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THE WHITE HOUSE  
WASHINGTON

July 23, 1975

ADMINISTRATIVELY CONFIDENTIAL

MEMORANDUM FOR: JIM CANNON  
FROM: JIM CONNOR   
SUBJECT: HEW Amendments to Physician Bonus  
Regulations

The President has reviewed your memorandum of July 21st on the above subject and indicated the following decisions:

1. Amendment 1 - Bonus Repayments -- approved
2. Amendment 2 - Prohibition of Bonus for Certain Physicians -- approved
3. Amendment 3 - Bonuses for Physicians who received Federal Support for Residency Training -- disapproved

Please follow-up with appropriate action.


cc. Don Rumsfeld

THE WHITE HOUSE

ACTION

WASHINGTON

July 21, 1975

MEMORANDUM FOR: THE PRESIDENT  
FROM: JIM CANNON   
SUBJECT: Hew Amendments to Physician Bonus Regulation

This is to present for your decision amendments to the Physician Bonus Regulation from Secretary Weinberger. Memoranda from Jim Lynn and Cap Weinberger are attached at Tab A.

BACKGROUND

P. L. 93-274 authorized annual bonus payments of up to \$13,500 in addition to any other pay or allowances for military and Public Health Service (PHS) physicians. You approved the implementing regulations last October, as required by the law.

ISSUE

HEW is now proposing three amendments to the regulations to correct three problem areas:

1. Bonus Repayments. Physicians who do not serve a full year are generally required by current regulations to repay the entire bonus. This amendment will allow officers leaving PHS for residency training in June, 1975, or retiring in September, 1975, to keep a pro rata portion of the bonus.
2. Prohibition of Bonuses for Certain Physicians. Current regulations prohibit bonus payments to certain physicians with service commitments, usually those who had deferments to allow completion of residency training. The amendment would prohibit bonus payments to any of these physicians who resign from the PHS while still under an obligation and then reapply to PHS solely to be eligible for a bonus.

3. Bonuses for Physicians Who Received Federal Support for Residency Training. Current regulations permit the payment of a smaller bonus to physicians who received Federal salaries during residency training in return for service commitments. These physicians are normally commissioned in the PHS while in residency training. HEW proposes to enable this group of physicians to receive the full bonus while serving their period of obligation.

RECOMMENDATIONS

- Weinberger - Approve 1, 2, and 3.
- Lynn - Approve 1 and 2  
- Disapprove 3 because it would:
- be contrary to the purposes of Federal support of residency training, i.e., to obtain service commitments in return for salary support;
  - be inequitable to those physicians who freely accepted a Federal appointment in return for a full bonus, without having a prior service commitment. Under the HEW proposal, physicians would receive \$13,500 regardless of whether or not they had prior service commitments;
  - result in the Federal Government paying both a salary and a full bonus for the same commitment period. DOD is not proposing a similar amendment.
- Cannon - Approve 1 and 2  
- Disapprove 3
- Greenspan - Approve 1 and 2  
- Disapprove 3 (additional comments at Tab B)
- Marsh - Approve 1 and 2  
- Disapprove 3

Seidman - Approve 1 and 2  
- Disapprove 3

Friedersdorf - No comment

Buchen - No comment

DECISION

1. Amendment 1 - Bonus Repayments

ME7 Approve \_\_\_\_\_ Disapprove  
(Weinberger, Lynn, Cannon,  
Greenspan, Marsh, Seidman)

2. Amendment 2 - Prohibition of Bonus for Certain Physicians

ME7 Approve \_\_\_\_\_ Disapprove  
(Weinberger, Lynn, Cannon,  
Greenspan, Marsh, Seidman)

3. Amendment 3 - Bonuses for Physicians who received Federal  
Support for Residency Training

\_\_\_\_\_ Approve ME7 Disapprove  
(Weinberger) (Lynn, Cannon, Greenspan,  
Marsh, Seidman)

TAB A



EXECUTIVE OFFICE OF THE PRESIDENT

OFFICE OF MANAGEMENT AND BUDGET

WASHINGTON, D.C. 20503

DECISION

JUL 15 1975

MEMORANDUM FOR THE PRESIDENT

FROM: JAMES T. LYNN

SUBJECT: HEW Amendments to Physician Bonus Regulations

P.L. 93-274 authorized bonus payments of up to \$13,500 annually for military and Public Health Service (PHS) physicians. P.L. 93-274 requires that you approve the implementing regulations. You did so last October, but HEW is proposing three amendments for your approval:

1. Bonus Repayments. Physicians who do not serve a full year are generally required by current regulations to repay the entire bonus. An exception was made for physicians leaving the PHS on June 30, 1975. Since the implementing regulations were not issued until October 1974 and departing PHS physicians normally begin residency programs on July 1, physicians leaving on June 30 were allowed to retain a pro rata amount of the bonus rather than repaying the entire amount. HEW is now proposing to change the June 30, 1975, date to any date from June 20, 1975, to the first anniversary of each physician's bonus contract. This change will provide time for physicians departing for residency training to travel to new locations before June 30. It will also allow those who plan to retire in September to retain a pro rata bonus, rather than repaying the entire amount.

