

# Proposed Rules

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This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

## OFFICE OF PERSONNEL MANAGEMENT

### 5 CFR PART 595

RIN 3206-AJ96

#### Physicians' Comparability Allowances

**AGENCY:** Office of Personnel Management.

**ACTION:** Proposed rule.

**SUMMARY:** The Office of Personnel Management (OPM) is proposing to revise the regulations governing the physicians' comparability allowance program. The proposed regulations have been converted to a question-and-answer format and rewritten to ease reader understanding and improve administration of this program.

**DATES:** Comments must be received on or before September 29, 2003.

**ADDRESSES:** Send or deliver comments to Donald J. Winstead, Deputy Associate Director for Pay and Performance Policy, Strategic Human Resources Policy Division, Office of Personnel Management, Room 7H31, 1900 E Street NW., Washington, DC 20415-8200, FAX: (202) 606-0824, or email them to [pay-performance-policy@opm.gov](mailto:pay-performance-policy@opm.gov).

**FOR FURTHER INFORMATION CONTACT:** Vicki Draper by telephone at (202) 606-2858; by fax at (202) 606-0824; or by email at [pay-performance-policy@opm.gov](mailto:pay-performance-policy@opm.gov).

**SUPPLEMENTARY INFORMATION:** The Office of Personnel Management (OPM) is issuing proposed regulations to revise 5 CFR part 595, Physicians' Comparability Allowances. Unless otherwise stated, the purpose of this revision to part 595 is to make part 595 more readable, not to make substantive changes. OPM has replaced the verb "shall" with "must" in this part for added clarity and readability. OPM intends that any provision in this part using the verb "must" has the same meaning and effect as previous provisions in this part using "shall."

Finally, OPM is removing § 595.108, Reports. Section 5948(j) of title 5,

United States Code, requires an annual Presidential report to Congress on the operation of the PCA program and specifies what information must be included in the report. The regulations in § 595.108 repeat what information must be included in the annual report. Since the regulations are redundant, we are proposing to remove § 595.108. In addition, since the PCA program was made permanent in 2000, the necessity for an annual report is clearly diminished. OPM plans to propose legislation to repeal 5 U.S.C. 5948(j) to delete the annual reporting requirement.

#### E.O. 12866, Regulatory Review

This rule has been reviewed by the Office of Management and Budget in accordance with E.O. 12866.

#### Regulatory Flexibility Act

I certify that these regulations would not have a significant economic impact on a substantial number of small entities because they would apply only to Federal agencies and employees.

#### List of Subjects in 5 CFR Part 595

Government employees, Health professions, Wages.

U.S. Office of Personnel Management.

**Kay Coles James,**  
*Director.*

Accordingly, OPM is proposing to amend part 595 of title 5 of the Code of Federal Regulations as follows:

#### PART 595—PHYSICIANS' COMPARABILITY ALLOWANCES

1. The authority citation for part 595 continues to read as follows:

**Authority:** 5 U.S.C. 5948; E.O. 12109, 44 FR 1067, Jan. 3, 1979.

2. Section 595.101 is revised to read as follows:

#### § 595.101 Purpose.

Section 5948 of title 5, United States Code, authorizes the payment of allowances to certain eligible Federal physicians who enter into service agreements with their agencies. These allowances are paid only to categories of physicians for which the agency is experiencing recruitment and retention problems and are fixed at the minimum amounts necessary to deal with such problems. The President has delegated regulatory responsibility for this program to the Director of OPM, acting

in consultation with the Office of Management and Budget. This part contains the regulations, criteria and conditions which the Director of OPM, in consultation with the Director of the Office of Management and Budget, has prescribed for the administration of the physicians' comparability allowance program. This part supplements and implements 5 U.S.C. 5948 and should be read together with that section of law.

3. In § 595.102, the section heading and paragraphs (a) and (b) are revised to read as follows:

#### § 595.102 Who is covered by this program?

(a) This program covers individuals employed as physicians under the Federal pay systems listed in 5 U.S.C. 5948(g)(1), except as provided in 5 U.S.C. 5948(b). For the purposes of this part, an individual is "employed as a physician" only if he or she is serving in a position the duties and responsibilities of which could not be satisfactorily performed by an incumbent who is not a physician.

(b) Section 5948(b) of title 5, United States Code, prohibits the payment of physicians' comparability allowances to certain physicians, including physicians who are reemployed annuitants. For the purpose of applying this prohibition, "reemployed annuitant" means an individual who is receiving or has title to and has applied for an annuity under any retirement program of the Government of the United States, or the government of the District of Columbia, on the basis of service as a civilian employee.

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4. In § 595.103, the section heading and paragraph (a) are revised to read as follows:

#### § 595.103 What requirements must agencies establish for determining which physician positions are covered?

(a) The head of each agency must determine categories of physician positions for which there is a significant recruitment and retention problem, and physicians' comparability allowances may be paid only to physicians serving in positions in such categories.

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5. In § 595.104, the section heading and the introductory text are revised to read as follows: