more than 28	\$157,773

Office of the Chief Human Capital Officer  
Effective January 5, 2020

## Bill Introduced to Overturn Parts of Three Executive Orders

Bipartisan legislation has been introduced in the House to overturn some of the provisions in the President's Executive Orders which made it easier to fire federal employees, reduce the influence of unions, reduce the time union officials spend on official time for union activities and overturn a memo granting the secretary of Defense the authority to exempt the Pentagon from federal labor law. The bill, Protecting Collective Bargaining and Official Time for Federal Workers Act ([H.R. 6246](#)), was introduced by Reps. Derek Kilmer, D-WA., and Brian Fitzpatrick, R-Pa.

In May 2018, the President issued three orders that shorten the length of performance improvement plans to 30 days, exempt adverse personnel actions from grievance proceedings, set time limits on collective bargaining negotiations, and significantly curtail union activities.

# Highlights of the 2021 Budget

## Federal Employee Provisions

The President's 2021 federal budget proposes a 1 percent federal pay increase for federal employees and a 3 percent increase for the military. Legislation, the FAIR Act, has been introduced in the House and Senate to provide a 3.5 percent increase in 2021. The budget also includes a proposal to spend 1 percent of salary budgets for awards for high-performing employees or those with critical skills.

The 2021 budget also includes the same proposals from the Administration's earlier budgets to increase employee contributions to their retirement annuities, eliminate the cost-of-living adjustments for current and future retirees, calculate annuities based on highest five years of salary instead of the current high three years of salary and eliminate the FERS Special Retirement Supplement for employees who retire before age 62. The budget also includes a plan to require newly hired employees to pay half the cost of their annuity. Currently, the highest amount paid is 4.4 of pay for employees hired after 2013.

As in prior years, the budget also includes a proposal to require federal employees to pay more for their health benefits.

The budget proposes to end the Public Service Student Loan Forgiveness Program. The program discharges borrowers' remaining federal student loan balance after they make 10 years' worth of payments while working for the government or a nonprofit. As of June 2019, \$52 million of student loans were forgiven for 845 borrowers.

## OPM Proposes Adding a Year for Step Increases Progression

In addition to the President's proposals that would affect federal employee

pay and benefits, the Office of Personnel Management's (OPM) FY 2021 budget request also included changes affecting pay increases. OPM has proposed increasing by one year the time for within-grade increases. The proposal, if enacted, would mean that it would take two years to move from step 2 to step 4, three years for steps 5 through 7 and four years for steps 8 through 10. In addition, it would eliminate an employee's right to appeal an agency decision to deny a step increase based on performance. Finally, it would require employees to be rated "fully successful" to move from steps 8 through 10, rather than the current performance standard of "acceptable."

In addition, the OPM plan includes increasing the limit on cash awards from \$10,000 to \$25,000 and the limit on awards requiring the President's agreement from \$25,000 to \$50,000.

The OPM proposal includes a provision for a new Critical Skills Incentive to authorize the OPM Director to allow agencies to pay up to 25% more in basic pay to possess "high demand or shortage skills that serve a critical need. OPM would publish a list of skills that qualify for the program on an annual basis. Whether the critical skills list will include medical officers, or will be broken down by specialty is a question FPA will be asking OPM, if this proposal receives Congressional approval.

## Department of Health and Human Services 2021 Budget Request

The FY 2021 budget request for the Department of Health and Human Services (HHS) totals \$1.427 billion; 53 percent of the budget is for Medicare and 33 percent for Medicaid. Only 8 percent of the budget is discretionary.

FY 2021 HHS budget proposal reflects a 10% reduction in overall funding. The budget request for HHS agencies employing the most federal physicians are summarized below. (The amounts below for FY 2020 are before the additional funding provided to combat the effects of COVID-19.)

### *Centers for Disease Control and Prevention (CDC)*

The FY 2021 budget request for CDC and ATSDR includes a total funding level of \$7.063 billion in discretionary budget authority, Prevention and Public Health Fund (PPHF), and Public Health Service (PHS) Evaluation funds. This request is \$707.9 million below FY 2020 Enacted level.

