



THE SECRETARY OF VETERANS AFFAIRS  
WASHINGTON

July 30, 2018

**MEMORANDUM FOR UNDER SECRETARIES, ASSISTANT SECRETARIES, AND  
OTHER KEY OFFICIALS**

**SUBJECT:** Delegation of Authority to Approve Dual Compensation Waivers for  
Unusual Circumstances

**1. DELEGATION.** This memorandum delegates to the Assistant Secretary for Human Resources and Administration (AS/HRA) the authority to waive the salary offset required under sections 8344 and 8468 of title 5 of the United States Code (U.S.C.) in order to reemploy an annuitant defined by 5 U.S.C. § 8331(9) and 8401(2) on a temporary (1 year or less) basis when it is necessary to reemploy individuals in support of the VA Accelerating Access to Care Initiative and the Veterans Access, Choice, and Accountability Act of 2014.

**2. AUTHORITY.** The U.S. Office of Personnel Management (OPM) letter and delegation dated February 1, 2018, and May 9, 2018, respectively; 5 U.S.C. 8344; 5 U.S.C. 8468, and section 553.202 of title 5 of the Code of Federal Regulations.

**3. RESTRICTIONS.** Approved waivers are subject to the limitations specified in the attached OPM letter and delegation.

**4. REDELEGATION.** AS/HRA may not further redelegate this authority.

**5. EFFECTIVE DATE.** This delegation of authority is effective upon signature and remains in effect until January 30, 2020.

A handwritten signature in blue ink, appearing to read "Peter M. O'Rourke".

Peter M. O'Rourke  
Acting

Attachments



UNITED STATES OFFICE OF PERSONNEL MANAGEMENT

Washington, DC 20415

The Director

February 1, 2018

The Honorable David J. Shulkin, M.D.  
Secretary  
U.S. Department of Veterans Affairs  
810 Vermont Avenue, NW  
Washington, DC 20420

Dear Mr. Secretary:

The U.S. Office of Personnel Management (OPM) has approved your October 20, 2017, request, supplemented by information provided on December 1, 2017, on behalf of the U.S. Department of Veterans Affairs (VA), for an extension of length of the delegation of authority for dual compensation reduction (salary off-set) waiver initially approved by OPM on May 14, 2015, under 5 CFR 553.202. Although you requested a 3-year extension for up to 2,500 individuals, OPM is approving your request through January 30, 2020, for up to 1,000 individuals. The enclosed extension of the length of delegated authority will enable the Veterans Health Administration (VHA) and the Veterans Benefits Administration (VBA) to continue to waive the salary off-set in order to reemploy up to 1,000 individuals in the enclosed occupations and grade levels (see Enclosure A) at the various VA Medical Centers approved in 2015, throughout the United States. This extended delegation of authority is still needed to further assist VA/VHA and VA/VBA to continue implementing the provisions of the Veterans Access, Choice, and Accountability Act of 2014 (the Choice Act). You have demonstrated that the conditions justifying the initial request for delegated authority still exist. We are limiting this extension, however, based on the supplemental information VA provided on December 1, 2017.

In order to continue implementing the Choice Act (P.L. 113-146), the VA/VHA and VA/VBA still need to reemploy a large number of individuals in various key administrative and medical occupations to continue to provide and ensure timely access to healthcare at all VA Medical Centers located throughout the United States. OPM is granting an extension of this delegated authority until January 30, 2020. After this date, the VA may not offer any new dual compensation waivers under this delegated authority. The VA request continues to meet the criteria under 5 CFR 553.202, as follows:

1. *Description of the situation(s) for which the authority is requested.* The VA is still faced with an unusual circumstance resulting from the requirements of the Choice Act. The Choice Act requires the VA to allow veterans to receive healthcare services from non-VA providers; requires the VA to make mandatory changes to the current scheduling of appointments for health services of our nations' veterans; requires the VA to contract with an independent third-party to conduct an assessment of the hospital care, medical services, and other health care processes at VA Medical Centers; and requires mandatory reporting to Congress within 60 days of the

conclusion of the assessment. The unusual circumstance could not be avoided because of the requirements of the Choice Act.


2. *Identification of the occupations, grades, and locations of positions that might be filled under this delegated authority.* This approval allows VA/VHA and VA/VBA to continue to reemploy up to 1,000 individuals in the attached occupations and grade levels, at the locations approved in 2015, across the United States. All appointees hired pursuant to this authority will be appointed to a temporary, time-limited appointment. See Enclosure A for occupations and grade levels.

