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ADS Chapter 465

Title 38 - Physician and Dentist Pay (PDP)

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 ADS 465 – Title 38 Physician and Dentist Pay
 POC for ADS 465: Deborah Melton, hr-helpdesk@usaid.gov

****This is a new ADS chapter.***

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ADS 465 – Title 38 Physician and Dentist Pay

465.1 OVERVIEW

Effective Date: 12/31/2020

This chapter contains the policy and required procedures for payment of Title 38 Physician and Dental Pay (PDP) to USAID physicians and dentists. Title 38 is a special pay authority used to recruit and retain employees in certain health care occupations. This pay authority allows USAID to be competitive with other health care facilities.

The Title 38 pay system consists of two components: General Schedule (GS) pay without locality (Title 5) and market pay. This policy is based on the [U.S. Office of Personnel Management \(OPM\) Title 38 Delegation Agreement with USAID](#), effective March 1, 2019.

465.2 PRIMARY RESPONSIBILITIES

Effective Date: 12/31/2020

a. The **Office of Human Capital and Talent Management (HCTM), Human Capital Services Center (HCSC)**:

- 1) Ensures that merit system principles, Title 38 statute requirements, the delegation agreement between OPM and USAID, and this policy chapter are followed in the use of PDP;
- 2) Provides oversight and guidance of USAID's PDP Program;
- 3) Maintains auditable program records and participates in evaluations of this authority by OPM, USAID, and other administrative authorities;
- 4) Coordinates with HCTM's Office of Workforce Planning, Policy, and Systems Management (PPSM) to prepare USAID's annual report on the use of PDP; and
- 5) Processes a Notification of Personnel Action (SF-50) and maintains records in the employee's electronic Official Personnel Folder (eOPF).

b. The **Office of Human Capital and Talent Management (HCTM), Office of Workforce Planning, Policy, and Systems Management (PPSM)**:

- 1) Obtains the OPM-sponsored Interagency Committee's concurrence for health care occupations that will be included in USAID's PDP Plan; and
- 2) Prepares, in collaboration with HCTM/HCSC, USAID's annual report on PDP use as required by OPM.

c. The **PDP Review and Compensation Panel** is composed of qualified physicians and dentists from USAID who serve as subject matter experts and make recommendations for assessing PDP-eligible candidate qualifications and pay levels.

The panel will ensure consistency and appropriateness of pay determinations in USAID and will be required to periodically review pay levels under the PDP Program.

d. The **Chief Human Capital Officer (CHCO)** serves as approving official and will review and certify PDP requests for compliance with the provisions of laws, the delegation agreement between OPM and USAID, and this policy chapter.

e. **Bureau and Independent Office (B/IOs) Heads** review and provide concurrence on recommendations by the PDP Review and Compensation Panel. B/IO Heads request exceptions and advance requests for outside employment.

f. The **Office of General Counsel, Ethics and Administration Division (GC/EA)** provides legal advice and guidance to HCTM on all aspects of PDP requests and this ADS chapter.

465.3 POLICY DIRECTIVES AND REQUIRED PROCEDURES

465.3.1 Eligibility for PDP

Effective Date: 12/31/2020

a. This policy applies to USAID Civil Service employees who are not receiving Physicians' Comparability Allowance (PCA). Employees who are currently receiving PCA may become eligible for Title 38 pay when their PCA agreements expire. Employees cannot receive PCA and Title 38 pay simultaneously.

This policy does not apply to Foreign Service employees or U.S., Cooperating Country National (CCN) or Third-Country National (TCN) Personal Services Contractors (PSCs).

b. The higher annual pay under Title 38 is given to physicians and dentists who provide direct patient care (*i.e.*, clinicians) or services incident to direct patient care only.

465.3.2 PDP Policy

Effective Date: 12/31/2020

a. Discretionary Application: PDP is available for use to recruit and retain highly qualified physicians. Payment of PDP is optional for B/IOs. Within budgetary constraints, USAID policy will compensate physicians and dentists at levels reasonably comparable with those paid to other Federal sector physicians in the same local area.

b. Establishment of PDP Amounts: PDP amounts for physicians will be established on an individual basis according to the GS base pay and market pay as described in section **465.3.4**.

c. PDP's Relationship to Basic Pay: The annual pay under PDP is basic pay plus all benefits, including retirement.

d. Relationship to Premium Pay: Physicians who receive PDP may not:

- 1) Be paid overtime for work in excess of 8 hours per day, 40 hours per week, or 80 hours per pay period;
 - 2) Earn compensatory time off in lieu of overtime pay, or compensatory time off for travel; or
 - 3) Receive any other form of premium pay under [5 U.S.C. Chapter 55](#) (e.g., Sunday holiday, night pays).
- e. Performance Management: Physicians receiving PDP will be covered by [ADS 462, Employee Evaluation Program, Civil Service](#).
 - f. Other Discretionary Pay: Physicians who receive PDP may receive other forms of discretionary pay under Title 5, such as performance awards and recruitment, relocation, and retention incentives, as described in [5 U.S.C. sections 5753](#) and [5754](#). However, they are not eligible to receive Physicians' Comparability Allowance (PCA) under [5 U.S.C. section 594](#). The sum of base pay and any discretionary pay paid to a physician under Title 5 authority (e.g., cash awards, performance awards, recruitment, retention, and relocation incentives) is limited on an annual basis to the rate of pay for [Executive Level I \(EX-I\)](#).
 - g. Aggregate Compensation Limits: Total compensation of physicians receiving PDP under Title 38 authority, basic pay, and other supplemental pay under Title 5 cannot exceed the amount of annual pay received by the President of the United States as specified in [3 U.S.C. section 102](#).
 - h. Effective Date: PDP will usually be effective at the beginning of the pay period immediately following approval by the approving official or on a later date as specified on [Form 465-1](#). PDP may not be approved retroactively. However, in circumstances involving an error in approved PDP pay levels, the original error may be corrected retroactively. PDP will be paid on a biweekly basis.
 - i. Outside Work: Physicians who wish to perform outside work should contact GC/EA for conflict of interest clearance prior to accepting outside employment due to work obligations associated with PDP.
 - j. Part-time Service: Part-time physicians who have a tour of duty of at least 20 hours per pay period may be offered PDP.
 - k. Relationship to Leave: Physicians who receive PDP continue to be covered by the leave provisions of [5 U.S.C. Chapter 63](#).
 - l. Credit Hours: Physicians who receive PDP are eligible to accrue credit hours in accordance with [5 U.S.C. Chapter 61](#).

465.3.3 Case Documentation, Procedures, and Processing

Effective Date: 12/31/2020

- a. Establishment or changes to pay: Hiring managers proposing that a candidate or employee receive PDP must complete [Form 465-1](#) and provide:
 - 1) A copy of the candidate/employee's qualifications statement or curriculum vitae (CV);
 - 2) The position description; and
 - 3) Written market pay justification.
- b. The hiring manager must submit the documentation listed in section **465.3.2.a.** to the PDP Review and Compensation Panel for review and recommendation to the B/IO Head for concurrence.
- c. After B/IO Head concurrence, this documentation must be sent to the CHCO for final decision.
- d. If the CHCO approves, HCTM/HCSC will receive the case documentation described in paragraph a. for:
 - 1) Processing of a Notification of Personnel Action (SF-50); and
 - 2) Maintenance of records in the employee's eOPF.

If the CHCO denies a request, there will not be an appeals process. The CHCO's determination is final.

465.3.4 Market Pay

Effective Date: 12/31/2020

Each physician covered by this policy is eligible for market pay. Market pay is intended to reflect the recruitment and retention need of the specialty or assignment of a particular physician at USAID.

At least once every two years, the Secretary of the U.S. Department of Veterans Affairs prescribes nationwide minimum and maximum amounts of annual pay (base pay plus market pay) that will be paid under this paragraph. These amounts are published in the Federal Register for no less than 60 days prior to the effective date. The Veterans Affairs Secretary may prescribe different ranges for different specialties or assignments. In determining pay ranges, at least two or more national surveys of pay for physicians are consulted. National surveys consulted include data that describe overall physician income by specialization or assignment and benefits in broad geographic scope.

When the Department of Veterans Affairs increases the nationwide minimum and/or maximum amounts of annual pay under this paragraph, 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.

In the event that nationwide minimum and maximum amounts of annual pay are reduced, physicians already working at USAID will not experience a reduction in market pay.

There may be up to four tiers of annual pay for each specialty or assignment for which a separate range of pay has been approved. Each tier reflects different professional responsibilities, professional achievements, or administrative duties (see the [U.S. Department of Veterans Affairs, Office of the Chief Human Capital Officer webpage](#) for current Title 38 pay schedules).

The amount of market pay and appropriate tier for a particular physician is recommended to the approving official.

The determination of the amount of market pay of a particular physician must 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; and
- 6) Consideration of unique circumstances, qualifications, or credentials, if any, and the comparison of these circumstances to the equivalent compensation level of non-USAID physicians in the local health care labor market.

The PDP Review and Compensation Panel must include qualified agency physicians or dentists who serve as subject matter experts for purposes of assessing PDP-eligible candidate qualifications and pay levels. The panel will ensure consistency and appropriateness of pay determinations within USAID and will review periodically pay under the PDP Program.

The B/IO Head and CHCO will take into consideration all PDP Review and Compensation Panel recommendations. The B/IO Head determines the amount of market pay to be paid to a physician after consideration of the range and tier recommended by the panel. The B/IO Head submits the recommendation to the CHCO, who makes the final decision.

465.3.5 Exceptions to the Maximum of the Annual Pay Range

Effective Date: 12/31/2020

It is expected that the maximum amount in the nationwide pay range as prescribed by the Secretary of Veterans Affairs will meet most pay and staffing needs. However, the CHCO may, in rare circumstances, grant an exception to the maximum on an individual, specialty or assignment, and/or facility-specific basis. However, the total compensation of physicians receiving PDP under Title 38 authority, basic pay, and other supplemental pay under Title 5 cannot exceed the amount of annual pay received by the President of the United States as specified in [3 U.S.C. section 102](#).

