

AMENDMENTS

2003—Subsec. (a). Pub. L. 108-170 inserted “chiropractors,” after “optometrists,” in second sentence.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 2003 AMENDMENT

Amendment by Pub. L. 108-170 effective at end of 180-day period beginning on Dec. 6, 2003, see section 302(h) of Pub. L. 108-170, set out as a note under section 7316 of this title.

§ 7410. Additional pay authorities

(a) IN GENERAL.—(1) The Secretary may authorize the Under Secretary for Health to pay advance payments, recruitment or relocation bonuses, and retention allowances to personnel appointed under section 7306 of this title or section 7401(4) of this title, or personnel described in section 7401(1) of this title,¹ or interview expenses to candidates for appointment as such personnel, in a manner consistent with the authority provided under sections 5524a, 5706b, 5753, and 5754 of title 5.

(2) Payments under paragraph (1) shall not be considered in calculating the limitation under section 7431(e)(4) of this title.

(b) SPECIAL INCENTIVE PAY FOR DEPARTMENT PHARMACIST EXECUTIVES.—(1) In order to recruit and retain highly qualified Department pharmacist executives, the Secretary may authorize the Under Secretary for Health to pay special incentive pay of not more than \$40,000 per year to an individual of the Veterans Health Administration who is a pharmacist executive.

(2) In determining whether and how much special pay to provide to such individual, the Under Secretary shall consider the following:

(A) The grade and step of the position of the individual.

(B) The scope and complexity of the position of the individual.

(C) The personal qualifications of the individual.

(D) The characteristics of the labor market concerned.

(E) Such other factors as the Secretary considers appropriate.

(3) Special incentive pay under paragraph (1) for an individual is in addition to all other pay (including basic pay) and allowances to which the individual is entitled.

(4) Except as provided in paragraph (5), special incentive pay under paragraph (1) for an individual shall be considered basic pay for all purposes, including retirement benefits under chapters 83 and 84 of title 5, and other benefits.

(5) Special incentive pay under paragraph (1) for an individual shall not be considered basic pay for purposes of adverse actions under subchapter V of this chapter.

(6) Special incentive pay under paragraph (1) may not be awarded to an individual in an amount that would result in an aggregate amount of pay (including bonuses and awards) received by such individual in a year under this title that is greater than the annual pay of the President.

¹ So in original.

(Added Pub. L. 102-40, title I, §103(a)[(1)], May 7, 1991, 105 Stat. 198; amended Pub. L. 102-405, title III, §302(c)(1), Oct. 9, 1992, 106 Stat. 1984; Pub. L. 111-163, title VI, §601(e), May 5, 2010, 124 Stat. 1169; Pub. L. 117-168, title IX, §906(c)(3), Aug. 10, 2022, 136 Stat. 1813.)

Editorial Notes

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2022—Subsec. (a). Pub. L. 117-168 designated existing provisions as par. (1), substituted “personnel appointed under section 7306 of this title or section 7401(4) of this title, or personnel described in section 7401(1) of this title,” for “the personnel described in paragraph (1) of section 7401 of this title” and “in a manner consistent with” for “in the same manner, and subject to the same limitations, as in the case of”, and added par. (2).

2010—Pub. L. 111-163 designated existing provisions as subsec. (a), inserted heading, and added subsec. (b).

1992—Pub. L. 102-405 substituted “Under Secretary for Health” for “Chief Medical Director”.

Statutory Notes and Related Subsidiaries

TREATMENT OF PAY AUTHORITY CHANGES

Pub. L. 117-168, title IX, §906(c)(4), Aug. 10, 2022, 136 Stat. 1813, provided that: “For the purposes of the amendments made by paragraph (3) [amending this section], the Secretary of Veterans Affairs shall treat any award or payment made by the Secretary between January 1, 2017, and the date of the enactment of this Act [Aug. 10, 2022] to employees appointed under sections 7306, 7401(1), and 7401(4) of title 38, United States Code, that the Secretary has determined are of equivalent rank to a Senior Executive Service position (as such term is defined in section 3132(a) of title 5, United States Code), as if such amendments had been in effect at the time of such award or payment.”

§ 7411. Full-time board-certified physicians and dentists: reimbursement of continuing professional education expenses

The Secretary shall reimburse any full-time board-certified physician or dentist appointed under section 7401(1) of this title for expenses incurred, up to \$1,000 per year, for continuing professional education.

(Added Pub. L. 102-40, title I, §103(a)[(1)], May 7, 1991, 105 Stat. 199.)

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE

Pub. L. 102-40, title I, §103(b), May 7, 1991, 105 Stat. 199, provided that: “Section 7411 of title 38, United States Code, as added by subsection (a), shall apply with respect to expenses incurred for continuing professional education that is pursued after September 30, 1991.”

§ 7412. Annual determination of staffing shortages; recruitment and appointment for needed occupations

(a) IN GENERAL.—Not later than September 30 of each year, the Inspector General of the Department shall determine, and the Secretary shall publish in the Federal Register, at a minimum, the five clinical occupations and the five nonclinical occupations of personnel of this title of the Department covered under section 7401 of this title for which there are the largest staffing shortages with respect to each medical center of

the Department, as calculated over the five-year period preceding the determination.