3. *Statement of expected duration.* The VA anticipates the unusual circumstance will continue to last for a time period of three (3) years. OPM has approved, however, this extended delegation to continue from the date VA signs the attached delegation of authority and to end on January 30, 2020. After that date, you may not offer any new dual compensation waivers under this delegated authority. This delegation also identifies the specific requirements and limitations related to this authority. In addition, you must maintain a record of each request and of the action taken for three years following the action date. Each approval of a waiver must provide a reason why the waiver is justified by criteria set forth in applicable OPM regulation.

The original delegation agreement required VA to submit quarterly usage data to OPM. To date OPM has not received any data from VA. OPM may terminate this agreement if VA fails to comply with this, or any other, requirement specified in the enclosed agreement.

If you have any questions, please contact Michelle T. Glynn, Human Resources Specialist, at (202) 606-1571, or by email at [michelle.glynn@opm.gov](mailto:michelle.glynn@opm.gov).

Sincerely,

  
Kathleen M. McGettigan  
Acting Director

Enclosures

## Enclosure A – Covered VHA Occupations

<u>Series</u>	<u>Occupation and Grades</u>
0000	Senior Executive Service
0060	Chaplain, GS-11-13
0101	Readjustment Counselor (including Addiction & Substance Abuse Therapy), GS-9 through GS-14
0101	Addiction Therapists, GS-9/11; Marriage and Family Therapist, GS-9/11; Licensed Professional Mental Health Counselor, GS-9/12
0180	Psychologist, GS-11 through GS-15
0185	Social Worker, GS-11 through GS-14
0188	Recreational Specialist (Institutional), GS-9 through GS-11
0201	HR Specialist, GS-11 through GS-15
0401	Biologist, GS-9 through GS-14
0403	Microbiologist, GS-9 through GS-15
0405	Pharmacologist, GS-11 through GS-14
0413	Physiologist, GS-9 through GS-14
0415	Toxicologist, GS-11 through GS-14
0601	Health Science Specialist, GS-5 through GS-14
0602	Physician, VM
0603	Physician Assistant, VN-8, 9, 11, 12 and 13
0605	Nurse Anesthetist, VN-1 through VN-5
0610	Registered Nurse, VN-1 through VN-5
0622	Medical Supply Technician, GS-5 through GS-12
0630	Dietitian, GS-11 through GS-14
0631	Occupational Therapist, GS-9 through GS-13
0633	Physical Therapist, GS-9 through GS-13
0635	Corrective Therapist, GS-9, GS-11 and GS-12
0637	Manual Arts Therapist, GS-9 through GS-12
0639	Educational Therapist, GS-9 through GS-11
0642	Nuclear Medicine Technician, GS-7 through GS-11
0644	Medical Technologist, GS-9 through GS-13
0647	Diagnostic Radiologic Technician/Technologists, GS-7 through GS-13
0648	Therapeutic Radiologic Technician/Technologist, GS-7 through GS-13
0649	Medical Instrument Tech (Vascular, EEG, EKG, Ultrasound, Echocardiography, etc.), GS-7 through GS-12
0651	Respiratory Therapist, GS-7 through GS-12
0660	Pharmacist, GS-9 through GS-15
0662	Optometrist, VP-11 through VP-15
0665	Audiologist/Speech Pathologist, GS-9, GS-11, GS-12, GS-13 and GS-14
0667	Prosthetist, GS-9 through GS-13
0668	Podiatrist, VP-12 through VP-15

0670 Associate Medical Center Director, Assistant Director and Deputy Network Director, GS-14/15, Medical Center Director (SES) and Network Director (SES)

0671 Health System Specialist, GS-11 through GS-15

0672 Prosthetic Rep (Orthotist-Prosthetist), GS-9 through GS-14

0680 Dentist, VM-15

0682 Dental Hygienist, GS-7 through GS-11

0802 Biomedical Engineering Technician, GS-7 through GS-13

0858 Biomedical Engineer, GS-11 through GS-15

1306 Health Physicist, GS-11 through GS-14

1310 Physicist (Nuclear), GS-12 through GS-14

1311 Physical Science Technician, GS-7 through GS-11

1320 Chemist, GS-11 through GS-14

**Covered VBA Occupations**

**Series**

**Occupation and Grades**

0996 Veterans Service Representative, GS-11 through GS-12  
 Veterans Service Representative (Rating), GS-12  
 Veterans Service Representative (Authorization Quality Review Specialist), GS-12  
 Veterans Service Representative (Rating Quality Review Specialist) GS-13  
 Veterans Service Representative (Decision Review Officer), GS-13

## **DELEGATED AUTHORITY TO THE DEPARTMENT OF VETERANS AFFAIRS FOR UNUSUAL CIRCUMSTANCES**

The Director, U.S. Office of Personnel Management (OPM), hereby delegates to the head or acting head of the U.S. Department of Veterans Affairs (VA), or his designee, authority to waive the dual compensation reduction (salary off-set) required of reemployed annuitants by sections 8344 and 8468 of title 5, United States Code in connection with appointments for the VA Accelerating Access to Care Initiative. This delegation will enable the Secretary or his designee to waive the salary off-set when necessary to reemploy a Civil Service Retirement System (CSRS) or Federal Employees Retirement System (FERS) annuitant on a temporary basis, but only if, and for so long as, the authority is necessary to hire individuals in support of the VA Accelerating Access to Care Initiative. This amended delegation continues on the date the Secretary signs this delegation below, ends on January 30, 2020, and is subject to the following limitations and requirements:

1. The head or acting head or his or her delegate (hereafter, you) may waive the salary off-set on a case-by-case basis, when necessary to quickly hire, on temporary appointment, an annuitant with optional retirement, excluding annuitants with early voluntary and buyout retirements, in support of the VA Accelerating Access to Care Initiative.
2. You must terminate the waiver when the conditions that make the waiver necessary change, when the annuitant leaves the position, when the position or nature of the work changes, or when the not-to-exceed date is reached. You may not grant any new waivers pursuant to this delegation after **January 30, 2020**.
3. You may redelegate this authority to a senior VA/VHA and VA/VBA human resources official at the Headquarters level familiar with the VA Accelerating Access to Care Initiative.
4. Waiver requests must be in writing (email is acceptable). The annuitant must have declined reappointment without a waiver in order for a waiver to be requested. The waiver must include the following:
  - The position's title, series, pay plan, grade, work schedule (full-time, part-time, or intermittent), work location (city and state), the proposed appointing authority, the appointment's termination date, and the waiver's termination date.
  - The annuitant's full name and civil service retirement number and a recitation whether the annuitant has declined re-employment without a waiver (quoting the annuitant's words is acceptable).
  - A brief statement documenting that the position and work are of a temporary nature and, reciting that the appointment in question will be used solely to support your hiring efforts for the VA Accelerating Access to Care Initiative and explaining how the appointment in question will directly support such efforts. Each approval of a waiver must provide a reason why the waiver is justified by criteria set forth in applicable OPM regulation.


5. Approval must also be in writing. You must maintain the record of each request and your action on any request that was approved for three years following the action date.
6. You must forward to OPM ES/TAWS, on a quarterly basis, copies of the waiver requests processed, and the records of the actions on these requests for the period covered by that quarter. You must also make these records available upon request.
7. You may approve requests under this delegation authority for a total of up to 1,000 individuals for the specific positions listed in this approval letter. These positions are located nationwide.
8. You may approve a request when the office has a temporary critical need to support the VA Accelerating Access to Care Initiative. For a continuing position, you must post immediately a vacancy announcement on USAJOBS and use all reasonable recruiting incentives and staffing flexibilities to fill the vacancy as soon as possible. You may approve a request **only if, and for as long as, no other reasonable staffing option exists.\***

\*Other reasonable staffing options include doing the following first:

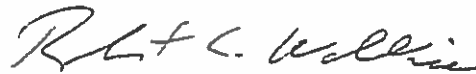
- Hiring all qualified applicants who are available to work;
- Hiring all qualified annuitants who are available to work with their salary offset;
- Offering details, reassignments, voluntary overtime or compensatory time off to qualified employees; and
- Replacing annuitants working with a salary off-set waiver.

Failure to comply with any of the conditions contained in this delegation may result in termination of this agreement by OPM.

**Note:** Reemployed annuitants serve at the will of the appointing official, per 5 U.S.C 3323. Agencies may hire annuitants using any appropriate existing appointing authority. Agencies may adjust the work schedule of annuitants without advanced notice or procedures. Annuitants with a salary off-set waiver may not make retirement contributions or participate in the Thrift Savings Plan (TSP). This delegation enables you to pay annuitants under a temporary time-limited appointment on a full-time work schedule up to 40 hours per week.

  
Kathleen M. McGettigan  
Acting Director  
U.S. Office of Personnel Management

1-31-2018  
Date

  
Robert L. Wilkie  
Acting Secretary of Veterans Affairs

7 MAY 18  
Date