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Acquisition & Assistance Policy Directive (AAPD)

From the Director, Office of Acquisition & Assistance Issued: October 30, 2006

AAPD 06-10

PSC MEDICAL EXPENSE PAYMENT RESPONSIBILITY

Subject Category: PERSONAL SERVICES CONTRACTS
Type: Policy

AAPDs provide information of significance to all agency personnel and partners involved in the Acquisition and Assistance process. Information includes (but is not limited to): advance notification of changes in acquisition or assistance regulations; reminders; procedures; and general information. Also, AAPDs may be used to implement new requirements on short-notice, pending formal amendment of acquisition or assistance regulations.

AAPDs are EFFECTIVE AS OF THE ISSUED DATE unless otherwise noted in the guidance below; the directives remain in effect until this office issues a notice of cancellation.

This AAPD: Is New Replaces/ Amends

<p>Applicable to:</p> <p><input checked="" type="checkbox"/> Existing awards; <input checked="" type="checkbox"/> Modification required</p> <p><input type="checkbox"/> No later than</p> <p><input checked="" type="checkbox"/> As noted in guidance below</p> <p><input checked="" type="checkbox"/> RFPs/RFAs issued on or after the effective date of this AAPD; FOR US PSCs ONLY</p> <p><input type="checkbox"/> Other or N/A</p>	<p>Precedes change to:</p> <p><input checked="" type="checkbox"/> AIDAR Appendix D</p> <p><input type="checkbox"/> USAID Automated Directives System (ADS) Chapter</p> <p><input type="checkbox"/> Code of Federal Regulations</p> <p><input type="checkbox"/> Other</p> <p><input type="checkbox"/> No change to regulations</p>
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(signed copy on file)
Michael F. Walsh

PURPOSE: The purpose of this AAPD is to implement a provision for accountability for payment of medical expenses into U.S. Personal Services Contracts (USPSCs) awarded under the AIDAR, Appendix D. USAID Contracting Officers (including Executive Officers) must include this provision in all USPSC solicitations and contracts in which the USPSC or his/her authorized dependents may be provided medical services, including hospitalization, on the recommendation of medical personnel of the U.S. Government.

This AAPD does not apply to Resident Hire USPSCs, Third Country National and Cooperating Country National PSCs, or non-personal services contracts with individuals or organizations.

ACTION REQUIRED: All Contracting Officers (COs) must include the provision in Attachment 1 in USPSCs, as directed in the **GUIDANCE** section below.

BACKGROUND: See Attachment 2.

GUIDANCE:

1. Effective immediately, COs must ensure that USPSCs, except as noted above, contain a provision that authorizes USAID to recover costs paid (consistent with the provisions of 16 FAM 520) on behalf of these contractors and their authorized dependents to medical providers overseas. To this end, Contracting Officers (COs) must

a. Include the provision in Attachment 1 in all USPSC solicitations and resulting contracts, regardless of the stage of the procurement; and

b. For existing USPSCs, modify the contract to include the attached provision at the earliest opportunity through a bilateral modification to the contract. USAID's agreement to be direct-charged is a condition to the Department of State's Office of Medical Services' continuing to allow access to USAID USPSCs (see Attachment 2 Background). Should a USPSC refuse to accept a contract modification to include this provision, the USPSC and authorized dependents will be denied access to the U.S. Embassy Health Unit. Further, USAID may determine, depending on the specific circumstances at post, that terminating the contract for convenience is in the Agency's best interests.

2. A medical emergency involving a USPSC may trigger financial responsibility on the part of USAID, consistent with the provisions of 16 FAM 520, the policies and procedures of which are incorporated into the contract through this provision. When such an emergency occurs, the CO must ensure that sufficient funds are obligated in the relevant Travel Authorization permitting medical travel to be undertaken or the Department of State Standard Medical Services Authorization Form allowing medical costs to be incurred to cover those potential financial responsibilities. If the USPSC or authorizes dependent must travel in order to obtain medical care and the Mission must authorize emergency travel, the authorization must comply with General Provision 10, "Emergency and Irregular Travel and Transportation," section (i)(1)(i). Costs related to emergency medical travel may be allowable under this provision, but see 3.c below regarding medical evacuation (medevac) insurance.

3. COs must ensure that USPSCs are informed of and understand their repayment responsibility under this provision. The provision applies the

policies and procedures that pertain to U.S. direct hire employees in 16 FAM 520, as amended from time to time, to USPSCs. COs should provide the PSC with either a copy of 16 FAM 520 (Attachment 3 is the version of the FAM as of the date of this AAPD) or clear instructions for accessing the FAM on the Department of State's website, at <http://www.foia.state.gov/masterdocs/16FAM/16M0520.PDF>. The CO and USPSC are responsible for monitoring revisions to the FAM.