2. Prohibition of Bonuses for Certain Physicians.

Current regulations prohibit bonus payments to certain physicians with service commitments. Generally, these are physicians who received deferments to enable them to complete their residency training.

The proposed HEW regulations would prohibit bonus payments to any of these physicians who resign from the PHS while still under an obligation and then reapply to PHS solely to be eligible for a bonus.

3. Bonuses for Physicians Who Received Federal Support for Residency Training. Current regulations permit the payment of a limited bonus of \$9,000, rather than the full \$13,500, to physicians who received Federal salaries during residency training in return for service commitments. These physicians are normally commissioned in the PHS while in residency training.

HEW proposes to enable this group of physicians to receive the full bonus while serving their period of obligation. HEW believes that these physicians should receive the same bonus as other physicians who have completed residency training.

Recommendation. We recommend that you approve the first two amendments, but disapprove the third. We recommend against the third amendment because it would:

- be contrary to the purposes of Federal support of residency training, i.e., to obtain service commitments in return for salary support.
- be inequitable to those physicians who freely accepted a Federal appointment in return for a full bonus, without having a prior service commitment. Under the HEW proposal, physicians would receive \$13,500 regardless of whether or not they had prior service commitments.
- result in the Federal Government paying both a salary and a full bonus for the same commitment period. DOD is not proposing a similar amendment.

#### Decision

Approve the first two amendments, but disapprove the third amendment (OMB position).

Approve all three amendments (HEW position).

See me.

Attachment





THE SECRETARY OF HEALTH, EDUCATION, AND WELFARE  
WASHINGTON, D. C. 20201

RECEIVED

JUN 10 9 11 AM '75 JUN 6 1975

OFFICE OF  
MANAGEMENT & BUDGET

Honorable James T. Lynn  
Director, Office of Management and  
Budget  
Washington, D. C. 20503

Dear Mr. Lynn:

Reference is made to Public Law 93-274 which authorized the payment of Variable Incentive Pay for medical officers of the Public Health Service.

Since the implementation of the Variable Incentive Pay program in September 1974, some problem areas have been identified which require remedial changes to the Regulations.

Enclosed are three amendments to the Regulations which we propose to issue subject to the approval of the President.

Sincerely,

Secretary

3 Enclosures



THE SECRETARY OF HEALTH, EDUCATION, AND WELFARE  
WASHINGTON, D.C. 20201

JUN 6 1975

Honorable James T. Lynn  
Director, Office of Management and  
Budget  
Washington, D. C. 20503

Dear Mr. Lynn:

Reference is made to Public Law 93-274 which authorized the payment of Variable Incentive Pay for medical officers of the Public Health Service.

Since the implementation of the Variable Incentive Pay program in September 1974, some problem areas have been identified which require remedial changes to the Regulations.

Enclosed are three amendments to the Regulations which we propose to issue subject to the approval of the President.

Sincerely,

/s/ Cap

Secretary

3 Enclosures

A



## ISSUE NO. 1

To authorize cancellation of certain Variable Incentive Pay service agreements after June 20, 1975.

### DISCUSSION

The Regulations governing the payment of Variable Incentive Pay generally provide that if medical officers voluntarily leave the Service before completing one year of active duty under the requisite agreement to remain on active duty for one, two, three, or four years, they must refund the entire amount of the lump-sum payment they had received for that year.

Because of the four-month delay in the initial implementation of the Variable Incentive Pay statute, special one-time provisions were included in the Regulations allowing medical officers to cancel their initial agreement on June 30, 1975, and to repay the unearned portion of the lump-sum payment previously received. This was designed to do two things:

1. For those medical officers who will leave the Service on or about July 1, 1975, it permitted them to receive some Variable Incentive Pay for their last full year of active duty following enactment of the law; and
2. For those medical officers who entered the Service on or about July 1, 1974, it would permit them to receive some Variable Incentive Pay during their first year of service, and to sign a new agreement on July 1 to receive Variable Incentive Pay for each full year of service thereafter.

The General Counsel's office has advised that under the exacting terms of the Regulations, any medical officer who leaves the Service even one day before June 30, 1975, will be liable for repayment of the entire amount of their initial payment of Variable Incentive Pay. Moreover, any medical officer who leaves the Service after June 30, and before completing one full year of active duty under their agreement, they too must cancel their agreement on June 30. Failing to do so will make them liable for repayment of the entire amount of Variable Incentive Pay.

