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CHAPTER 550. PAY ADMINISTRATION (GENERAL)
(To Be Used With 5 CFR, Part 550, Subpart A)

SECTION A. PREMIUM PAY

1. SCOPE

This section applies to anyone occupying positions subject to 5 U.S.C. ch. 51.

2. REFERENCES

a. 5 U.S.C. 5541-5543.

b. 5 U.S.C. 5545-5549.

c. 5 CFR, Part 550, subpart A

d. VA Manual, MP-5, Part I, chapter 610.

e. Applicable Comptroller General decisions, e.g., see Appendix A at the end of this chapter.

3. POLICY

Entitlement of employees to receive additional compensation for work performed at night, on overtime, holidays and Sundays, and for standby duty will be established in accordance with statutory requirements, 5 Code of Federal Regulations (CFR) and related VA hours of duty provisions. NOTE: Premium pay on an annual basis for an employee whose position is one in which hours of duty cannot be controlled administratively is designed to meet the needs of certain agencies having work situations rarely found in VA. Accordingly, premium pay under 5 CFR 550.151 may be authorized for VA employees only as provided in paragraph 6 below.

4. DEFINITIONS

a. Administratively Uncontrollable Overtime Work (AUO) is irregular or occasional overtime work performed by an employee who is generally responsible for recognizing, without supervision, the circumstances, which require him or her to remain on duty.

b. Day means a calendar day for the purposes of applying the provisions of 5 U.S.C. 5542(a), concerning hours of work officially approved " in excess of 8 hours in a day."

c. Workday means those hours which comprise in sequence the employee's regular daily tour of duty within any 24-hour period, whether falling entirely within 1 calendar day or not (Executive Order 10358, as amended). If an employee's workday covers portions of 2 calendar days, the tour of duty which commences on a legal holiday will be considered within VA as the holiday for purposes of 5 U.S.C. 5546 (b). See 32 Comp. Gen.191.

5. REGULARLY SCHEDULED STANDBY DUTY PAY

a. **General.** To supplement the provisions of 5 CFR 550.144(a)(3), the Office of Personnel Management (OPM) has approved for the VA an additional provision for 10 percent annual premium pay when standby duty averages 8 to 13 hours per workweek on workdays or on a combination of workdays and non-workdays. For scheduling and other hours of duty considerations concerning standby duty, refer to chapter 610, this part, and Veterans Health Administration (VHA) Supplement thereto.

b. **Sunday Work.** In administering the provisions of 5 CFR 550.144(a)(4) pertaining to additional rates for Sunday work, the average number of Sundays over a year's period will be determined on what may reasonably be expected to be required over a year's time. This determination will be expected to be required over a year's time. This determination will be based on either a 12-month period or a reasonable cycle (e.g., a period when full rotation of employees occurs) which may be projected to a yearly average. A new determination will be made when a change in scheduling is approved and an employee's average number of Sundays is expected to change. If the new determination affects the employee's entitlement to the additional rate, an appropriate prospective adjustment action will be taken. In addition to the percentages outlined in 5 CFR 550.144(a)(4) of 2 1/2 percent for 20 to 40 Sundays or 5 percent for 41 or more Sundays, the following percentages, as approved for VA by OPM, will be applied in determining the appropriate additional rates for Sunday work:

(1) One percent when the employee is required to perform Sunday work on an average of 5 to 10 Sundays over a year's period, or

(2) Two percent when the employee is required to perform Sunday work on an average of 11 to 19 Sundays over a year's period.

6. ADMINISTRATIVELY UNCONTROLLABLE OVERTIME WORK

a. **General.** Annual premium pay for administratively uncontrollable overtime work may be authorized for employees who are criminal investigators (GS/GM-1811) and are exempted from the overtime provisions of the Fair Labor Standards Act.

b. **Responsibilities.** The authority to approve AUO is delegated to Administration Heads, Assistant Secretaries, other key officials, and Deputy Assistant Secretaries, who will issue separate operating instructions. They are responsible for determining the amount payable and administering payment in accordance with 5 CFR 550.151.

CHAPTER 550. PAY ADMINISTRATION (GENERAL)
(To Be Used With FPM, Ch. 550, Subchapter 2)

SECTION B. LUMP-SUM PAYMENTS FOR ANNUAL LEAVE

1. SCOPE

This section applies to employees who earn annual leave under the provisions of 5 U.S.C. ch. 63 and to physicians, dentists, nurses, and other employees covered by the VA leave system authorized under 38 U.S.C. 7421 and 7405.

2. REFERENCES

- a. 5 U.S.C. 5551-5552.
- b. 5 U.S.C. 6306.
- c. Federal Personnel Manual: Chapter 550, subchapter 2; chapter 630, subchapter 3-4b(2); FPM Supplement 990-2, book 550, subchapter S2.
- d. VA Manual MP-4, part II, chapter 6, section C.
- e. MP-5, part II, chapter 7, and VHA Supplement thereto.
- f. Applicable Comptroller General decisions, e.g., see appendix A at the end of this chapter.

3. POLICY

The payment of a lump sum for unused annual leave to eligible employees at the time of separation will be in accordance with statutory requirements and administrative provisions issued pursuant thereto.

4. MOVEMENT FROM VA POSITION

No lump-sum payment for accumulated and current accrued annual leave will be made to a VA employee who is transferred to a position under the same or different leave system. In other cases of movement, as explained in FPM Supplement 990-2, book 550, section S2-2, an employee may be entitled to payment of a lump sum. The HRM Officer is responsible for ascertaining and furnishing the Fiscal activity all facts about each such pending movement.

5. REEMPLOYMENT DURING LUMP-SUM PERIOD

A person who is reemployed prior to expiration of the period covered by lump-sum payment from the same or another VA installation or another Federal agency is required to refund to VA a

proportionate amount of such payment to cover the remaining portion of the period dating from his or her reemployment. The HRM Officer will ascertain whether entrance on duty occurs during a lump-sum period and, if so, will notify the Fiscal activity accordingly.

6. DOCUMENTATION OF STEP INCREASE DUE UPON SEPARATION

An employee is entitled to a lump-sum payment which reflects within-grade advancement or periodic step increase for which his or her service, at the time of separation, had met the required waiting period and appropriate work performance certification requirements. To effect payment on this basis, the HRM Officer will furnish the Fiscal activity the required documentation of entitlement to a step increase in the "Remarks" item of the separation action. In addition, a copy of the certification will be placed in the official personnel folder to serve as a basis for highest previous rate determination upon reemployment (28 Comp. Gen. 235).

7. INCLUSION OF HOLIDAYS IN THE LUMP-SUM LEAVE PERIOD

The period of leave used for calculating the lump-sum payment shall not be extended due to any holiday occurring after the employee's separation (PL 96-499, December 5, 1980.)

CHAPTER 550. PAY ADMINISTRATION (GENERAL)
(To Be Used With 5 CFR, Part 550, Subpart D)

SECTION D. PAYMENTS DURING EVACUATION

1. SCOPE

This section sets forth VA policy and procedures governing pay of eligible employees, or their dependents, or both, in the event of evacuation of a post, and generally applies to all categories of VA employees except non-U.S. citizen hired locally in Manila.

2. REFERENCES

- a. 5 U.S.C. 5521-5524, 5526, 5527.
- b. Executive Order 10982.
- c. 5 CFR, Part 550, subpart D

3. POLICY

In making advance payments, evacuation payments, and special allowances, the VA will follow the prescribed procedures as outlined in 5 CFR, Part 550, subpart D.