The FAM addresses the two possible situations that may apply: the individual either has health insurance or does not. In the following guidance, "individual" is the USPSC or authorized dependent.

a. If the individual does not have health insurance: If the individual does not have health insurance, then the USPSC must repay the U.S. Government in full any payments the Mission makes on behalf of the individual, under the terms of the USAID-DOS agreement ("the Agreement" discussed in Attachment 2). The USPSC is the primary payer for such amounts, and full repayment is due to USAID, in accordance with 16 FAM 521e.

b. If the individual has health insurance: If the individual has health insurance, then insurance is the primary payer. For purposes of this provision, "insurance" includes both health insurance and medical evacuation coverage. The USG becomes the secondary payer where certain conditions are met, as stated in paragraph (d) of the provision (consistent with 16 FAM 521c). Further, USAID may be authorized to pay insurance co-pays over \$500 if the conditions described in 16 FAM 521f apply.

c. Medical evacuation (medevac) insurance: Medevac insurance is separate from health insurance, but must still be considered when determining how much a USPSC must repay to USAID. Acquisition and Assistance Policy Directive (AAPD) 06-01, "Medical Evacuation Insurance" requires USPSCs to obtain medevac insurance for him/herself and any authorized dependents at post. The cost of medevac insurance is a reimbursable expense for USPSCs, so any payments the USPSC receives from his/her medevac insurance provider must be repaid to USAID, up to the maximum amount that USAID paid on the behalf of the USPSC or authorized dependent. For medevac payments covering medical costs, see a. and b. above.

However, regardless of whether the USPSC has health insurance, if medevac insurance covers any part of the travel costs related to medical care covered in this AAPD, then the USPSC must repay this amount to USAID, up to the maximum amount that USAID paid for medical travel. This repayment is in addition to any medical costs the USPSC must reimburse to USAID in accordance with a. or b. above. In order for USAID to cover these costs under General Provision 10 (see paragraph 2 above), the USPSC must provide USAID written evidence that the medevac insurance does not cover these medical travel costs.

d. Accountability for repayment. 16 FAM 523a-b requires the individual to promptly claim his or her benefits under the insurance policy (the attached provision applies the same requirement to medevac insurance). If the individual "fails to recover insurance payments or transfer the amount of such payments to [USAID] within 90 days, the U.S. Government may take appropriate action to collect the payments due, unless

such failure is for reasons beyond the control of the [individual]" (16 FAM 523(b)).

The USPSC must make all claims as soon as possible, diligently pursue payment from the insurance providers, and forward such payments from the insurance company(ies) to the Mission in the timeliest manner possible. The CO, in coordination with other involved Mission staff (e.g., the Controller, paying officer, Executive Officer, and Regional Legal Officer, and any others as applicable) must verify that the USPSC/dependent has complied with these responsibilities. If, after 90 days, the CO concludes that the USPSC has not complied, then he/she will initiate appropriate action to determine and collect the debt, in accordance with the ADS 625, "Administrative Accounts Receivable" and AAPD 03-07, "Instructions to Contracting/Agreement Officers on their Role in the Debt Collection Process."

The CO must ensure that the USPSC has complied with the terms of the provision before closing out the contract. If the USPSC does not return to post for whatever reason, the CO must take the appropriate steps, pursuant to ADS 625, to collect the debt owed to the U.S. Government.

Point of Contact: USAID Contracting Officers may direct their questions about this AAPD to Tom M. Henson, M/OAA/P, phone, 202-712-5448.

Contractors and prospective contractors must direct their questions to the cognizant contracting officer for the solicitation or award.

Attachments:

1. USPSC Contract Provision "Medical Expense Payment Responsibility"
2. Background
3. 16 FAM 520

**ATTACHMENT 1 - USPSC PROVISION "MEDICAL EXPENSE PAYMENT RESPONSIBILITY
(OCTOBER 2006)"**

Include the following provision in all USPSCs (excluding resident hire USPSCs):

MEDICAL EXPENSE PAYMENT RESPONSIBILITY (OCTOBER 2006)

(a) Definitions. Terms used in this General Provision are defined in 16 FAM 116 (available at <http://www.foia.state.gov/REGS/fams.asp?level=2&id=59&fam=0>). Note: personal services contractors are not eligible to participate in the Federal Employees Health Programs.

(b) The regulations in the Foreign Affairs Manual, Volume 16, Chapter 520 (16 FAM 520), Responsibility for Payment of Medical Expenses, apply to this contract, except as stated below. The contractor and each eligible family member are strongly encouraged to obtain health insurance that covers this assignment. Nothing in this provision supersedes or contradicts any other term or provision in this contract that pertains to insurance or medical costs, except that section (e) supplements General Provision 25. "MEDICAL EVACUATION (MEDEVAC) SERVICES."

(c) When the contractor or eligible family member is covered by health insurance, that insurance is the primary payer for medical services provided to that contractor or eligible family member(s) both in the United States and abroad. The primary insurer's liability is determined by the terms, conditions, limitations, and exclusions of the insurance policy.

When the contractor or eligible family member is not covered by health insurance, the contractor is the primary payer for the total amount of medical costs incurred and the U.S. Government has no payment obligation (see paragraph (f) of this provision).

