

PAY ADMINISTRATION

1. **REASON FOR ISSUE:** To revise Department of Veterans Affairs (VA) policy regarding pay administration.
2. **SUMMARY OF CONTENTS/MAJOR CHANGES:** This handbook contains mandatory VA procedures on pay administration. The pages in this issuance replace the corresponding page numbers in VA Handbook 5007. Revised text is contained in [brackets]. These changes will be incorporated into the electronic version of VA Handbook 5007 that is maintained on the [Office of the Chief Human Capital Officer](#) and [VA Publication websites](#). Significant changes include:
 - a. Clarifies payments to fee basis providers.
 - b. Clarifies that duties performed under a fee-basis appointment must be work related to the performance of direct patient care activities.
 - c. Establishes that facility directors may appoint full-time, part-time, and intermittent physicians, dentists, optometrists, chiropractors, and podiatrists at their own facility on a fee basis.
 - d. Establishes that the amount of payments made for fee-basis appointments under [38 U.S.C. § 7405\(a\)\(2\)](#) except for physicians, dentists, podiatrists or Certified Registered Nurse Anesthetists (CRNAs) may not exceed the rate for EX-I level in a calendar year.
 - e. The annual title 38 compensation for physicians, dentists, and podiatrists on a single or more than one appointment may not exceed the amount specified in [38 U.S.C. § 7431\(e\)\(4\)](#) in a calendar year unless payments are otherwise explicitly excluded.
 - f. Adds that physicians, dentists, optometrists, chiropractors, and podiatrists appointed under [38 U.S.C. § 7405\(a\)\(2\)\(A\)](#) who provide a service will be compensated using a fee that is based on the location in which the employee performs work and determined using current rates for the local labor market.
3. **RESPONSIBLE OFFICE:** Human Resources and Administration/ Operations, Security, and Preparedness (HRA/OSP) (006), Office of the Chief Human Capital Officer (OCHCO) (05), Compensation and Classification Service (055).
4. **RELATED DIRECTIVE:** VA Directive 5007, Pay Administration.
5. **RESCISSIONS:** VA Directive 5007/57, Temporary Increase in Annual Pay Limitation for Certain Fee Basis Providers, January 14, 2022.

Department of Veterans Affairs
Washington, DC 20420

VA HANDBOOK 5007/64
Transmittal Sheet
May 14, 2024

CERTIFIED BY:

**BY DIRECTION OF THE SECRETARY
OF VETERANS AFFAIRS:**

/s/

Guy T. Kiyokawa
Assistant Secretary for
Enterprise Integration

/s/

Cassandra M. Law
Assistant Secretary for
Human Resources and Administration/
Operations, Security, and Preparedness

DISTRIBUTION: Electronic Only

**APPENDIX F.
COMPENSATION OF CONSULTANTS []
AND OTHERS EMPLOYED ON A FEE BASIS UNDER 38 U.S.C. § 7405**

1. GENERAL.

- a. The instructions in this appendix apply to the payment of physicians, dentists, optometrists, chiropractors, podiatrists, nurses, other health care and non-medical consultants employed on a fee basis and appointed under 38 U.S.C. § 7405(a)(2). [Physicians, dentists, optometrists, chiropractors, and podiatrists who hold a full-time, part-time, and/or intermittent appointment can be appointed by the facility director on a fee basis appointment at another VA facility or at their own facility. Nurses, physician assistants, other health care personnel, and non-medical consultants who hold a full-time, part-time and/or intermittent appointment can be appointed on a fee basis by the facility director only at another VA facility.] These individuals provide services on a facility's premises [, or at an alternate worksite approved by a management official (i.e., telework location).]
- b. Fee basis appointments are to be used when health services are not otherwise readily available, when it is cost effective (e.g., there is a limited need for specialized services) and when the utilization is focused on the service to be provided rather than on a specified tour of duty. Fee basis appointments shall not be used when other types of appointments (i.e., full-time, part-time, or intermittent) are appropriate.
- c. Individuals appointed on a fee basis shall be subject to income tax withholding. This includes Federal withholdings plus state and/or local income taxes, if applicable. It also includes Old Age and Survivor's Disability Insurance (OASDI) and Medicare taxes, including applicable VHA contributions to these programs.
- d. [Since fee-basis payments are based on the task or service to be performed (per task/per procedure rate) and are not paid based on a period of time (per hour, per annum, per tour, etc.) reemployed] [] annuitants appointed on a fee basis are not subject to any reduction of their fees.
- e. Individuals appointed on a fee basis under [38 U.S.C. § 7405(a)(2)] may be defended by the United States against allegations of malpractice or negligence arising from the exercise of their duties ([28 U.S.C. § 1346(b), 2672;] 38 U.S.C. § 7316). They are also covered by the Federal Employees' Compensation Act (5 U.S.C. Ch. 81) and unemployment compensation (5 U.S.C. Ch. 85).
- f. Fees paid to individuals covered by this appendix are subject to garnishment under 5 C.F.R., parts 581 and 582.
- g. Individuals appointed on a fee basis are to have their fee paid to them through Direct Deposit/Electronic Funds Transfer (DD/EFT).