(b) RECRUITMENT AND APPOINTMENT.—Notwithstanding sections 3304 and 3309 through 3318 of title 5, the Secretary may, upon a determination by the Inspector General under subsection (a) that there is a staffing shortage throughout the Department with respect to a particular occupation, recruit and directly appoint, during the fiscal year after the fiscal year during which such determination is made, qualified personnel to serve in that particular occupation for the Department.

(Added Pub. L. 113-146, title III, §301(a)(1), Aug. 7, 2014, 128 Stat. 1784; amended Pub. L. 114-315, title VIII, §802(4), Dec. 16, 2016, 130 Stat. 1592; Pub. L. 115-46, title II, §201, Aug. 12, 2017, 131 Stat. 959.)

Editorial Notes

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2017—Subsec. (a). Pub. L. 115-46 substituted “at a minimum, the five clinical occupations and the five nonclinical occupations” for “the five occupations” and “with respect to each medical center of the Department,” for “throughout the Department”.

2016—Subsec. (b). Pub. L. 114-315 substituted “under subsection (a)” for “under paragraph (1)”.

Statutory Notes and Related Subsidiaries

DEADLINE FOR FIRST DETERMINATION

Pub. L. 113-146, title III, §301(a)(3), Aug. 7, 2014, 128 Stat. 1784, provided that: “Notwithstanding the deadline under section 7412 of title 38, United States Code, as added by paragraph (1), for the annual determination of staffing shortages in the Veterans Health Administration, the Inspector General of the Department of Veterans Affairs shall make the first determination required under such section, and the Secretary of Veterans Affairs shall publish in the Federal Register such determination, by not later than the date that is 180 days after the date of the enactment of this Act [Aug. 7, 2014].”

§ 7413. Treatment of podiatrists; clinical oversight standards

(a) PODIATRISTS.—Except as provided by subsection (b), a doctor of podiatric medicine who is appointed as a podiatrist under section 7401(1) of this title is eligible for any supervisory position in the Veterans Health Administration to the same degree that a physician appointed under such section is eligible for the position.

(b) ESTABLISHMENT OF CLINICAL OVERSIGHT STANDARDS.—The Secretary, in consultation with appropriate stakeholders, shall establish standards to ensure that specialists appointed in the Veterans Health Administration to supervisory positions do not provide direct clinical oversight for purposes of peer review or practice evaluation for providers of other clinical specialties.

(Added Pub. L. 115-182, title V, §502(a)(1), June 6, 2018, 132 Stat. 1475.)

Editorial Notes

CODIFICATION

Section 502(a)(1) of Pub. L. 115-182, which directed that this section be added at the end of subchapter I of

chapter 74, without specifying the Code title to be amended, was executed by adding this section at the end of this subchapter, to reflect the probable intent of Congress.

§ 7414. Compliance with requirements for examining qualifications and clinical abilities of health care professionals

(a) COMPLIANCE WITH CREDENTIALING REQUIREMENTS.—The Secretary shall ensure that each medical center of the Department, in a consistent manner—

(1) compiles, verifies, and reviews documentation for each health care professional of the Department at such medical center regarding, at a minimum—

(A) the professional licensure, certification, or registration of the health care professional;

(B) whether the health care professional holds a Drug Enforcement Administration registration; and

(C) the education, training, experience, malpractice history, and clinical competence of the health care professional; and

(2) continuously monitors any changes to the matters under paragraph (1), including with respect to suspensions, restrictions, limitations, probations, denials, revocations, and other changes, relating to the failure of a health care professional to meet generally accepted standards of clinical practice in a manner that presents reasonable concern for the safety of patients.

(b) REGISTRATION REGARDING CONTROLLED SUBSTANCES.—(1) Except as provided in paragraph (2), the Secretary shall ensure that each covered health care professional holds an active Drug Enforcement Administration registration.

(2) The Secretary shall—

(A) determine the circumstances in which a medical center of the Department must obtain a waiver under section 302(d) of the Controlled Substances Act (21 U.S.C. 822(d)) with respect to covered health care professionals; and

(B) establish a process for medical centers to request such waivers.

(3) In carrying out paragraph (1), the Secretary shall ensure that each medical center of the Department monitors the Drug Enforcement Administration registrations of covered health care professionals at such medical center in a manner that ensures the medical center is made aware of any change in status in the registration by not later than seven days after such change in status.

(4) If a covered health care professional does not hold an active Drug Enforcement Administration registration, the Secretary shall carry out any of the following actions, as the Secretary determines appropriate:

(A) Obtain a waiver pursuant to paragraph (2).

(B) Transfer the health care professional to a position that does not require prescribing, dispensing, administering, or conducting research with controlled substances.

(C) Take appropriate actions under subchapter V of this chapter, with respect to an employee of the Department, or take appro-