

(1) any action which is the basis of an individual's entitlement to benefits under this subchapter, and

(2) any termination of any such benefits under this subchapter,

shall not be treated as appealable under such appeals procedures or grievable under such grievance procedure.

(Added Pub. L. 95-454, title VIII, § 801(a)(1), Oct. 13, 1978, 92 Stat. 1221.)

SUBCHAPTER VII—MISCELLANEOUS PROVISIONS

Editorial Notes

AMENDMENTS

1978—Pub. L. 95-454, title VIII, § 801(a)(3)(A)(i), Oct. 13, 1978, 92 Stat. 1221, redesignated former subchapter VI as VII.

§ 5371. Health care positions

(a) For the purposes of this section, “health care” means direct patient-care services or services incident to direct patient-care services.

(b) The Office of Personnel Management may, with respect to any employee described in subsection (c), provide that 1 or more provisions of chapter 74 of title 38 shall apply—

(1) in lieu of any provision of chapter 51 or 61, subchapter V of chapter 55, or any other provision of this chapter; or

(2) notwithstanding any lack of specific authority for a matter with respect to which chapter 51 or 61, subchapter V of chapter 55, or this chapter, relates.

(c) Authority under subsection (b) may be exercised with respect to any employee holding a position—

(1) to which chapter 51 applies, excluding any Senior Executive Service position and any position in the Federal Bureau of Investigation and Drug Enforcement Administration Senior Executive Service; and

(2) which involves health care responsibilities.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 473, § 5361; renumbered § 5371 and amended Pub. L. 95-454, title VIII, § 801(a)(3)(A)(ii), title IX, § 906(a)(2), Oct. 13, 1978, 92 Stat. 1221, 1224; Pub. L. 101-509, title V, § 529 [title II, § 205(A)], Nov. 5, 1990, 104 Stat. 1427, 1456; Pub. L. 102-378, § 2(31), Oct. 2, 1992, 106 Stat. 1350.)

HISTORICAL AND REVISION NOTES

<i>Derivation</i>	<i>U.S. Code</i>	<i>Revised Statutes and Statutes at Large</i>
.....	5 U.S.C. 1162(b).	Oct. 4, 1961, Pub. L. 87-367, § 202 “Sec. 2(b)”, 75 Stat. 790. Oct. 11, 1962, Pub. L. 87-793, § 1001(a)(1), 76 Stat. 863.

The authority to fix rates of pay is added on authority of former section 1161, which is carried into section 3104.

For repeal of the Act of Aug. 1, 1947, ch. 433, 61 Stat. 715, as amended, see revision note for section 3104.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

Editorial Notes

AMENDMENTS

1992—Subsec. (b). Pub. L. 102-378 substituted “chapter 74” for “chapter 73” in introductory provisions and inserted “subchapter V of chapter 55,” after “61,” in pars. (1) and (2).

1990—Pub. L. 101-509 amended section generally, substituting designated provisions directing that Office of Personnel Management may provide that chapter 73 of title 38 provisions apply to certain health care professionals for undesignated text authorizing agency heads to fix pay rates for scientific and professional positions at between GS-16 and GS-18 rates.

1978—Pub. L. 95-454, § 906(a)(2), substituted “Office of Personnel Management” for “Civil Service Commission”.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101-509 effective on such date as the President shall determine, but not earlier than 90 days, and not later than 180 days, after Nov. 5, 1990, see section 529 [title III, § 305] of Pub. L. 101-509, set out as a note under section 5301 of this title.

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by section 906(a)(2) of Pub. L. 95-454 effective 90 days after Oct. 13, 1978, see section 907 of Pub. L. 95-454, set out as a note under section 1101 of this title.

§ 5372. Administrative law judges

(a) For the purposes of this section, the term “administrative law judge” means an administrative law judge appointed under section 3105.

(b)(1)(A) There shall be 3 levels of basic pay for administrative law judges (designated as AL-1, 2, and 3, respectively), and each such judge shall be paid at 1 of those levels, in accordance with the provisions of this section.

(B) Within level AL-3, there shall be 6 rates of basic pay, designated as AL-3, rates A through F, respectively. Level AL-2 and level AL-1 shall each have 1 rate of basic pay.

(C) The rate of basic pay for AL-3, rate A, may not be less than 65 percent of the rate of basic pay for level IV of the Executive Schedule, and the rate of basic pay for AL-1 may not exceed the rate for level IV of the Executive Schedule.

(2) The Office of Personnel Management shall determine, in accordance with procedures which the Office shall by regulation prescribe, the level in which each administrative-law-judge position shall be placed and the qualifications to be required for appointment to each level.

(3)(A) Upon appointment to a position in AL-3, an administrative law judge shall be paid at rate A of AL-3, and shall be advanced successively to rates B, C, and D of that level at the beginning of the next pay period following completion of 52 weeks of service in the next lower rate, and to rates E and F of that level at the beginning of the next pay period following completion of 104 weeks of service in the next lower rate.

(B) The Office of Personnel Management may provide for appointment of an administrative law judge in AL-3 at an advanced rate under such circumstances as the Office may determine appropriate.

(4) Subject to paragraph (1), effective at the beginning of the first applicable pay period com-