2. COMPENSATION OF CONSULTANTS. []

- a. **General.** Compensation will be on a lump sum fee per visit []. Physicians, dentists, optometrists, chiropractors, podiatrists, nurses, [and other health care and non-medical] may be appointed as consultants. [] See paragraph [5] for information on annual limitations on compensation.
- b. **Lump Sum Fee.** Compensation will be made on a lump sum basis for each visit. Only a single visit per day will be compensated. The fee will be determined [based] on the actual service rendered, plus the cost of transportation, if required, including per diem at the applicable rate if travel is required. When setting the fee, consideration should be given to the level prevailing in the community. Consideration should also be given to the fact that VA provides office space, supplies, malpractice insurance coverage and other support; thus, the amount of the fee will normally be less than if the services were performed in the practitioner's own office. [Facility directors] [] [must] document how rates are set and must maintain all information used to establish fee rates in order to make periodic rate reviews. [] Any additional payment for travel or per diem may not exceed the amount permitted under [Federal Travel Regulations (FTR) and VA Financial Policy] and must be fully documented.

[]

c. [] [Setting] Service Fee[s].

- (1) The [] service fees for consultants [] (exclusive of travel and per diem allowances) are [] determined by the facility director.
- (2) [Fees] will be [set] on an individual or category basis.
- (3) [Fees] for individual service providers will specify the fee limit and will be based on the community level of fees for comparable services, distance of facility or sites served from provider's business office, length of normal visit and availability of the service in the community from other providers. []

3. COMPENSATION FOR ALL OTHER FEE BASIS APPOINTMENTS.

- a. **Covered Positions.** By law, fee basis appointments are limited to the following categories of personnel:
 - (1) Categories appointed under 38 U.S.C. § 7401(1), i.e., physicians, dentists, optometrists, podiatrists, chiropractors, nurses, physician assistants and expanded-function dental auxiliaries.
 - (2) Categories listed under 38 U.S.C. § 7401(3), e.g., licensed physical therapists, certified or registered respiratory therapists, licensed practical or vocational nurses, audiologists and dietitians.
 - (3) Other professional and technical health care personnel, defined as:

- (a) Health care occupations that require knowledge in a field of science or learning characteristically acquired through education or training equivalent to a bachelor degree or higher, with major study in, or pertinent to, the specialized field, as distinguished from general education. Work requires the exercise of discretion, judgment, and personal responsibility for the application of an organized body of knowledge.
- (b) Work associated with and supportive of a health care professional category. It involves extensive practical knowledge gained through experience or specific training less than that represented by graduation from college. Work involves substantial elements of a professional field. Administrative, clerical, and manual trades are specifically excluded from the technical category.
- (c) [Duties performed under a fee-basis appointment must be work clearly related to the performance of direct patient care activities.]

b. Setting Fees.

- (1) Employees appointed on a fee basis are to be compensated by the task or service (i.e., by piecework) and are not to be paid on a time basis. Examples of appropriate fee basis appointments include: physicians paid by the compensation and pension examination, members of clergy paid by religious service, or health care practitioners paid by specifically identified medical or surgical procedures. Employees compensated on a time basis are to be appointed on a full-time, part-time, or intermittent basis, depending on the needs of the facility.
- (2) Except as provided [] in subparagraphs c through [d] below, fees shall be based on fees for similar services in the community. The fee shall also be based on the actual service or procedure. [Any payment for transportation costs or per diem must be made in accordance with applicable Federal Travel Regulations and VA Financial Policy.] Consideration should be given to the fact that VA provides office space, supplies, malpractice insurance coverage and other support; thus, the amount of the fee will normally be less than if the services were performed in the practitioner's own office. [] [See paragraph [5] for information on annual limits on compensation.]
- (3) [Facility directors] must document and maintain all information used to establish payment rates in sufficient detail [] to aid in future pay negotiations and to assist in periodic rate reviews. Depending on what method is used to establish the fee rate, minimum documentation should include:
 - (a) Details of surveys conducted, to include the names of officials and the health care establishments contacted, the date of the contact, information regarding what specific services or duties are included in quoted prices and any other pertinent information used as a factor in setting rates; or

- (b) If fee rates are being set using Medicare or other fee schedules, documentation regarding specific procedure codes, how discounts were calculated and the basis for the discounts (e.g., subtracting out a portion of the Medicare rate since services are being provided at the facility); or
- (c) Copies of [recent] local or regional compensation survey information published by a third party; or
- (d) Information on other method(s) used in setting fee basis rates of pay.

[]

4. [COMPENSATION FOR A SINGLE SERVICE.]