Exceptions to the maximum amount in the nationwide pay range will only be considered if failure to approve the exception will significantly impair the Agency's ability to recruit and retain well-qualified physicians.

Exceptions to the maximum amount of a nationwide pay range are not required for physicians who will exceed the pay range due to a GS step increase or a statutory general increase in pay.

- a. **Criteria for Approval:** Each B/IO submitting a request for an exception to the maximum in the pay range for an individual, specialty or assignment, and/or facility-specific basis must demonstrate that a higher maximum is necessary to maintain adequate staffing. Factors to consider include:

- 1) **Exceptions to the Maximum Annual Pay Ranges**

- **Higher Maximum Rates:** There is substantial evidence or anecdotal information that the maximum rates in the labor market are higher than the Agency's maximum rate for the specialty or assignment. However, higher rates in the community may not be the sole basis for making a request for an exception to the maximum of the market pay range;
- **Alternative Job Offer:** There is evidence that applicants and employees are being offered higher rates of pay for the same assignment or specialty in the labor market. Historical evidence indicates that the quality of or lack of candidates is unacceptable to meet this factor. The B/IO Head must provide documentation of specific recruitment efforts to support this factor; and
- **Other Criteria:** The B/IO Head may submit any evidence of pay-related staffing problems that seriously hamper or have the potential to seriously hamper its ability to recruit and retain physicians in the specialty or assignment.

- 2) **Individual Exception to the Maximum of the Annual Pay Range**

- The individual should have outstanding qualifications in a medical or dental specialty or possess a unique combination of education and experience that meets a special need of the Agency that may be project-specific or critical to the USAID mission.

- A discussion of what factors distinguish the individual when compared with other physicians with the length of service, specialty, or assignment, or a discussion of the rare combination of education and experience that the individual has and how it meets a special need of the organization or USAID's mission.
- b. Requesting Exceptions: In the rare circumstances when requesting an exception to the maximum of the nationwide pay range, the B/IO Head will submit the request to the CHCO with a recommendation from the PDP Review and Compensation Panel. Requests must include the following:
- 1) The individual or specialty or assignment for which the exception is requested;
 - 2) The amount of maximum pay requested;
 - 3) The reasons for the request, including documentation specific to the criteria in paragraph a.; and
 - 4) Any other pertinent information.

465.4 MANDATORY REFERENCES

465.4.1 External Mandatory References

Effective Date: 12/31/2020

- a. [38 U.S.C. Chapter 74 \(Veteran's Health Administration - Personnel\)](#)
- b. [5 U.S.C. §5371 \(Health Care Positions\)](#)
- c. [U.S. Office of Personnel Management Title 38 Delegation Agreement with USAID, March 1, 2019](#)

465.4.2 Internal Mandatory References

Effective Date: 12/31/2020

There are no internal mandatory references for this chapter.

465.5 ADDITIONAL HELP

Effective Date: 12/31/2020

- a. [USAID Form 465-1 - Request for Title 38 Physician and Dentist Pay](#)

465.6 DEFINITIONS

Effective Date: 12/31/2020

See the [ADS Glossary](#) for all ADS terms and definitions.

Aggregate Pay

The sum of all payments made to a physician in a calendar year, exclusive of lump sum annual leave, reimbursement of travel, back pay, and severance pay, which may not exceed the rate of pay for the President of the United States. **(Chapter 465)**

Annual Pay

The sum of the General Schedule (GS) base pay rate and market pay. Annual pay is basic pay for purposes of computing civil service retirement benefits; lump sum annual leave payments; life insurance; thrift savings plan; work injury compensation claims; severance pay; recruitment, relocation, and retention incentives; continuation of pay; and advances in pay. **(Chapter 465)**

Basic Pay

The rate fixed by applicable law or regulation. Basic pay does not include other types of pay such as bonuses, allowances, overtime, holiday, and military pay or supplemental payments from the Office of Workers' Compensation Program (OWCP). **(Chapter 465)**

Market Pay

A component of annual pay intended to reflect the recruitment and retention needs for the specialty or assignment of a particular USAID physician. **(Chapter 465)**

Physician and Dental Pay (PDP) Review and Compensation Panel

A group of qualified physicians and dentists at USAID who serve as subject matter experts and make recommendations for assessing PDP-eligible candidate qualifications and pay levels. The panel will ensure consistency and appropriateness of pay determinations within USAID and will review periodically pay under the PDP Program. **(Chapter 465)**

Tier

A level within the annual pay range for a medical or dental assignment or specialty. **(Chapter 465)**

Total Compensation

The sum of all payments made to a physician or dentist, including base pay; market pay; recruitment, relocation, and retention incentives; performance awards; and other cash awards. **(Chapter 465)**

Total Pay

The sum of all payments made to a physician or dentist. Total pay includes base pay; market pay; and recruitment, relocation, and retention incentives; and excludes cash awards. In Alaska, Hawaii, and Puerto Rico, where the U.S. Office of Personnel Management (OPM) has approved a non-foreign cost-of-living allowance (COLA) under 5 U.S.C. section 5941, total pay also includes COLA. **(Chapter 465)**

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