### *Food and Drug Administration (FDA)*

The FY 2021 budget request for the FDA is \$6.2 billion, an increase of \$265.4 million above the FY 2020 Enacted level.

### *Indian Health Service (IHS)*

The FY 2021 total discretionary budget request for the IHS is \$6.4 billion, an increase of \$185 million above the FY 2020 Enacted amount.

### *National Institutes of Health (NIH)*

For FY 2021, NIH requests a total program level of \$38.7 billion, which is \$3.0 billion less than the FY 2020 enacted level. More than 80 percent of the NIH's funding is awarded for extramural research, largely through almost 50,000 competitive grants to more than 300,000 researchers at more than 2,500 universities, medical schools, and other research institutions in every state.

## VA Needs Retired Federal Employees for Hospitals and Clinics

Because of the novel coronavirus, the VA is seeking federal retirees to assist in hospitals and clinics. Federal medical staff retirees will be hired as re-employed annuitants and receive a full salary along with their pension. For more information on the positions available see the VA website at <https://www.vacareers.va.gov/>.

## Comparison of Title 38 with Hybrid Title 38 Positions

ISSUE	TITLE 38	HYBRID TITLE 38
Leave Charged	Minimum charge of one day for leave taken.	Minimum charge for leave is one quarter hour.
Tardiness or Absence for Part of a Day	Full day's leave for absence for a part of a day, unless the absence is excused by officials authorized to approve leave.	Minimum charge for leave is one quarter hour.
Probationary Period	2 years	1 year
Appointing Authority	Title 38 employees are covered under Title 38 for appointment, advancement, and pay purposes.	Covered under Title 38 for appointment, advancement, and pay purposes. For all other personnel actions these employees are treated as Title 5 employees.
Collective Bargaining	38 USC Section 7422, which excludes certain matters from collective bargaining by employees appointed under Title 38 of the U.S. Code. The exception is that any collective bargaining agreement or grievance procedure can have no applicability to 1. Professional conduct or competency. 2. Peer Review and 3. Setting and determination of Compensation.	Exception Clause does not apply to collective bargaining.
Annual Leave	Title 38. Physicians, Dentists, Podiatrists, Optometrists, and Chiropractors earn 1 day per pay period.	Title 5 applies to Hybrid Title 38 employees for leave earned.
Carryover of earned annual leave	Maximum carry over accumulation for Physicians, Dentist, etc. is 86 days. The "carry over provision" applies when employees are not able to use their leave through no fault of their own.	Maximum carryover is 240 hours
Carryover of earned sick leave	No maximum carryover.	No maximum carryover.

### LEAVE from page 1

amount of paid leave at 12 weeks per "given child," so that if both parents are federal employees they could only take a combined 12 weeks after they have or adopt a child, not 12 weeks for each parent. There are also limitations on the amount of leave that parents of foster

children could take if the fostered child is in the family for less than a year.

Although the law is less generous than Democrats wanted, it is still a major expansion of benefits for federal employees. The Democrat passed bill in the House included paid time off to

care for a child, parent or spouse with a serious health condition or when a family member is deployed for military duty, all of which was included in the House passed bill. Military families were granted 12 weeks of paid parental leave in 2016 by Secretary of Defense Carter.

## 2019 Best Places to Work® in Federal Government Ranking Released

In December, the Partnership for Public Service released survey rankings for the Best Places to Work in the Federal Government. The rankings, produced by the Partnership and Boston Consulting Group, provide employee perspectives on leadership, pay, innovation, work–life balance and a range of other issues. The majority of the data used to develop these rankings was collected by the Office of Personnel Management (OPM) through its Federal Employee Viewpoint Survey.

The 2019 federal government-wide Best Places to Work employee engagement score is 61.7 out of 100, a 0.5-point decrease from 2018, which is very small considering that about 800,000 of the 2 million federal employees were affected by a

lengthy government shutdown, when there were a number of critical leadership vacancies at agencies across government, and when many agencies were dealing with a variety of political crosscurrents.