- a. The instructions in this paragraph apply to the payment of physicians, podiatrists, dentists, optometrists, and chiropractors for a service under 38 U.S.C. § 7405(a)(2)(A). These individuals provide a service on a facility's premises, at another VA facility or at their own facility, or at an alternate worksite approved by a management official (i.e., telework location). In this paragraph, a service is defined as direct patient care services or services incident to direct patient care that are necessary to ensure the full continuum of inpatient and outpatient coverage (i.e., emergency services, critical care, clinical and specialty care) at VHA facilities. For example, clinical coverage may be considered a service if required to maintain continuity of clinical operations in an emergency department, urgent care or inpatient setting.

b. **Payment Using a Flat Fee.**

- (1) Compensation for a service will be made based on a fee for employees that provide a service under a 38 U.S.C. § 7405(a)(2)(A) appointment. The fee must be set prior to the start of the service and cannot be adjusted at the completion of the service under any circumstances. Only one service per day will be compensated. When setting the fee, it will be determined using market pay and salary data, based on comparable rates for the location in which the employee performs work. Facilities must document how fees are set and must maintain all information used to establish fees in order to make periodic reviews.]
- (2) Facility directors will establish and approve [a fee for a service for employees holding fee basis appointments providing services during nights, evenings, weekends, and holidays, when VA staff do not perform these services as part of their assigned patient care duties. Facility directors will determine the need for a service and establish a fee based on the average rate in the local labor market for similar coverage.] [] The following factors will be considered in setting [] fees:
 - (a) Fees paid in community health care facilities, particularly as they relate to the level of activity and number of patients seen and the complexity of patient care.
 - (b) Benefits provided, particularly the value of VA's malpractice coverage [for physicians, dentists and podiatrists].

(c) Variations in qualifications requirements.

- (3) [The facility director is responsible for setting an appropriate fee for a service.] Facility directors must document how fees are set in accordance with 4(b)(2) above. All information used to establish fees [must be maintained for periodic rate reviews].
- (4) Individuals with part-time or intermittent appointments may receive compensation under this paragraph for a [service that is provided] under this paragraph, subject to the annual limitation in paragraph [5 below]. See [VA Handbook 5007,] chapter 5 of part VIII for information about dual [compensation] restrictions.
- (5) [A physician resident or fellow who has successfully completed a core residency program (i.e., post-training chief resident, Office of Academic Affiliations advanced fellow, or fellow in Accreditation Council for Graduate Medical Education (ACGME) accredited subspecialty programs) and who is privileged as a licensed independent practitioner is eligible for appointment on a fee basis.]

5. ANNUAL LIMITATIONS ON PAY.

- a. The total [amount] [of compensation (other than for title 38 physicians, podiatrists, and dentists and CRNAs)] may not exceed the rate for EX-I in a calendar year. The total amount of [compensation for CRNAs may not exceed the amount set forth in 38 U.S.C. § 7431(e)(4)] in a calendar year. The total amount of title 38 compensation for physicians, podiatrists and dentists may not exceed the amount set forth in 38 U.S.C. § 7431(e)(4) in a calendar year [, unless an explicit statutory exemption applies (i.e., critical skills incentives under 38 U.S.C. § 706(d)(6)). Awards under 38 U.S.C. § 7404A and payments under 38 U.S.C. § 7410(a)(1) are also excluded from 38 U.S.C. § 7431(e)(4).]
- b. [Detailed information on fee-basis payment rates must be documented and approved by the facility director, or designee.]

[Employees on a part-time or intermittent appointment and in some cases, a full-time appointment may also be employed to perform fee-basis work. Full-time employees appointed under 38 U.S.C. § 7401(1) employed to perform fee-basis work, should follow the applicable procedures in VA Handbook 5005, part II, chapter 3, paragraph 3b. For employees on a part-time or intermittent appointment, the fees earned under a fee basis appointment do not count towards the 7/8ths (1,820 hours) limitation provided in VA Handbook 5005, part II, chapter 3b. All compensation earned in a full-time, part-time, intermittent and/or fee-basis appointment will count towards the aggregate pay limits outlined in part VII, chapter 2 of this handbook.]

- c. Nothing in this paragraph or appendix shall obligate VA to use the services of fee basis personnel to the maximum extent permitted.

6. MONITORING FEE-BASIS PAYMENTS.

- a. Human Resources Management (HRM) Officers, or designees, will monitor fee basis salary limitations, provide technical advice, guidance, and assistance to officials regarding salary limitations and will maintain necessary records and documentation regarding fee payments.

[]

[]

- b. HRM officials will code the approved annual pay limitation for each fee-basis employee into HRSmart. []
- c. HRM officials will be responsible for notifying key management officials (i.e., service chiefs, Chief of Staff, Medical Center Director) when a fee-basis employee is nearing the [] pay limitation []. In no case may the total [amount of compensation other than for physicians, podiatrists, and dentists and CRNAs,] exceed the rate [for EX-I; the total amount of compensation for CRNAs may not exceed the amount set forth in 3 U.S.C. § 104 in a calendar year. Except for specifically exempted compensation such as awards and incentives, the total amount of title 38 compensation for physicians, podiatrists and dentists may not exceed the amount set forth in 38 U.S.C. § 7431(e)(4) in a calendar year.] [Fee basis payments must be monitored in conjunction with other compensation including, but not limited to awards and incentives, to avoid exceeding the aggregate limitations.]