

## REPORT ON PAY FOR CHIEF NURSE POSITION

Pub. L. 102-585, title III, §306, Nov. 4, 1992, 106 Stat. 4952, required the Secretary of Veterans Affairs to conduct a review of the process for determining the rate of basic pay applicable to the Chief Nurse position at Department of Veterans Affairs health-care facilities and the relationship between the rate of such basic pay and the rate of basic pay applicable to nurses in positions subordinate to the Chief Nurse at the respective Department facilities, including an assessment of the adequacy of the process in determining an equitable pay rate for the Chief Nurse position, with a report to be submitted to Congress not later than 12 months after Nov. 4, 1992.

**§ 7452. Nurses and other health-care personnel: administration of pay**

(a)(1) Regulations prescribed under section 7451(a) of this title shall provide that whenever an employee in a covered position is given a new duty assignment which is a promotion, the rate of basic pay of that employee shall be increased at least one step increment in that employee's grade.

(2) A nurse serving in a head nurse position shall while so serving receive basic pay at a rate two step increments above the rate that would otherwise be applicable to the nurse. If such a nurse is in the highest or next-to-highest step for that nurse's grade, the preceding sentence shall be applied by extrapolation to create additional steps only for the purposes of this paragraph. The limitation in section 7451(c)(1) of this title shall not apply with respect to increased basic pay under this paragraph.

(3) An employee in a covered position who is promoted to the next higher grade shall be paid in that grade at a step having a rate of basic pay that is greater than the rate of basic pay applicable to the employee in a covered position on the day before the effective date of the promotion.

(b)(1) Under regulations which the Secretary prescribes for the administration of this section, the director of a Department health-care facility (A) shall pay a cash bonus (in an amount to be determined by the director not to exceed \$2,000) to an employee in a covered position at that facility who becomes certified in a specialty recognized by the Department, and (B) may provide such a bonus to an employee in such a position who has demonstrated both exemplary job performance and exemplary job achievement. The authority of the Secretary under this subsection is in addition to any other authority of the Secretary to provide job performance incentives.

(2) The Secretary shall include in the annual report under section 7451(g)<sup>1</sup> of this title a discussion of the use during the period covered by the report of the payment of bonuses under this subsection and other job performance incentives available to the Secretary.

(c)(1) The Secretary shall provide (in regulations prescribed for the administration of this section) that the director of a Department health-care facility, in making a new appointment of a person under section 7401(1) of this title as an employee in a covered position for employment at that facility, may make that ap-

pointment at a rate of pay described in paragraph (3) without being subject to a requirement for prior approval at any higher level of authority within the Department in any case in which the director determines that it is necessary to do so in order to obtain the services of employees in covered positions in cases in which vacancies exist at that health-care facility.

(2) Such a determination may be made by the director of a health-care facility only in order to recruit employees in covered positions with specialized skills, especially employees with skills which are especially difficult or demanding.

(3) A rate of pay referred to in paragraph (1) is a rate of basic pay in excess of the minimum rate of basic pay applicable to the grade in which the appointment is made (but not in excess of the maximum rate of basic pay for that grade).

(4) Whenever the director of a health-care facility makes an appointment described in paragraph (1) without prior approval at a higher level of authority within the Department, the director shall—

(A) state in a document the reasons for employing the employee in a covered position at a rate of pay in excess of the minimum rate of basic pay applicable to the grade in which the employee is appointed (and retain that document on file); and

(B) in the first budget documents submitted to the Secretary by the director after the employee is employed, include documentation for the need for such increased rates of basic pay described in clause (A).

(5) Whenever the director of a health-care facility makes an appointment described in paragraph (1) on the basis of a determination described in paragraph (2), the covered employee appointed may continue to receive pay at a rate higher than that which would otherwise be applicable to that employee only so long as the employee continues to serve in a position requiring the specialized skills with respect to which the determination was made.

(d) Whenever the director of a health-care facility makes an appointment described in subsection (c)(1), the director may (without a regard to any requirement for prior approval at any higher level of authority within the Department) increase the rate of pay of other employees in the same covered position at that facility who are in the grade in which the appointment is made and are serving in a position requiring the specialized skills with respect to which the determination under subsection (c)(2) concerning the appointment was made. Any such increase shall continue in effect with respect to any employee only so long as the employee continues to serve in such a position.

(e) An employee in a covered position employed under section 7401(1) of this title who (without a break in employment) transfers from one Department health-care facility to another may not be reduced in grade or step within grade (except pursuant to a disciplinary action otherwise authorized by law) if the duties of the position to which the employee transfers are similar to the duties of the position from which the employee transferred. The rate of basic pay of such employee shall be established at the new

<sup>1</sup> See References in Text note below.

health-care facility in a manner consistent with the practices at that facility for an employee of that grade and step, except that in the case of an employee whose transfer (other than pursuant to a disciplinary action otherwise authorized by law) to another health-care facility is at the request of the Secretary, the Secretary may provide that for at least the first year following such transfer the employee shall be paid at a rate of basic pay up to the rate applicable to such employee before the transfer, if the Secretary determines that such rate of pay is necessary to fill the position. Whenever the Secretary exercises the authority under the preceding sentence relating to the rate of basic pay of a transferred employee, the Secretary shall, in the next annual report required under section 7451(g)<sup>1</sup> of this title, provide justification for doing so.