As in the past, there will be a number of medical officers leaving the Service in June to pursue residency training in non-Government hospitals. Since they are normally required to commence such training on July 1, they must commence travel to the training hospital during the last part of June. As a result, many of these officers must request release from

active duty a few days before June 30 and will be ineligible to retain the earned portion of their initial payment of Variable Incentive Pay.

The existing Regulations also adversely affect several career medical officers who may be compelled to retire on September 1, 1975, to avoid a substantial loss of retired pay. The Regulations also require these officers to cancel their active duty service agreement on June 30 in order that they will not forfeit the entire amount of the lump-sum payment previously received. Like those separating from the Service in June, these officers will be only eligible to retain the earned portion of their initial payment through June 30, and they must refund the prorata balance even though they will complete an additional two months of the initial service agreement. As an end result, some of these officers will complete all but about 10-20 days of their one-year service agreement but will be required to refund up to over \$2,100.

RECOMMENDATION

That Section E of the Variable Incentive Pay Regulations be amended to read as follows:

2. As an exception to Section D, 11(a) and 12, a medical officer who enters into a one or two year active duty agreement under these regulations on or before December 31, 1974, may, with the approval of the Assistant Secretary for Health, or his designee, terminate that agreement at any time after June 20, 1975 and before the first anniversary of the agreement. In this situation, officers shall be entitled to be paid only for the proportionate part of the period of active duty that they served under the agreement and shall refund on a prorated basis any amount received in excess of that entitlement. (Revised text Underscored.)

APPROVED \_\_\_\_\_



DISAPPROVED \_\_\_\_\_

DATE \_\_\_\_\_

.11 IN 6 1975

B

## ISSUE NO. 2

To prohibit payment of Variable Incentive Pay to certain medical officers who resigned from the Commissioned Corps prior to the commencement, or completion, of a period of obligatory service, and applied for reentry in the Service at a later date.

### DISCUSSION

The statute prohibits payment of Variable Incentive Pay while medical officers are serving an initial active duty obligation. This restriction is applicable to medical officers who were enrolled in the Commissioned Officer Residency Deferral (CORD) Program and the Senior Commissioned Officer Student Training (COSTEP) (early commissioning) Program to the extent that they are not eligible for Variable Incentive Pay during their first two years of active duty. This restriction also applies to medical officers who incurred a service obligation following their participation in the Public Health-National Health Service Corps Scholarship programs.

Before and after the passage of the Variable Incentive Pay statute, there were several medical officers who refused to honor their agreement to serve on active duty after completion of training under the CORD and Senior COSTEP programs and resigned their appointment. Subsequently, several of these physicians have applied for reappointment and call to active duty in the Commissioned Corps. In at least some instances, this course of action was deliberately taken in an effort to qualify for Variable Incentive Pay immediately after entry on active duty. Informally, the Office of the General Counsel has advised us that when we accepted the resignation and terminated the appointment of CORD and COSTEP officers, it (1) cancelled their obligation to serve on active duty, and (2) may have made them eligible for Variable Incentive Pay, under the present Regulations, if the Service later accepted their application for reappointment and entry on active duty.

While we realize that the statutory provisions in this connection are overly restrictive, particularly for CORD officers who received no Federal support while in residency training, the law should be equitably applied to the extent possible. Failing this, officers who resigned and reentered the Service may be eligible for Variable Incentive Pay during the same time period that this additional compensation is denied to others who are honoring their active duty commitment.

RECOMMENDATION

That Section D 4 of the Variable Incentive Pay Regulations be amended to add the following:

"No medical officer shall receive Variable Incentive Pay earlier than the date they would have become eligible for such pay if they had entered on active duty immediately after an initial active duty obligation was incurred, and they had served on active duty continuously until completion of the obligatory service."

APPROVED \_\_\_\_\_



DISAPPROVED \_\_\_\_\_

DATE \_\_\_\_\_

JUN 6 1975



C



1971

### ISSUE NO. 3

To authorize full payment of Variable Incentive Pay to medical officers who remain on active duty following completion of residency or other training.

#### DISCUSSION

With the present restriction in the law prohibiting payment of Variable Incentive Pay during initial residency training, a medical officer in such training for four years, as an example, may receive up to \$54,000 less in career earnings than a General Medical Officer who has only completed internship training. This disparity exists in spite of the fact that medical residents also render patient care in the training hospital during all or most of the period of their specialty training, and with a progressing level of professional responsibility as the training is completed. In addition to the payment restriction during initial residency training, the Regulations (1) prohibit the payment of Variable Incentive Pay while an officer is in other training outside the Service for more than 100 days, and (2) limit payment of Variable Incentive Pay to \$9,000 per year during a period of obligatory service following training.