4. CONDITIONS FOR PAYMENT

- a. Upon receipt of an oral written evacuation order from proper authority, heads of field facilities and the Assistant Secretary for Management in VA Central Office, or their designees, shall proceed to make appropriate payments in accordance with Office of Personnel Management (OPM) regulations.
- b. The head of the Administration/other organization concerned for field facility employees and the Deputy Secretary for Central Office employees or an available senior designated official are the VA officials designated to authorize waivers of recovery, extensions of payments and to receive reports as set forth in OPM regulations.
- c. Safe haven posts shall be selected and designated as far in advance as practicable by the head of each field facility and the Deputy Secretary for Central Office. These selections shall be coordinated, as appropriate, with the local civil defense authorities.

5. EMPLOYEES IN FOREIGN AREAS

A U.S. citizen employee of the VA stationed in a foreign country and any non-citizen employee in these areas who is a citizen of a country other than that in which assigned is eligible for

evacuation payments. All such payments shall be made under the departmental regulations published by the Department of State in chapter 600 of the Standardized Regulation (Government Civilians, Foreign Areas).

a. Upon receipt of an evacuation order from proper authority, the Director of the Regional Office, Manila, or his designee, shall proceed to make appropriate payments in accordance with the departmental regulations.

b. The Under Secretary for Benefits or the senior designated official shall authorize waiver of recovery and extension of payments and receive prescribed reports as set forth in section 116b and 121 of the departmental regulations.

c. The Director shall direct the employees and their dependents to the appropriate safe haven post selected by the Secretary of State and relayed through the Ambassador or his delegate.

6. EMPLOYEES OF OTHER AGENCIES

When payments are made to employees of other departments listed in 5 CFR 550.401 or section 614 of chapter 600 of Standardized Regulations (Government Civilian, Foreign Areas), the heads of field facilities and the Assistant Secretary for Management will report the amount and date of payment to the employee's agency as set forth in OPM regulations.

CHAPTER 550. PAY ADMINISTRATION (GENERAL)
(To Be Used With 5 CFR, Part 550, Subpart E)

SECTION E. PAY MORE THAN ONE POSITION

1. SCOPE

This section supplements statutory and regulatory restrictions and other provisions concerning pay from more than one Federal position, and applies to all categories of VA employees. Also included are closely related subjects not covered elsewhere in this manual.

2. REFERENCES

- a. 5 U.S.C. 5531, 5533-5537.
- b. 5 CFR, Part 550, subpart E.

3. RESPONSIBILITIES

a. Employees. Each VA employee is responsible for being generally aware of dual employment, pay, or benefits restrictions and for discussing with his supervisor or personnel staff member when a question or potential problem arises.

b. HRM Officer. In administering these restrictions, the HRM Officer is responsible for insuring that:

- (1) Initial or subsequent employment does not contravene statutory and regulatory provisions,
- (2) Employees, to the extent necessary, are advised of such restrictions; and
- (3) Action is initiated to inform Central Office of actual or possible improper dual payments; generally, no recovery action will be taken (except for severance pay or lump-sum leave payments, when appropriate) until so directed by VA Central Office or other proper authority.

4. DUAL EMPLOYMENT AND DUAL PAY

a. General. Except as specifically provided otherwise by statute or the Office of Personnel Management (OPM), 5 U.S.C. 5533(a) provides that an employee is not entitled to receive basic pay from more than one Federal position for more than an aggregate of 40 hours of work in 1 calendar week (Sunday through Saturday). Further, 5 U.S.C. 5536 prohibits receipt of extra Federal pay for extra services unless specifically authorized by law and appropriation (see 41 Comp. Gen. 741 and 37 Comp. Gen. 29). Accordingly, except as indicated in paragraph 4b, below, a full-time employee may not hold more than one Federal position; a part-time or intermittent employee may hold more than one Federal position provided basic pay does not exceed pay for 40 hours and there are no conflicts in duty schedules or other prohibitions. Such

part-time or intermittent dual employment in the VA may be authorized only when there is no other administratively feasible alternative. For dual VA employment of persons appointed under 38 U.S.C. ch. 74, refer to paragraph 2.04 and 2.11 of VHA Supplement to part II, this manual.

b. Exceptions

(1) Statutory Exceptions. The provisions of 5 U.S.C. 5533(a), concerning the 40-hour basic pay limitation, do not apply to the types of pay outlined in 5 U.S.C. 5533(d), principal types of which are summarized below.

(a) Pay on a when-actually employed basis received from more than one consultant or expert position refers to individuals utilized under 5 U.S.C. 3109 and 5 CFR, Part 304; Consultants and attending utilized under 38 U.S.C. 7405 will not be paid by the VA for more than one visit a day (see VHA Supplement to pt. II, par. 2.11e of this manual).

(b) Pay consisting of fees paid on other than a time basis includes consultants, attendings, and others utilized under 38 U.S.C. 7405 on a fee-per-service basis.

(c) Pay within the purview of 13 U.S.C. 23(b) concerns enumerators and others involved in the field work of the Bureau of Census, Department of Commerce.

(2) Regulatory Exceptions

(a) Emergencies. 5 CFR 550.503 provides that 5 U.S.C. 5533(a) does not apply for certain emergency services.

(b) General and Specific Exceptions. Each official authorized (under ch. 250, this part) to make appointments is considered the appropriate authority to determine that personal services otherwise cannot be readily obtained in the application of 5 CFR 550.504 and 550.505. Section 550.504(a) applies only to positions for which OPM has authorized special salary rates under 5 U.S.C. 5303 and does not apply to positions not specifically designated in OPM issuances.

(c) Prior Approval. Requests for exceptions under 5 CFR 550.504 will be sent to the Deputy Assistant Secretary for HRM who will recommend whether the request should be sent to the Secretary for action. The request should include, where appropriate, a copy of the employee's application, position description, specific salary data, specific needs for services, recruitment efforts, length of position vacancy, and any other information or material which would help support the request.

5. MILITARY PERSONNEL

a. VA Employment of Military Personnel. The VA employment of any person on active duty in the Armed Forces is incompatible with military service (see 46 Comp. Gen. 400). The fact that the person may be on furlough, or that the basis of VA utilization is part-time, intermittent, or fee basis does not alter the situation (see 47 Comp. Gen. 505). However, the VA employ a member

of the uniformed services who is on terminal leave pending separation or release from active duty as indicated in 5 U.S.C. 5534a.

b. VA Employee Who Is in the Reserve or National Guard. Under the provisions of 5 U.S.C. 5534, a VA employee who is in the Reserve of the Armed Forces or a member of the National Guard is entitled to VA salary and military pay and allowances.

