

**Department of Veterans Affairs Promise to Address  
Comprehensive Toxics Act (PACT Act) Title IX, Section 904  
Implementation**

1. **PURPOSE:** The purpose of this notice is to amend the Department of Veterans Affairs (VA) Handbook 5007 and provide guidance on implementing the pay authorities outlined in section 904 of the Sergeant First Class Heath Robinson Honoring our Promise to Address Comprehensive Toxics (PACT) Act, Public Law (Pub. L.) 117-168.
2. **POLICY:** On August 10, 2022, the PACT Act was signed into law. Section 904 of the PACT Act authorizes VA to pay a special rate of pay or an adjusted rate of basic pay that exceeds level IV of the Executive Schedule (EX) to certain Veterans Health Administration (VHA), employees outlined in 38 U.S.C. § 7455(a)(2). Section 904 of the PACT Act also amends 38 U.S.C. § 7404(a)(1)(B) to provide that section 5377 of title 5 applies to positions under section 7306 of title 38 (in addition to 38 U.S.C. § 7401(4) positions) as if such positions were included in the definition of “position” in 5 U.S.C. § 5377(a). Thus, individuals appointed under 38 U.S.C. § 7306 are eligible to receive critical position pay (if approved).
  - a. Section 904 of the PACT Act amends 38 U.S.C. § 7455(c)(1) and increases the limitation pertaining to the maximum basic rate of pay for the grade from 30 percent to 50 percent. The minimum rate for any grade may not exceed the maximum rate of basic pay (excluding any locality-based comparability payment) by more than 50 percent (except in the case of pharmacists, licensed physical therapists and licensed practical nurses). As a result of this increase, the percentage supplement limit for special rates of pay increases from 69 percent to 95 percent.
  - b. Section 904 of the PACT Act amended 38 U.S.C. § 7455(c)(2) and increases the maximum rate of basic pay established under that section from the EX-IV (\$176,300 in 2022) to the EX-II (\$203,700 in 2022). It also added 38 U.S.C. § 7455(c)(3) to address situations where a pay adjustment would cause a special rate in excess of EX-IV, to be of lesser value than a comparability percentage.
  - c. Section 904 of the PACT Act amends 38 U.S.C. § 7404(a)(1)(B) and extends the eligibility for critical position pay to employees appointed under 38 U.S.C. § 7306.
  - d. Changes to pay limitations are effective upon enactment of the PACT Act. Any associated pay adjustments for employees currently at the cap and not subject to 38 U.S.C. § 7455(d) will be effective on August 14<sup>th</sup>, 2022, subject to an agency determination that existing approved supplements apply but for the prior statutory caps.

- e. Newly established special salary rates (SSR's), will be effective the first day of pay period after written approval from the Under Secretary for Health (or from a Network Director or Medical Center Director with delegated authority) for those appointed under 38 U.S.C §§ 7401(1), 7401(3), 7405(a)(1)(A) and 7405(a)(1)(B). Newly established SSRs, will be effective the first day of pay period after written approval from the Office of Personnel Management (OPM) for GS title 5 healthcare workers and VHA police officers listed in 38 U.S.C. § 7455 (a)(2)(B) and (C).
- f. This policy also amends VA Handbook 5007:
  - (1) Critical pay authority is extended to positions (and thus employees appointed) under 38 U.S.C. § 7306.
  - (2) Except in the case of pharmacists, licensed physical therapists and licensed practical nurses, no special salary rate supplement authorized under 38 U.S.C. § 7455 may exceed 95 percent.
  - (3) The maximum rate of basic pay for any employee on a special salary rate authorized under 38 U.S.C. § 7455 may not exceed the rate payable for Level II of the Executive Schedule.
  - (4) An adjustment to the special rates supplement cannot result in a conversion to a rate that is less than the applicable locality-based comparability percentage under 5 U.S.C. § 5304, unless the Secretary determines otherwise. An employee covered by a special rate schedule is not entitled to a special rate for any purpose with respect to any period during which the employee is entitled to a higher rate of basic pay under any other legal authority.

### **3. DELEGATIONS AND RESPONSIBILITIES:**

- a. The Under Secretary for Health (USH), Network Directors and Medical Center Directors are authorized to establish, adjust, modify and terminate, special rates of pay for those appointed under 38 U.S.C. §§ 7401(1), 7401(3), 7405(a)(1)(A) and 7405(a)(1)(B).
- b. The Under Secretary for Health is authorized to establish, adjust, modify and terminate special rates of pay for GS title 5 healthcare workers and VHA police officers listed in 38 U.S.C. § 7455 (a)(2)(B)(C). Title 5 healthcare workers and VHA police officers are subject to the requirements in 38 U.S.C. § 7455(d)(2)-(3) and Executive Order 12797, April 3, 1992, that authorizes the Director of OPM to review and approve SSRs.
- c. The Under Secretary for Health may delegate their authority to the Chief Officer of Workforce Management and Consulting for VHA Central Office positions appointed under 38 U.S.C. §§ 7401(1), 7401(3), 7405(a)(1)(A), 7405(a)(1)(B) and the authority to seek modification or adjustment of a special salary rate for

GS title 5 healthcare workers and VHA police officers listed in 38 U.S.C. § 7455 (a)(2)(B) and (C) with additional data to support the request. Request must be reviewed and approved by OPM prior to implementation.

- d. VHA/WMC will conduct a technical review of SSR's in a and b above. SSRs that require OPM concurrence must be routed through the Office of the Chief Human Capital Officer (OCHCO), Compensation and Classification for review.
- 4. **RESPONSIBLE OFFICE:** Office of the Chief Human Capital Officer (05), Compensation and Classification Service (055).
- 5. **RELATED DIRECTIVE:** VA Directive 5007, Pay Administration, dated April 15, 2002.
- 6. **RESCISSION:** This notice will be rescinded and guidance incorporated into the appropriate handbook no later than one year after the date of publication.

**CERTIFIED BY:**

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

/s/  
Guy T. Kiyokawa  
Assistant Secretary for  
Enterprise Integration

/s/  
Gina M. Grosso  
Assistant Secretary for  
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