According to the Partnership, the 2019 data shows a need for federal agencies to step up efforts to improve the employee work experience – from training and developing leaders to ensuring employees have a positive work environment and the resources they need to do their jobs.

Here are the rankings of agency subcomponents the employee a large number of federal physicians out of 420 total agencies in the 2019 report.

74	Food and Drug Administration, Department of Health and Human Services
81	Centers for Disease Control and Prevention, Department of Health and Human Services
175	Veterans Health Administration, Department of Veterans Affairs
218	Indian Health Service, Department of Health and Human Services
291	Office of the Secretary of Health and Human Services
328	Naval Medical Command, Department of the Navy
336	Defense Health Agency, Department of Defense
337	U.S. Army Medical Command, Department of the Army
355	Federal Bureau of Prisons, Department of Justice

The participation rate in the Federal Employee Viewpoint Survey increased by 15 percentage points at the Department of Health and Human Services, a significant increase. Earlier this year, a spokesperson for HHS said they encouraged employees to participate in the survey by explaining how the results are used year-round to make decisions.

The workplace category scores are calculated by averaging the percentage of positive responses to questions across 10 aspects of the employee experience, including effective leadership, employee skills–mission match, pay, and work–life balance.

Although the rankings include all occupations, agencies with a large number of federal physicians are dissatisfied with their pay according to the survey results. Except for employees of the Centers for Disease Control and the National Institutes of Health, all the agencies employing a large number of federal physicians rank in the bottom half of sub-agencies on satisfaction with pay. The

Naval Medical Command and the US Army Medical Command are ranked 404 and 394 respectively out of 415 sub-agencies.

In contrast to the government-wide Best Places to Work score, the 2019 private sector employee engagement score is 77.0 out of 100, 15.3 points higher than the government, according to data provided by employee research firm Mercer | Sirota. The private sector data is based on nearly 6.5 million employee survey responses from organizations in a wide variety of industries. The Best Places to Work data is based on the views of more than 883,000 civil servants across the federal government who participated in employee surveys.

The 2019 Best Places to Work rankings include the views of more than 883,000 civil servants from 490 federal agencies and their subcomponents on a wide range of workplace topics. The list of all questions on the survey is on the FPA website, on the Resources page, [www.fedphy.org](http://www.fedphy.org).

## Defense Bill Includes Federal Agency-wide Provisions Affecting Federal Employees

Among the provisions in the Defense Authorization bill that effect federal employees are:

1. Federal employees who were taxed on the expenses paid as a result of a relocation can now be reimbursed for those taxes by their agency. The effective date of the tax reimbursement is January 1, 2018.
2. The bill designates federal employee health, dental, vision and life insurance benefits as “excepted” which means those services would not be affected in a government shutdown.
3. The bill also requires the Department of Defense to study its two-year probationary period for federal employees, which some advocates say should be the government-wide standard.

## Information on this Year's IHS Loan Repayment Program

In February, the Indian Health Service (IHS) announced the deadlines for IHS Loan Repayment Program (LRP). The LRP funds IHS clinicians to repay their eligible health profession education loans — up to \$40,000 — in exchange for an initial two-year service commitment to practice in health facilities serving American Indian and Alaska Native communities. Opportunities are based on Indian health program facilities with the greatest staffing needs in specific health profession disciplines. LRP participant's

eligible to extend contracts annually until the qualified student debt is paid.

The 2020 dates are August 15, 2020, last award cycle deadline; September 15, 2020, last award cycle deadline date for supplemental loan repayment funds and September 30, 2020, enter on duty deadline date.

The IHS estimated budget for FY 2020 is includes \$34.8 million for the LRP health professionals education loans in return for full-time clinical services. The estimated amount available is about

\$22.4 million to support 492 awards averaging \$45,565 for a two-year contract.

The estimated amount available is about \$12.4 million to support about 500 competing awards for one-year extensions averaging \$24,790. Applicants selected for participation in the FY 2020 program cycle will be expected no later than September 30, 2020.

More information and the application is on the following website: <https://www.ihs.gov/loanrepayment/>

## VA Physician Wins Court Case – Gets Job Back

(summarized from an article by Eric Katz, *Government Executive*)

On March 31, a VA physician got his job back after a federal appeals court ruled VA improperly applied provisions of a new accountability law. In *Sayers v. VA*, the U.S. Court of Appeals for the Federal Circuit ruled the department could not retroactively apply the 2017

VA Accountability and Whistleblower Protection Act. The Court's decision strikes major blows to VA's authorities to enforce the law it, the President and lawmakers on both sides of the aisle had trumpeted as a fundamental step to ease the disciplinary process for misbehaving

and poorly performing employees. The retroactive ruling could lead to many more cases being overturned. The appeals court said the alleged actions occurred prior to the Accountability Act's passage and therefore VA "impermissibly applied" it retroactively.



## Federal Physicians Association Membership Application

[www.join.fedphy.org](http://www.join.fedphy.org)

Name: \_\_\_\_\_ Office Phone: \_\_\_\_\_  
*last first*

Address: \_\_\_\_\_ Email: \_\_\_\_\_  
*street*

Address: \_\_\_\_\_  
*city state zip*

Agency: \_\_\_\_\_ Medical Specialty: \_\_\_\_\_

Grade: \_\_\_\_\_ Yrs Service: \_\_\_\_\_ Type Pay System: \_\_\_\_\_ Total Pay: \_\_\_\_\_  
*\*PCA, T38, PDPP*

Annual: \$100/year    \$185/2 years     Check enclosed payable to FPA     Payroll deduction for HHS members

Amex     MasterCard     Visa    Account Number: \_\_\_\_\_ - \_\_\_\_\_ - \_\_\_\_\_    Exp Date: \_\_\_\_\_ / \_\_\_\_\_

Mail to: FPA, 5868 Mapledale Plaza, Suite 104, Woodbridge, VA 22193

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

30% 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.

2ND QUARTER 2020



# Federal Physician

5868 Mapledale Plaza, Suite 104  
Woodbridge, VA 22193

## Federal Employees and AFGE Sue Government for Hazardous Duty Pay

On March 30, federal employees from the Bureau of Prisons, and the Departments of Veterans Affairs and Agriculture and the American Federal of Government Employees filed a lawsuit in the US Court of Claims alleging that by not providing hazard pay to employees who interact with people and materials that might carry the coronavirus, a “virulent biological” it is violating both federal and OPM regulations. General Schedule employees who perform work with or in close proximity to objects, surfaces and individuals infected with the coronavirus are due a 25% hazardous duty pay differential.

To receive hazardous duty pay, a General Schedule (GS) employee must meet the requirements in 5 CFR 550.904, which in part states:

“(a) An agency shall pay the hazard pay differential listed in appendix A of this subpart to an employee who is assigned to and performs any duty specified in appendix A of this subpart.

However, hazard pay differential may not be paid to an employee when the hazardous duty or physical hardship has been taken into account in the classification of his or her position, without regard to whether the hazardous duty or physical hardship is grade controlling, unless payment of a differential has been approved under paragraph (b) of this section.”

(b) The head of an agency may approve payment of a hazard pay differential when—

(1) The actual circumstances of the specific hazard or physical hardship have changed from that taken into account and described in the position description; and

(2) Using the knowledge, skills, and abilities that are described in the position description, the employee cannot control the hazard or physical hardship; thus, the risk is not reduced to a less than significant level.

(c) For the purpose of this section, the phrase “has been taken into account in

the classification of his or her position” means that the duty constitutes an element considered in establishing the grade of the position—i.e., the knowledge, skills, and abilities required to perform that duty are considered in the classification of the position.”

The law firm of Kalijarvi, Chuzi, Newman & Fitch (KCNF) filed the class action lawsuit. Other federal employees who believe they too have been exposed to hazardous working conditions during the coronavirus pandemic can sign up to join the class action lawsuit.

The House included a provision for federal employees to get hazardous duty pay in the \$2 trillion stimulus bill, but the language was not agreed to by the Senate and was taken out of the final bill. House Democrats plan to include a hazardous duty pay provision in the next COVID-19 relief bill. The White House has said it is considering hazard pay for health care workers.