6. OTHER EMPLOYMENT

a. General. Work performed by a VA employee for somebody else is ordinarily a matter between the employee and the other employer, provided there is no violation of laws, regulations, or VA policy governing outside employment. Generally, an employee may not receive compensation from an outside source except for services performed outside his tour of duty, or while he is on annual leave or leave without pay. However, an employee may receive reasonable bone fide reimbursement for actual expenses of travel and such other subsistence expenses compatible with, and not otherwise prohibited by, law or regulation. (See 36 Comp. Gen. 268, 35 Comp. Gen. 354, and 32 Comp. Gen. 454.)

b. Outside Professional Activity. For outside professional activity of physicians, dentists, nurses, residents, and interns, refer to part II, chapter 13, this manual, and VHA Directive 5113.

c. Programs Funded by the Federal Government. An employee is not necessarily prohibited from receiving compensation from an organization, such as a Community Action Program, a Model Cities Board, or an educational institution administering a grant, which may be funded in whole or in part by Federal funds. Although it is the responsibility of the second employing office to make the determination as to the legal propriety of such employment, an employee may be advised of the following:

(1) The general rule is that Federal funds lose their identify if administered wholly by a third party (see 25 Comp. Gen. 868, 16 Comp. Gen. 948, and 14 Comp. Gen. 916 and compare with 41 Comp. Gen. 741). However, some projects or grants may specifically prohibit payment of salaries to Federal employees.

(2) The second employment would not be a violation of 5 U.S.C. 5533 unless the position is one defined in 5 U.S.C. 5531(2) which must meet the three criteria of Federal employment outlined in 5 U.S.C. 2105 and as implemented in FPM Supplement 296-31, appendix B, section 210-3.

(3) If the second employment is a Federal position, the exceptions set forth in 5 U.S.C. 5533(d), or 5 CFR 550.503 or 550.504(a), if applicable, may permit the second employment.

(4) If the second employment is a Federal position and involves use of VA facilities and equipment and the performance by the employee of duties which are essentially similar to his regularly assigned duties, such duties may be performed by him only on an overtime basis. See 5 Comp. Gen. 94 and 44 Comp. Gen. 690. These circumstances would require special fiscal procedures for billing and paying.

(5) Generally, the second employment would not be a violation of 5 U.S.C. 5536 if work and duty hours are separate and distinct from the employee's VA position.

7. FEES FOR COURT CASES

a. Jury Service. Normally, an employee may not retain fees from jury service in a court of the United States (5 U.S.C. 5537). Under certain conditions, an employee may retain fees; for example, when an employee, in the absence of jury service, would not have been required to report and perform duty for the VA (such as holidays and non-duty days), he is entitled to retain fees for that jury duty (45 Comp. Gen. 251). Since an employee is not to suffer a loss of compensation for jury duty, he must receive any differentials to which he otherwise would have been entitled (29 Comp. Gen. 427). For leave in connection with jury service, refer to chapter 630, this part.

b. Subpoena. Any fee received for a subpoena as a result of official Government testimony must be deposited with the appropriate VA agent cashier.

8. REEMPLOYED ANNUITANTS

A civil service annuitant may be reemployed in the VA. Although 5 U.S.C. 5533 does not apply to a reemployed annuitant, the provisions of 5 U.S.C. 8344(a) and 5 CFR, Part 831, requiring reduction in salary, are generally applicable. In unusual circumstances, a reemployed annuitant may be utilized without a reduction in pay. The determining factor is whether or not an employer-employee relationship exists in the method of utilization. Since all the facts in each instance must be considered, it is not possible to categorize by type of utilization. For Office of Personnel management guidelines, refer to 5 CFR, Part, 304. The Comptroller General has ruled that if an "independent contractor" status existed (rather than an employer-employee relationship), the salary was not subject to reduction (see 39 Comp. Gen. 681 and 26 Comp. Gen. 468). For Comptroller General decisions relating to the reduction in pay of a part-time or intermittent reemployed annuitant, see 28 Comp. Gen. 87 and 693, and 32 Comp. Gen. 146.

9. DUAL BENEFITS

For related questions about restrictions on dual payments from the Federal Treasury, refer to 5 U.S.C. 8116, concerning receipt of compensation for work injuries and other compensation such as military retired pay and veterans benefits; and 38 U.S.C. 1504, 1762, 1781; and 38 CFR 21.4022, concerning non-duplication of benefits.

CHAPTER 550. PAY ADMINISTRATION (GENERAL)
(To Be Used With 5 CFR, Part 550, Subpart F)

SECTION F. REDUCTION IN RETIRED PAY

1. SCOPE AND EXCLUSIONS

a. Scope. This section sets forth VA policies and procedures concerning reduction-in-retirement pay whenever a retired member of the uniformed services is employed in a VA position. This section applies to all VA employees, except as provided in subparagraph b below.

b. Exceptions. This section does not apply to experts, consultants and other service providers if they are truly considered independent contractors and there is no employer-employee relationship. See 5 CFR, Part 304, 39 Comp. Gen. 681 (1960); 42 id. 296(1962); Unpublished Comp. Gen. B-154204, September 4, 1964; 45 Comp. Gen. 81 (1965); Unpublished Comp. Gen. B-176681, October 27, 1972; 51 Comp. Gen. 189 (1971); and 53 id. 542 (1974).

2. REFERENCES

- a. 5 U.S.C. 5531 and 5532.
- b. 38 U.S.C. 7426(c).
- c. 5 CFR Part 550, Subpart F.
- d. Applicable Comptroller General decisions; e.g., see appendix A at the end of this chapter.

3. DEFINITIONS

- a. Member means a person appointed or enlisted in, or conscripted into, a uniformed service.
- b. Officer means commissioned officer or warrant officer. The term "commissioned officer" includes commissioned warrant officer.
- c. Position means a civilian office or position (including a temporary, part-time or intermittent position). This term also includes experts and consultants, employment on a fee-basis and personal services contracts, unless the individual is excluded from this section under paragraph 1b above.
- d. Retired or Retainer Pay means retired pay as defined in 5 U.S.C. 8311(3) determined without regard to subparagraph (B) through (D) of that section. This term does not apply to a beneficiary of a member of former member of a uniformed service under chapter 73 of title 10, United States Code.
- e. Uniformed Service means Army, Navy, Air Force, Marine Corps, Coast Guard, National Oceanic, and Atmospheric Administration, and Public Health Service.

4. POLICY

a. In order to secure qualified employees, retired members of the uniformed services will be considered for positions in the VA commensurate with their skills, experience, and qualifications on the same basis as other applicants.

b. Reduction-in-retirement pay provisions will be applied in accordance with statutory requirements and administrative regulations and instructions issued pursuant thereto.

5. RESPONSIBILITIES

a. Secretary. The Secretary may approve exceptions to reductions of military retired pay to meet special or emergency employment needs which result from a severe shortage of well-qualified candidates for the following positions and which cannot otherwise be readily met:

(1) Well-qualified candidates for physician positions in the Veterans Health Administration;
or

(2) Well-qualified candidates for any position, provided the candidate is a retired regular officer who was receiving retired or retainer pay on or before January 11, 1979.

b. Chief Network Officer. The Chief Network Officer, or designee, may approve exceptions to reductions in military retired pay to meet special or emergency employment needs which result from a severe shortage of well-qualified candidates for registered nurse and nurse anesthetist positions in the Veterans Health Administration if approved prior to October 1, 1992.

c. Administration Heads, Assistant Secretaries, Other Key VACO Officials, Deputy Assistant Secretaries and field facility directors shall ensure that requests for exceptions are fully warranted and consistent with the criteria contained in this section.

d. HRM officials are responsible for determining the retired military status of applicants, advising applicants and management officials of reduction-in-retirement pay provisions, and ensuring that required information is furnished to the appropriate military finance center.

6. REDUCTIONS-IN-RETIREMENT PAY

a. **Regular Officers.** Section 5532(b) of title 5, United States Code, provides that a retired regular officer will receive the full pay of any civilian position he or she holds, but during a period when civilian pay is received, his or her military retired or retainer pay will (except as provided in par. 7 below) be reduced to a specified base rate plus one-half of any remainder. (This base rate is changed from time to time in proportion to increases in retired pay which reflect changes in the Consumer Price Index. As of December 1, 1997, base rate is \$10,316.65 for individuals who retired prior to August 1, 1986 and \$9,271.13 for individual who retired on or after August 1, 1986.)

b. **Regular Officers, Reserve Officers, and Enlisted Personnel.** Section 5532(c) of title 5, United States Code, further provides that no member of the uniformed services who retires, and is employed in a civilian position after January 11, 1979, may receive basic pay from his or her civilian salary and retired or retainer pay which totals more than the salary currently payable for level V of the Executive Schedule (\$110,700 per annum as of January 4, 1998.) If the combined income, after reduction-in-retired or retainer pay under subparagraph a (if appropriate) exceeds that amount, the individual's military retired or retainer pay will be reduced (but not below zero or, if appropriate, the amount necessary for participation in any survivor's benefits in connection with retired or retainer pay or veterans' insurance programs) by the amount of the difference between his or her combined income and the current payable rate for level V of the Executive Schedule. The ceiling on combined income and this subparagraph do not apply to:

(1) Retired members of the uniformed services who were in receipt of military retired or retainer pay on or before January 11, 1979;

(2) Any individual employed in a civilian position on October 13, 1978, as long as the individual continues to hold a civilian position without a break in service longer than 3 days, provided the individual has met the years of service requirement and would have otherwise been eligible to receive retired or retainer pay on that date but for the fact that he or she did not meet the applicable age requirement; and

(3) Any individual excepted from the provisions of this paragraph under paragraph 7 below.

7. EXCEPTIONS

a. **Statutory Exceptions.** Sections 5532(b) and (c) of title 5, United States Code, and paragraph 6 of this section do not apply to:

(1) A retired member whose retirement pay is based, in whole or in part, on disability:

(a) Resulting from injury or disease received in the line of duty as a direct result of armed conflict; or

(b) Caused by an instrumentality of war and incurred in the line of duty during a period of war as defined in sections 101 and 301 of title 38, United States Code.

(2) There is a partial exception for a retired member employed on a temporary (full-time or part-time) basis, or on a part-time or intermittent basis. The reduction-in-retirement pay provisions do not apply to the first 30-day period of service on such a basis for which the member receives pay under a single appointment. If the member serves under more than one appointment in a fiscal year, the exception applies to the first 30 days for which he or she receives pay from all civilian appointments made in that fiscal year. In each case, the period for which he or she receives pay means the full calendar period when employment is on a full-time basis, but only on the days when the member receives pay when the employment is on a part-time or intermittent basis.

b. **Exceptions Centralized to the Secretary.** The Secretary may approve exceptions to 5 U.S.C. 5532(b) and (c) for the personnel listed in paragraph 5a(1) and (2) above. For coverage of 5 U.S.C. 5532(b) and (c), see paragraph 6 of this section.

(1) Exceptions may only be approved to meet special or emergency employment needs which result from a severe shortage of well-qualified candidates and which cannot otherwise be readily met.

(2) Generally, exceptions will only be considered for recruitment purposes and not for retention of current employees. However, deviations from this practice may be considered when a current employee is being considered for a different permanent position or a temporary employee is being considered for a permanent position.

(3) Generally, requests for exceptions are appropriate when the following conditions are met:

(a) The position has been vacant for some time and recruiting has been conducted continuously during that time;

(b) All logical recruiting sources have been exhausted and the position has been publicized in all appropriate media, including paid advertising, if appropriate.

(c) Other satisfactory candidates have not been located; and

(d) The proposed candidate will not accept the position if his or her retired retainer pay is reduced.

(4) In rare instances, when an exception to the reduction in military retired pay provisions is essential to retain a current employee in a hard-to-fill position, the facility Director may request approval of an exception.

(a) The Secretary will consider such requests under the following circumstances:

1. There is a valid reason, such as administrative error, why the exception was not requested when the employee was hired;

2. There is evidence, such as a current, firm offer of non-Federal employment, that the employee will actually leave if the exception is not granted; and

3. The employee's resignation would create a recruiting problem which would justify an exception to the statutory restriction.

(b) Exceptions made under this subparagraph will be approved on a prospective basis only.

(5) An exception approved under this subparagraph shall remain in effect as long as the individual holds the position without a break in service of more than 3 days.

c. Exceptions Centralized to the Chief Network Officer. The Chief Network Officer, or designee, may approve exceptions to 5 U.S.C. 5532(b) and (c) for well-qualified candidates for registered nurse and nurse anesthetist positions in the Veterans Health Administration if approved prior to October 1, 1992.

(1) Exceptions approved by the Chief Network Officer, or designee, will be consistent with the criteria in paragraphs 7b(1) and (2);

(2) Generally, requests for exceptions for registered nurses and nurse anesthetists are appropriate under the following conditions:

(a) The position has been vacant for some time during which recruitment has been continuous;

(b) All customary and usual recruiting efforts were utilized in attempting to fill the positions;

(c) Other satisfactory candidates have not been located; and

(d) The proposed candidate will not accept the position if his or her retired or retainer pay is reduced.

(3) An exception approved under this subparagraph shall remain in effect as long as the individual holds the position without a break in service of more than 3 days. Only movements between staff nurse assignments or between equivalent administrative or supervisory assignments at the same facility will not affect an exception. A new, fully documented request for an exception must be submitted for all movements between facilities and for movements within a facility from a staff nurse assignment to an administrative or supervisory assignment or from an administrative or supervisory assignment to a higher level administrative or supervisory assignment. For example, movement from one Nursing Supervisor assignment to another would not require a new exception, but movement from a Head Nurse assignment to a Nursing Supervisor assignment would.

8. REQUESTS FOR EXCEPTIONS

a. Requests for Exceptions Centralized to the Secretary. Requests for exceptions under paragraph 7b shall be forwarded through channels to the appropriate Administration Head who, in turn, shall forward the request, along with his or her recommendation, through the Deputy Assistant Secretary for HRM (051) to the Secretary for decision. Each request shall specify whether it is for an exception to the reduction applicable to regular officers (5 U.S.C. 5532(b)), the aggregate compensation limitation (5 U.S.C. 5532(c)), or both. (See par. 6 above.) Further, at a minimum, each request shall include:

1. The retired member's employment application;

2. The retired member's date of retirement and annual rate of retired pay;

3. The retired member's rank and serial number;
4. The retired member's regular or reserve status;
5. The candidate's proposed grade, step rate, and annual rate of special pay, if appropriate.
6. Competition for the candidate (i.e., specific information about job offers from other employers, such as the name of the employer and the amount of the offer);
7. How long the position has been vacant and specific efforts undertaken to fill the position;
8. The number of candidates applying for the position and the number of declinations and reasons for declinations, if appropriate; (NOTE: Where other candidates have applied for the position, indicate why they are not satisfactory and forward copies of those employment applications.)
9. How the duties of the position are now being performed;
10. What effect inability to secure the services of the candidate will have on program operations;
11. Possible impact upon other employees if an exception is approved; and
12. Any other pertinent facts available.

b. Requests for Exceptions Centralized to the Chief Network Officer. Requests for exceptions under paragraph 7c shall be forwarded through the appropriate Network Director (13) who, in turn, shall forward the request, along with his or her recommendation, through the Deputy Assistant Secretary for HRM (051) to the Chief Network Officer, or designee, for decision. Each request shall specify whether or not it is an exception to the reduction applicable to regular officers (5 U.S.C. 5532(b)), the aggregate compensation limitation (5 U.S.C. 5532(c)), or both. (See par. 6 above.) Further, at a minimum, each request shall include the information cited in subparagraphs 8a(1) through (6), (8), (10) through (12) and the following:

- (1) How long the position has been vacant and what recruiting efforts were utilized in attempting to fill the position; and
- (2) If the position is administrative in nature, e.g., Assistant Chief Nurse, Associate Chief Nurse, etc., evidence that all appropriate efforts were made to recruit an acceptable candidate from within the Veterans Health Administration.

9. FURNISHING INFORMATION TO MILITARY FINANCE CENTERS

The finance center of the appropriate uniformed service is responsible for determining applicability of reduction-in-retirement pay provisions to a retired member and will make

appropriate deductions from that individual's military retired pay. To ensure proper payment, human resources management officials shall inform the appropriate finance center within 10 days after the effective date of:

- a. The appointment of a retired member;
- b. Any exceptions to the reduction-in-retirement pay provisions approved by the Secretary under paragraph 7b above;
- c. Movement of a retired member from a position for which an exception was approved to a position for which an exception is not authorized;
- d. A change in the retired member's rate of basic pay or special pay (including any merit increases under the Performance Management and Recognition System, but not including any cash or rank awards); and
- e. Separation of a retired member from civilian employment.

A copy of the SF 50-B, Notification of Personnel Action, effecting the action or a copy of the Secretary's approval of any exception may be used for this purpose.

CHAPTER 550. PAY ADMINISTRATION (GENERAL)
(To Be Used With 5 CFR, Part 550, Subpart G)**SECTION G. SEVERANCE PAY****1. SCOPE**

This section applies to employees involuntarily separated (but not by removal for cause) from full-and part-time non-temporary positions with a regularly pre-scheduled tour of duty within each administrative workweek, including General Schedule employees; physicians, dentists, and nurses appointed under 38 U.S.C. 7401(1) and part-time physicians, dentists and nurses appointed under 38 U.S.C. 7405(a)(1)(A) without time limitation; career medical and dental residents and career dental interns appointed under 38 U.S.C. 7405(b); and wage employees. For the purposes of severance pay, employees temporarily appointed pending the establishment of a register (TAPER); temporary full-time physicians, dentists, and nurses appointed under 38 U.S.C. 7405(a)(1)(A); regular medical and dental residents and interns appointed under 38 U.S.C. 7405(b); and part-time or intermittent trainees appointed under 38 U.S.C. 7405(a)(1)(A) are considered temporary employees and as such are not eligible for severance pay.

2. REFERENCES

- a. 5 U.S.C. 5595.
- b. 5 CFR, Part 550, subpart G.
- c. VA Manual MP-6, part V, supplement Nos. 1.5 and 2.2.
- d. Applicable Comptroller General decisions, e.g., see appendix A at the end of this chapter.

3. POLICY

Entitlement of employees to receive severance pay will be determined in accordance with statutory requirements, Civil Service regulations, and instructions contained in this section.

4. RESPONSIBILITIES

- a. Separation. The Human Resources Management (HRM) Officer is responsible for reviewing separation actions to determine employees' basic entitlement to severance pay. For each employee so entitled, the HRM office will compute the employee's total years of creditable civilian service and the years of age over 40. This information, identifying the employee by name, social security number, and date of separation, will be furnished the Fiscal activity by a memorandum signed by the HRM Officer or his designee. The Fiscal activity is responsible for computing the employee's severance pay fund using the information furnished by the personnel office and the applicable rate of basic compensation.

b. Reemployment. The HRM office is responsible for screening each reemployment action to ascertain if the former employee is currently receiving severance pay. If it is found that severance pay would otherwise continue beyond the date of reemployment, the agency making the payments will be notified, as soon as possible, of the reemployment. The following will be placed in the "Remarks" section of the accession VA Form 5-4650: "Severance pay discontinued. Has received (number) weeks of severance pay." The number of weeks will be manually added to the computer printed remark on VA Form 5-4650 when received. If the reemployment is temporary, the following will be placed in the "Remarks" section of the VA Form 5-4650: "Severance pay postponed by (agency) until the termination of this appointment." When notified that a former VA employee receiving severance pay has been reemployed by another Federal agency or another VA station, the HRM office will inform its Fiscal activity of the effective date, so that severance pay can be stopped or postponed. When an SF50 or VA Form 5-4650 is received from the employing agency, a copy will be furnished the Fiscal activity. Pending receipt of the official notification, a memorandum will be used to notify the Fiscal activity.

5. BASIC ENTITLEMENT

For purposes of entitlement to severance pay, the commuting area will be the same as that used for reduction-in-force actions. Except in unusual circumstances, acceptance of non-Federal employment will not affect entitlement to severance pay.

CHAPTER 550. PAY ADMINISTRATION (GENERAL)
(To Be Used With 5 CFR, Part 550, Subpart H)

SECTION H. BACK PAY

1. SCOPE

This section applies to any VA employee who meets the requirements for entitlement to back pay, as a result of an unjustified or unwarranted personnel action.

2. REFERENCES

- a. 5 U.S.C. 5596.
- b. 5 CFR, Part 550, subpart H.
- c. Applicable Comptroller General decisions, e.g., see appendix A at the end of this chapter.

3. POLICY

It is the policy of the VA that an employee who suffers a loss or diminution of pay and other benefits as the result of an unjustified or unwarranted personnel action shall have such pay and benefits restored on determination of his entitlement to back pay under the provisions of 5 CFR 550.801 through 550.804.

4. CORRECTIVE ACTION

Corrective actions will be processed as indicate in VA Manual MP-6, part V, supplement No. 1.5, chapter 4, section C, and in 5 CFR, Part 550, subpart H.

CHAPTER 550. PAY ADMINISTRATION (GENERAL)
(To Be Used With 5 CFR, Part 550, Subpart I)

**SECTION I. PAY FOR IRREGULAR OR INTERMITTENT DUTY INVOLVING
UNUSUAL PHYSICAL HARDSHIP OR HAZARD**

1. SCOPE

This section applies to employees occupying position subject to 5 U.S.C. ch. 51.

2. REFERENCES

- a. 5 U.S.C. 5545(d).
- b. 5 CFR, Part 550, subpart I.

3. ENTITLEMENT

a. General. Hazard pay provisions should be uniformly applied. Accordingly, except as indicated in subparagraph b, below, prior approval of VA Central Office will be requested for a General Schedule position if station management considers hazard pay to be appropriate. Such a request should be submitted through channels to the Deputy Assistant Secretary for Human Resources Management (051).

b. Emergency Firefighting. General Schedule employees, other than those in firefighter positions, who are members of an emergency firefighting crew may be entitled to hazard pay. Such employees are eligible only if they actually perform the same duties in fighting a fire as a firefighter, such as handling the same equipment and being exposed to the same hazardous conditions. Membership in the crew would not, in itself, be a basis for paying hazard pay.

CHAPTER 550. PAY ADMINISTRATION (GENERAL)
(To Be Used With 5 CFR, Part 550, Subpart B)

SECTION J. ADVANCES IN PAY FOR NEW EMPLOYEES

1. SCOPE

This section provides the Department of Veterans Affairs (VA) policy on advance payments of basic pay to newly appointed employees. Such advances will not cover more than two pay periods and can be made only to new employees (including those receiving appointment after a break in service of at least 90 days) to positions with a scheduled tour of duty. Intermittent employees are excluded. The title 5 authority permits advance payments to both title 5 and title 38 appointees.

2. REFERENCES

- a. 5 U.S.C. 5524a.
- b. 5 CFR part 550 subparts B and K.
- c. 38 U.S.C. 7410

3. POLICY

a. An advance payment of basic pay may be made when, without the payment, the prospective employee may not accept the position because of immediate financial obligations associated with acceptance.

b. Advance payments of not more than two pay periods of basic pay may be made in one or more installments to newly appointed employees. The amount advanced will be based on the employee's rate of pay at the time of appointment, reduced by the amount of any deductions and allotments that would normally be subtracted from the employee's first regular paycheck.

c. An advance payment may be made no earlier than the date of appointment and no later than 60 days after appointment.

d. If a special advance payment is expected within two pay periods after appointment because of assignment to a foreign post (5 U.S.C. 5927), eligibility for an advance under this authority is nullified.

e. The Secretary of Veterans Affairs, or a person appointed to a position in expectation of receiving an appointment as Secretary, may not receive an advance in pay under this authority.

f. A written statement of understanding covering requirements for the payment, repayment, recovery, and waiver will be signed by the approving official and the employee prior to payment.

4. DEFINITIONS

a. **Employee** means an individual appointed to a position with a scheduled tour of duty.

b. **Newly appointed** means:

(1) the first appointment, regardless of tenure, as an employee of the Federal Government;

(2) a new appointment following a break in service of at least 90 days; or

(3) a permanent appointment in the competitive service following a period of at least 90 days of leave without pay after completion of a cooperative work-study program under a Schedule B 213.3202 appointment, provided any former advance in pay has been fully repaid.

c. **Offset (or setoff)** means repayment in installments of an advance in pay by payroll deductions or an administrative offset under 5 CFR part 550, subpart K, to collect a debt under 5 U.S.C. 5514 from an indebted Government employee.

d. **Pay period** means the period covering two administrative workweeks.

e. **Rate of basic pay** means the rate of pay fixed by law or administrative action for the position held by an employee, including annual premium pay under 5 U.S.C. 5545(c); night differential for prevailing rate employees under 5 U.S.C. 5343(f); a special rate established under 5 U.S.C. 5305, 5 CFR 532.231, or other legal authority (such as 38 U.S.C. 7455); and locality-based comparability payments under 5 U.S.C. 5304, competitive pay for nurses and other health-care personnel established under 38 U.S.C. 7451, any applicable interim geographic adjustment, special rate of pay for law enforcement officers, or special pay adjustment for law enforcement officers under section 302, 403, or 404 of the Federal Employees Pay Comparability Act of 1990 (Pub. L. 101-509). Rate of basic pay does not include additional pay of any other kind, such as special pay for physicians and dentists, recruitment bonuses, or on-call pay.

5. CRITERIA. An advance payment of basic pay may be made when there is evidence that, without the payment, the new employee may be deterred from accepting the position. During recruitment interviews or other preliminary discussions, applicants should be made aware of the possibility of advance payments for special needs related to the new employment. General notice of the availability is likely to generate a request if a need exists. In determining whether an advance should be approved, factors such as the following should be considered:

a. The presence of significant travel and/or household relocation costs and whether VA is helping pay those expenses;

b. The ability of the new employee to bear expenses related to acceptance (e.g., recent graduate just beginning career);

c. Personal financial obligations of the new appointee which indicate an advance in pay will ease the transition to new employment (e.g., pressing debts incurred while in school or during periods of unemployment); and

d. Other factors related to the acceptance of new employment which indicate a need and, in the judgment of the approving official, justify an advance (e.g., need to remodel home to provide accessibility for dependent with disabilities).

6. RESPONSIBILITIES

a. **Administration heads, Assistant Secretaries, other key officials, Deputy Assistant Secretaries, and facility directors** are responsible for the fair, equitable, and fiscally responsible administration of this policy and for ensuring that advances in pay are determined and approved in accordance with the criteria and procedures in this section.

b. **The Deputy Assistant Secretary for Human Resources Management (DAS/HRM)** has Department level responsibility for advising management officials on the regulations and procedures in this section.

c. **HRM Officials** are responsible for advising local management officials on regulations, the procedures in this section, providing technical advice and assistance in coordination with Financial Managers (FMs) on advances in pay, repayment requirements and other technical matters, and ensuring the completeness of requests prepared at the local level and the statement of understanding to be signed by the employee. They will maintain documentation adequate for reconstruction of each case and prepare reports as required. They will keep senior management informed about delegated use of advances in pay and waivers and make recommendations for corrective measures if necessary.

d. **The Office of Financial Management** will develop, in coordination with OHRM, procedures for advance payments, repayments, and recovery of unpaid balances.

e. **Management officials** (e.g., selecting officials in coordination with HRM Officials and FMs) are responsible for advising the new employee of the possibility of an advance in pay and the conditions of repayment.

f. **Employees** are responsible for signing a statement of understanding prior to receipt of an advance payment and promptly repaying as required.

7. DELEGATIONS OF AUTHORITY

a. **The Secretary, Administration heads, Assistant Secretaries, and Other Key Officials, or their designees**, approve waivers of repayment of advances in pay for employees occupying Central Office (CO) positions in their organizations.

b. **Facility Directors, or their designees** (e.g., HRM Officials, FMs), may approve advances in pay and waivers of repayment for employees in centralized and noncentralized positions under

their jurisdiction. Redlegation of authority to approve advances may occur with or without corresponding authority to grant waivers or the two authorities may be redelegated to different subordinates.

c. **The Team Leader, Headquarters and Executive Resources Team (052), Office of Human Resources Management**, upon recommendation of Service Directors (or equivalent supervisors) or higher level officials for advances in pay for new CO employees under their jurisdiction, is authorized to approve such advances.

8. REQUESTS FOR ADVANCES IN PAY

a. **General.** Requests for advances in pay must be made in writing and signed by the employee.

b. **Contents of Requests.** Each request for an advance in pay must include the following:

- (1) The employee's name, facility, and duty station;
- (2) Organization, title, and grade of the position to which appointed;
- (3) An explanation of the need for the advance;
- (4) The signed and witnessed Statement of Understanding;
- (5) The signature of the recommending official, with date; and,
- (6) A signature and date block for the approving official.

c. **Procedures.** Requests for advances will be reviewed on a case-by-case basis by the approving official. If the Chief, HRM is not delegated approval authority, requests will be submitted through that office for technical review and concurrence. Requests will be routed through channels and received by the approving official early enough to permit approval and payment of the advance before the employee's 61st calendar day of employment.