The \$9,000 Variable Incentive Pay limitation applies in varying ways, depending upon the kind of training and the manner in which it may be provided by the Service. For example, in some medical specialties, residency training is conducted entirely in a Public Health Service Hospital, in which case residents incur no service obligation and are eligible for full payment of Variable Incentive Pay immediately after training. Whereas, in other specialties, affiliated training programs are involved with part of the training in a Public Health Service Hospital and the remainder on rotation through one or more non-PHS hospitals. In this situation, an officer may incur a service obligation up to two years and is subject to the \$9,000 limitation during that period. This is also true of residencies in which some academic training is a requisite for specialty board eligibility.

Ideally, Variable Incentive Pay should be an inducement to retain medical specialists in the Public Health Service after they have completed residency or other training. Unfortunately, it does not accomplish this purpose when medical officers must incur an additional loss of career earnings while they are serving obligatory service following such training. Since the Public Health Service may not legally enforce any service obligation, the \$9,000 Variable Incentive Pay rate during obligatory service is, in reality, a penalty imposed on those who voluntarily remain in the Service following training. In other words, it is viewed by some medical officers as an inducement to leave the Service to pursue their professional careers in the private sector.

There is an alternative solution of this problem, i.e., to revise the Commissioned Corps Personnel Manual to eliminate the requirement of any obligatory service following medical training. This is not a desirable course of action, however, for two reasons. First, there are some medical officers who remain in the Service following training merely because they consider that they are morally responsible to fulfill their service obligation. Secondly, any commissioned officer who leaves the Service prior to the completion of a training obligation is subject to two sanctions. Normally, they are not authorized travel and transportation benefits to their home and they forfeit their entitlement to payment for accrued annual leave. These benefits would thus be provided to all medical officers leaving the Service immediately after training if no obligatory service is required.

RECOMMENDATION

That the Variable Incentive Pay Regulations be amended to delete the text of Section D 6(a) which presently requires payment of such pay at the \$9,000 rate.

APPROVED \_\_\_\_\_  \_\_\_\_\_ DISAPPROVED \_\_\_\_\_

DATE   JUN 6 1975

TAB B

THE CHAIRMAN OF THE  
COUNCIL OF ECONOMIC ADVISERS  
WASHINGTON

July 21, 1975

MEMORANDUM FOR JIM CANNON

This is in response to your request for my comments and suggestions on the draft decision memo for the President on HEW's proposed amendments to the Physician Bonus Regulations.

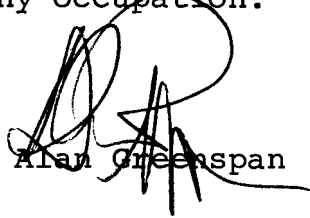
I support the HEW proposal number (1) that a physician leaving the PHS before the end of his contract year be required to return only the pro-rata amount of the bonus, rather than the entire bonus for the year. Rather than focusing exclusively on those leaving the PHS for residency programs or retirement, the discussion of the issue should be broadened. The bonus is a means of paying a higher salary than allowed under the current civilian and military Government pay schedules so that the military and PHS can compete effectively for the services of experienced physicians. The denial of the annual bonus for a person who leaves before the end of his contract year will induce some to leave earlier and will unnecessarily penalize persons who unexpectedly decide to leave the PHS within the year. There appears to be no particular loss to the PHS from those who leave before the expiration of the year.

I also endorse HEW proposal (2) that physicians with service obligations to the PHS and who are therefore not entitled to the bonus, should be denied a bonus if they resign and then reapply. The proposed regulation means that those with a service commitment, presumably because of Government subsidies for their education, receive a lower salary in the PHS until they fulfil this obligation. It should be made clearer for the President, however, under what circumstances a physician with a service obligation is allowed to resign.

Proposal (3) would raise the current limited bonus of \$9,000 to the full bonus of \$13,500 to those who received Federal salaries during their residency training in return for the subsequent service commitment. I share the OMB objection to this proposal. Those who voluntarily receive federally subsidized training should be obligated to compensate the Government in some form, such as through a smaller bonus.



These proposals touch on the relation between the Federal Government and the subsidization of medical education. It is ironic that we provide large subsidies to the training of persons who are very wealthy -- the present value of the future earnings of physicians is very high! Many youths may have difficulty financing their own medical schooling without assistance, but this problem could be solved by cash loans to medical students that they are required to repay in cash. This policy would avoid the gross inequities that now exist and the numerous problems that arise from attempts to require specific performance, in terms of job or location, on the part of physicians, or persons in any occupation.



Alan Greenspan