(f) In this section, the term “covered position” has the meaning given that term in section 7451 of this title.

(g)(1) In order to recruit and retain highly qualified Department nurse executives, the Secretary may, in accordance with regulations prescribed by the Secretary, pay special pay to the nurse executive at each location as follows:

- (A) Each Department health care facility.
- (B) The Central Office.

(2) The amount of special pay paid to a nurse executive under paragraph (1) shall be not less than \$10,000 or more than \$100,000.

(3) The amount of special pay paid to a nurse executive under paragraph (1) shall be based on factors such as the grade of the nurse executive position, the scope and complexity of the nurse executive position, the personal qualifications of the nurse executive, the characteristics of the health care facility concerned, the nature and number of specialty care units at the health care facility concerned, demonstrated difficulties in recruitment and retention of nurse executives at the health care facility concerned, and such other factors as the Secretary considers appropriate.

(4) Special pay paid to a nurse executive under paragraph (1) shall be in addition to any other pay (including basic pay) and allowances to which the nurse executive is entitled, and shall be considered pay for all purposes, including retirement benefits under chapters 83 and 84 of title 5, and other benefits, but shall not be considered basic pay for purposes of adverse actions under subchapter V of this chapter.

(Added Pub. L. 101-366, title I, §102(b), Aug. 15, 1990, 104 Stat. 435, §4142; renumbered §7452 and amended Pub. L. 102-40, title III, §301(d), title IV, §401(c)(1)(A), (3), May 7, 1991, 105 Stat. 208, 238; Pub. L. 102-585, title III, §304(a), Nov. 4, 1992, 106 Stat. 4952; Pub. L. 108-445, §5, Dec. 3, 2004, 118 Stat. 2645; Pub. L. 111-163, title VI, §601(i), May 5, 2010, 124 Stat. 1170.)

#### Editorial Notes

##### REFERENCES IN TEXT

Section 7451(g) of this title, referred to in subsecs. (b)(2) and (e), was repealed and subsec. (h) of section 7451 was redesignated (g) by Pub. L. 106-419, title II, §201(a)(4), Nov. 1, 2000, 114 Stat. 1840.

#### AMENDMENTS

2010—Subsec. (g)(2). Pub. L. 111-163 substituted “\$100,000” for “\$25,000”.

2004—Subsec. (g). Pub. L. 108-445 added subsec. (g).

1992—Subsec. (e). Pub. L. 102-585 inserted before period at end “, except that in the case of an employee whose transfer (other than pursuant to a disciplinary action otherwise authorized by law) to another health-care facility is at the request of the Secretary, the Secretary may provide that for at least the first year following such transfer the employee shall be paid at a rate of basic pay up to the rate applicable to such employee before the transfer, if the Secretary determines that such rate of pay is necessary to fill the position. Whenever the Secretary exercises the authority under the preceding sentence relating to the rate of basic pay of a transferred employee, the Secretary shall, in the next annual report required under section 7451(g) of this title, provide justification for doing so”.

1991—Pub. L. 102-40, §401(c)(1)(A), renumbered section 412 of this title as this section.

Subsec. (a)(1). Pub. L. 102-40, §401(c)(3)(A)(i), substituted “7451(a)” for “4141(a)”.

Subsec. (a)(2). Pub. L. 102-40, §401(c)(3)(A)(ii), substituted “7451(c)(1)” for “4141(c)(1)”.

Subsec. (a)(3). Pub. L. 102-40, §301(d), substituted “paid” for “appointed”.

Subsec. (b)(2). Pub. L. 102-40, §401(c)(3)(B), substituted “7451(g)” for “4141(g)”.

Subsec. (c)(1). Pub. L. 102-40, §401(c)(3)(C), substituted “7401(1)” for “4104(1)”.

Subsec. (e). Pub. L. 102-40, §401(c)(3)(C), substituted “7401(1)” for “4104(1)”.

Subsec. (f). Pub. L. 102-40, §401(c)(3)(D), substituted “7451” for “4141”.

#### Statutory Notes and Related Subsidiaries

##### EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102-585 effective with respect to first pay period beginning on or after end of six-month period beginning on Nov. 4, 1992, see section 308 of Pub. L. 102-585, set out as a note under section 7404 of this title.

#### § 7453. Nurses: additional pay

(a) In addition to the rate of basic pay provided for nurses, a full-time nurse or part-time nurse shall receive additional pay as provided by this section.

(b) A nurse performing service, any part of which is within the period commencing at 6 postmeridian and ending at 6 antemeridian, shall receive additional pay for each hour of such service at a rate equal to 10 percent of the nurse's hourly rate of basic pay if at least four hours of such service fall between 6 postmeridian and 6 antemeridian. When less than four hours of such service fall between 6 postmeridian and 6 antemeridian, the nurse shall be paid the differential for each hour of service performed between those hours.

(c) A nurse performing service, any part of which is within the period commencing at midnight Friday and ending at midnight Sunday, shall receive additional pay for each hour of such service at a rate equal to 25 percent of such nurse's hourly rate of basic pay.

(d) A nurse performing service on a holiday designated by Federal statute or Executive order shall receive for each hour of such service the nurse's hourly rate of basic pay, plus additional pay at a rate equal to such hourly rate of basic pay, for that holiday service, including overtime service. Any service required to be per-