9. EMPLOYEE STATEMENT OF UNDERSTANDING

a. An employee statement of understanding must be prepared by the HRM office and included with each request for an advance in pay. A sample is included in Appendix A.

b. The statement will include:

- (1) Employee name, position (title, series, and grade), organization, and station;
- (2) Employee's per annum basic rate of pay;
- (3) The amount of basic pay which the employee is entitled to receive for two pay periods at the time of appointment, less any allotments or deductions normally subtracted from pay;

(4) The total amount of pay to be advanced, which cannot be more than the net amount described in (3);

(5) Whether the advance in pay is to be recovered by payroll deductions, or salary offset;

(6) The schedule of allotments for repayment of the advance which must be completed over not more than 14 pay periods from the date of first payment, unless recovery is accomplished under subpart K of 5 CFR part 550;

(7) The amount that will be deducted from the employee's pay by payroll deductions or salary offset for each pay period;

(8) A statement that the employee may prepay all or part of the outstanding balance at any time before final payment is due and how and where these prepayments may be made;

(9) A statement that the employee understands that the unpaid balance is due and must be repaid to VA by the employee, unless waived by the approving official, upon transfer to another Federal agency or termination of VA employment for any reason;

(10) A statement that, upon transfer or termination of the employee for any reason, any unpaid balance must be recovered by salary offset or by any other method provided by law;

(11) Signature of employee and date; and

(12) Signature of witness and date.

10. APPROVING ADVANCES IN BASIC PAY

a. **General.** Approving officials must review and approve each advance in pay in writing (either on the request or by separate memorandum). Advances will be effective only after the appropriate official approves the request. Approvals may not be made on a retroactive basis.

b. **Notification.** The approving official will return the approved request for advance to the recommending official for transmittal to the employee and the servicing HRM office. The approval, recommendation, and supporting documentation, including the signed Employee Statement of Understanding, will be retained by HRM officials as required in paragraph 13 below. HRM will provide a copy to the servicing payroll office.

11. PAYMENT AND REPAYMENT PROCEDURES

a. The advance in pay will be calculated based on the new employee's basic pay for not more than two pay periods. Any allotments or deductions normally taken from that amount will be subtracted to yield the maximum amount of pay which may be advanced. A recruitment bonus (if authorized) is not part of the basic rate of pay (see par. 4e, this section) and, therefore, is not included in the advance.

b. Unless salary offset procedures are required for repayment under subpart K of 5 CFR part 550, for any advance, a period of no more than 14 pay periods will be established for repayment through payroll deductions. An employee may prepay all or part of the outstanding balance at any time and must be told where and how prepayments may be made.

12. WAIVERS OF REPAYMENT. The officials designated in paragraphs 7b and 7c of this section may waive, in whole or in part, the right of recovery of the advance payment, if it is determined that recovery would be against equity and good conscience or against the public interest (e.g., employee who received an advance is severely injured shortly after entry on duty and must be placed on leave without pay for extensive rehabilitation).

13. RECORDS. Records sufficient to reconstruct actions that do not include a waiver will be retained at the facility until the advance is fully repaid. Those involving waivers of repayment will include a clear explanation of the circumstances and facts, which justified the waiver. Records will be retained for 3 years or until reviewed by staff of the Deputy Assistant Secretary for HRM, OPM, or the General Accounting Office. Records on CO advances will be maintained by the Headquarters and Executive Resources Team (052); those approved locally will be retained at the employing facility. Records will include: the request, the approval, the statement of understanding, and any waivers with supporting documentation.

14. REPORTS. Formal, recurring reports are not required. However, sufficient documentation of usage is to be maintained for reviews as noted in paragraph 13, above.

GUIDELINES (SELECTED COMPTROLLER GENERAL'S DECISIONS)

Selected Comptroller General's decisions, as cited below, provide guidelines which may be consulted in applying the provisions of this chapter. They cover situations in terms of legal and regulatory provisions applicable when the decisions were rendered. It is well to remember that subsequent changes may be made in these and related decisions.

1. Premium Pay
2. Overtime Compensation

Decisions	Subject Coverage
44 Comp. Gen. 195	Early reporting and delayed departure
44 Comp. Gen. 667	Entitlement of intermittent employees
44 Comp. gen. 690	
46 Comp. Gen. 337	Entitlement of part-time employees
44 Comp. Gen. 617 (modified by 45 Comp. Gen. 454 and 46 Comp. Gen. 21)	Employee union representatives outside regular tours of duty
44 Comp. Gen. 410	Payment of fractional periods
45 Comp. Gen. 53 40 Comp. Gen. 379 38 Comp. Gen. 142 37 Comp. Gen. 1 35 Comp. Gen. 448	Requirements of payment for at least 2 hours of overtime pay for callback duty
33 Comp. Gen. 32	Presumption of correctness of official written record when claimant alleges facts conflicting therewith
37 Comp. Gen. 362	Nonconvertibility of excess compensatory time (erroneous credit) to annual leave
34 Comp. Gen. 471 (also see 28 Comp. Gen. 328; distinguished from 27 Comp. Gen. 776)	Prerequisite of 40-hour workweek

Decisions	Subject Coverage
31 Comp. Gen. 393	Relationship of night or holiday duty to determination of total hours of employment within same administrative workweek
31 Comp. Gen. 245	Payment at overtime rate of compensatory time unused because of separation by death
31 Comp. Gen. 173	Entitlement to overtime pay while performing jury duty service during regularly scheduled overtime periods
29 Comp. Gen. 345	Payment at overtime rates for attendance at conferences, hearings, etc., outside of and in addition to regular tours of duty
26 Comp. Gen. 750	Relationship of unused compensatory time to RIF separation
B-160465 of 3-9-67	Variation in workweek for educational purposes
38 Comp. Gen. 363	Employees engaged in training
39 Comp. Gen. 453	Relationship to compensatory time
b. Night Differential	
42 Comp. Gen. 326 40 Comp. Gen. 397 (modifies 36 Comp. Gen. 657) 39 Comp. Gen. 73 (amplifies 36 Comp. Gen.657) 37 Comp. Gen. 1	Advance scheduling and regular tour of duty requirements
41 Comp. Gen. 8	Entitlement to ND during temporary assignment to regularly scheduled tours of duty other than employees' own tours

Decisions

Subject Coverage

38 Comp. Gen. 262	ND payment prohibition for employee in training under Government Employees Training Act
36 Comp. Gen. 733, and 734	Continuance of ND during leave periods with pay
34 Comp. Gen. 621	ND for employee performing occasional overtime work within a regularly scheduled tour of duty not his own
33 Comp. Gen. 4 (compare 34 Comp. Gen. 3)	ND for WAE employees for duty performed while working intermittently consistently on temporary assignment to regularly scheduled tour of duty
31 Comp. Gen. 362 (also see 25 Comp. Gen. 399; compare Gen. 183 and 34 Comp. Gen. 696)	Entitlement to ND during period of absence in official travel status
29 Comp. Gen. 476 (also see 29 Comp. Gen. 229 and 26 Comp. Gen. 921; compare 28 Comp. Gen. 397)	Computation of extra compensation-standard vs. daylight saving time
29 Comp. Gen. 427	Payment of ND while employee is on "court leave"
44 Comp. Gen. 410	Payment of fractional periods

c. Holiday Compensation

NOTE: This listing contains decisions on questions of entitlement to (1) the holiday benefit of "time-off" at regular pay, and (2) premium pay for duty performed.

B-158844 of 4-28-66	Entitlement of new appointee to holiday benefit when holiday precedes first workday
44 Comp Gen. 803	Holidays for employees having "back-to-back" workweeks

Decisions

Subject Coverage

38 Comp. Gen. 307
(see par. 6)
36 Comp. Gen. 723
32 Comp. Gen. 378
31 Comp. Gen. 565
26 Comp. Gen. 690

Entitlement of part-time and temporary full-time employees

37 Comp. Gen. 554
(cf. 32 Comp. Gen. 320)

Holidays falling on day designated as Sunday when Sunday is one of employee's regularly scheduled non-workdays

37 Comp. Gen. 500

8-hour limitation on premium pay

37 Comp. Gen. 1
(also see 38 Comp. Gen. 560 and 40 Comp. Gen. 379)

2-hour minimum pay requirement for any work performed on a holiday

25 Comp. Gen. 338

Relationship of holiday pay to overtime pay

25 Comp. Gen. 254

47 Comp. Gen. 147

Resignation effective the day before a holiday

44 Comp. Gen. 274

Failure to report for duty

34 Comp. Gen. 235

Requirement for work to be performed

d. Regularly Scheduled Standby Duty Pay

Decisions

Subject Coverage

42 Comp. Gen. 195
34 Comp. Gen. 216
25 Comp. Gen. 161
e. Pay for Sunday Work

Relationship to on-call status, home a duty station, etc.

46 Comp. Gen. 337

Entitlement of full-time employees; non-entitlement of part-time

2. Lump-Sum Payments for Annual Leave**a. Entitlement**

Decisions	Subject Coverage
43 Comp. Gen. 440	Benefit of certain statutory salary increases effective after separation
47 Comp. Gen. 773	
36 Comp. Gen. 340	Reemployed annuitants
48 Comp. Gen. 212	Transfers between leave systems
26 Comp. Gen. 604	
27 Comp. Gen. 330	Entitlement to step increase
58 Comp. Gen. 734	Defacto employees entitled to lump-sum payment for leave
32 Comp. Gen. 387	Refund required for reemployment in temporary position
59 Comp. Gen. 395	Erroneous separation
59 Comp. Gen. 15	Period of payment not creditable service
59 Comp. Gen. 494	Prevailing rate pay adjustment
59 Comp. Gen. 683	Standby premium pay not included in lump sum on disability retirement
B-206515, April 23, 1982	Lump sum, holidays, and disability retirement

b. Computation of Payment

Decisions	Subject Coverage
41 Comp. Gen. 761	Inclusion of holiday on regular workday
41 Comp. Gen. 320	Employee separated to enter military service

Decisions

Subject Coverage

30 Comp. Gen. 508
42 Comp. Gen. 677

Employee detailed to different shifts

28 Comp. Gen. 235
45 Comp. Gen. 368

Inclusion of step increase

44 Comp. Gen. 636

Exclusion of excess unused annual leave
of deceased employee

3. Reduction in Retired Pay

Decisions

Subject Coverage

46 Comp. Gen. 366

TAPER appointments not considered
temporary of dual compensation
purposes

47 Comp. Gen. 185

Retired pay deduction for less than 1
day's salary

45 Comp. Gen. 559
51 Comp. Gen. 189
55 Comp. Gen. 1305

30-day exemption period

46 Comp. Gen. 575

Effect of change in Consumer Price
Index on reduction

46 Comp. Gen. 549

55 Comp. Gen. 961

Disability incurred in line of duty

48 Comp. Gen. 152

Effect of LWOP on reduction

45 Comp. Gen. 784

Non-entitlement of employee who
resigns prior to receiving written notice
of involuntary separation

45 Comp. Gen. 811

Non-entitlement of employee who fails to
accept transfer in transfer of functions
or who fails to accept reassignment at
another location after being directed to
do so

Decisions**Subject Coverage**

46 Comp. Gen. 664

Entitlement of employees upon second separation and computation for full- or part-time employee

50 Comp. Gen.
(B-170176 of 7-20-70)

Non-entitlement of retired officers of the uniformed services

5. Back Pay

NOTE: Some decisions cited below antedate "The Back Pay Act of 1966," approved March 30, 1966 (now replaced by 5 U.S.C. 5596). However, principles and concepts contained therein may be applicable under certain circumstances. Also included are some decisions on the de facto employment; under the de facto rule an employee has no legal claim to compensation paid, but is permitted to retain compensation already received for services rendered during the period prior to the time erroneous payment was discovered.

Decisions**Subject Coverage**

48 Comp. Gen. 502

Administrative errors, de facto employment, etc.

38 Comp. Gen. 175

36 Comp. Gen. 73, 798

34 Comp. Gen. 380

32 Comp. Gen. 211, 381, 463

31 Comp. Gen. 15, 262

30 Comp. Gen. 27, 94

27 Comp. Gen. 27, 550

21 Comp. Gen. 341

45 Comp. Gen. 16

Demotion

46 Comp. Gen. 139

Illness during separation

48 Comp. Gen. 572

Involuntary annual leave

42 Comp. Gen. 438

Involuntary sick leave

41 Comp. Gen. 774

48 Comp. Gen. 572

Outside earnings

44 Comp. Gen. 634

Rate payable

Decisions

Subject Coverage

48 Comp. Gen. 502	Reemployment after military duty
45 Comp. Gen. 722	Restoration prior to March 30, 1966
46 Comp. Gen. 200	Premium pay and reduction
55 Comp. Gen. 1402	Veterans benefits in lieu of waived retired pay
58 Comp. Gen. 622	
59 Comp. Gen. 470	Effect of State law in community property States
61 Comp. Gen. 221	Computation of aggregate limit in 5 U.S.C. 5532(c)
61 Comp. Gen. 704	
39 Comp. Gen. 681 B-154204, September 4, 1964 B-176681, October 27, 1972	Independent contractor status
53 Comp. Gen. 542	
42 Comp. Gen. 296	Coverage of experts and consultants
51 Comp. Gen. 189	
45 Comp. Gen. 81	Exclusion of certain fee-basis physicians

4. Severance Pay

Decisions

Subject Coverage

47 Comp. Gen. 56	Entitlement of employee who resigns after being unable to accept offer of reassignments (as distinguished from 45 Comp. Gen. 811)
47 Comp. Gen. 72	Entitlement of employee who attains age 62 after separation to concurrent receipt of severance pay and annuity for deferred retirement

SAMPLE STATEMENT OF UNDERSTANDING

I, _____ (name) _____, understand that the advance payment of basic pay that I am to receive based on my employment as a _____ (title, grade, step) _____, earning _____ (\$) _____ per year in _____ (service, division, or office) _____ at _____ (facility) _____, _____ city _____, _____ state _____, must be repaid to the Department of Veterans Affairs in accordance with the following conditions, unless a waiver of repayment is approved.

I will receive a total of \$ _____ (amount) _____. I will repay that amount to the Department of Veterans Affairs by _____ (number) _____ consecutive allotments (form attached) from my biweekly pay, each in the amount of \$ _____, starting with the pay period beginning on _____ (date) _____. The final uninterrupted allotment for the pay period beginning on _____ (date) _____ in the amount of \$ _____ will satisfy my repayment obligation in full.

I understand that I may prepay any installment, or the outstanding balance, at any time before final payment is due. Prepayments may be made by cash, check, or money order payable to the Department of Veterans Affairs and may be submitted to _____ (location) _____, between the hours of _____ and _____, Monday through Friday.

I further understand that the unpaid balance of my advance payment is due upon my transfer to another agency or termination of my VA employment. Any unpaid balance will be recovered by VA under regulations for collection by offset from indebted government employees or by any other method provided by law.

(employee's signature) (date) (signature of witness) (date)