(d) USAID serves as a secondary payer for medical expenses of the contractor and eligible family members who are covered by health insurance, where the following conditions are met:

- (1) The illness, injury, or medical condition giving rise to the expense is incurred, caused, or materially aggravated while the eligible individual is stationed or assigned abroad;
- (2) The illness, injury, or medical condition giving rise to the expense required or requires hospitalization and the expense is directly related to the treatment of such illness, injury, or medical condition, including obstetrical care; and
- (3) The Office of Medical Services (M/MED) or a Foreign Service medical provider (FSMP) determines that the treatment is appropriate for, and directly related to, the illness, injury, or medical condition.

(e) The Mission Director may, on the advice of M/MED or an FSMP at post, authorize medical travel for the contractor or an eligible family member in accordance with the General Provision 10, Travel and Transportation

Expenses (July 1993), section (i) entitled "Emergency and Irregular Travel and Transportation." In the event of a medical emergency, when time does not permit consultation, the Mission Director may issue a Travel Authorization Form or Medical Services Authorization Form DS-3067, provided that the FSMP or Post Medical Advisor (PMA) is notified as soon as possible following such an issuance. The contractor must promptly file a claim with his or her medevac insurance provider and repay to USAID any amount the medevac insurer pays for medical travel, up to the amount USAID paid under this section. The contractor must repay USAID for medical costs paid by the medevac insurer in accordance with sections (f) and (g) below. In order for medical travel to be an allowable cost under General Provision 10, the contractor must provide USAID written evidence that medevac insurance does not cover these medical travel costs.

(f) If the contractor or eligible family member is not covered by primary health insurance, the contractor is the primary payer for the total amount of medical costs incurred. In the event of a medical emergency, the Medical and Health Program may authorize issuance of Form DS-3067, Authorization for Medical Services for Employees and/or Dependents, to secure admission to a hospital located abroad for the uninsured contractor or eligible family member.

In that case, the contractor will be required to reimburse USAID in full for funds advanced by USAID pursuant to the issuance of the authorization. The contractor may reimburse USAID directly or USAID may offset the cost from the contractor's invoice payments under this contract, any other contract the individual has with the U.S. Government, or through any other available debt collection mechanism.

(g) When USAID pays medical expenses (e.g., pursuant to Form DS-3067, Authorization for Medical Services for Employees and/or Dependents), repayment must be made to USAID either by insurance payment or directly by the contractor, except for the amount of such expenses USAID is obligated to pay under this provision. The Contracting Officer will determine the repayment amount in accordance with the terms of this provision and the policies and procedures for employees contained in 16 FAM 521. When USAID pays the medical expenses, including medical travel costs (see section (e) above), of an individual (either the contractor or an eligible family member) who is covered by insurance, that individual promptly must claim his or her benefits under any applicable insurance policy or policies. As soon as the individual receives the insurance payment, the contractor must reimburse USAID for the full amount that USAID paid on the individual's behalf or the repayment amount determined by the Contracting Officer in accordance with this paragraph, whichever is less. If an individual is not covered by insurance, the contractor must reimburse USAID for the entire amount of all medical expenses and any travel costs the contractor receives from his/her medevac provider.

(h) In the event that the contractor or eligible family member fails to recover insurance payments or transfer the amount of such payments to USAID within 90 days, USAID will take appropriate action to collect the payments due, unless such failure is for reasons beyond the control of the USPSC/dependent.

(i) Before departing post or terminating the contract, the contractor must settle all medical expense and medical travel costs. If the contractor is insured, he or she must provide proof to the Contracting

Officer that those insurance claims have been submitted to the insurance carrier(s) and sign a repayment agreement to repay to USAID any amounts paid by the insurance carrier(s).

End of Provision

ATTACHMENT 2 - BACKGROUND

On March 11, 2005, the Acting Assistant Administrator for Management sent worldwide cable 05 State 044005 to inform USAID posts that the Agency has agreed to certain conditions that will allow USPSCs to continue to have Health Unit access at U.S. Embassies overseas. As stated in the cable, the conditions are:

"1) Appropriate Physical Examinations for Personal Service Contractors (and immediate family members if the contractor is being assigned overseas) are submitted to the Medical Clearance Division for a Determination of Medical Fitness for Overseas Location. Medical Clearance Determinations must be made prior to proceeding to post. Individuals not medically cleared cannot be eligible for the Medical Program.

(2) The contracting (USG) agency is responsible for notifying ICASS officials to capture workload for full ICASS cost distribution.

(3) Costs of individual medical expenses (overseas hospitalization and/or medical evacuation as recommended by Regional Medical personnel) will be direct-charged to the contracting agency (USG) for immediate payment. The contracting agency is responsible for recovering offsetting health insurance payments from their Personnel (sic) Services Contractors, as applicable."

The cable goes on to say that USAID has already met the first two conditions, and the cable initiated compliance with the third. Ensuring that USAID's USPSCs continue to have access to U.S. Embassy Health Units where they have had access in the past is vitally important to our development mission. Further, these are the same basic conditions that apply for USAID's direct-hire Foreign Service Officers to have access to U.S. Embassy Health Units (see 16 FAM 520, Medical Expense Payment Responsibility, and 16 FAM 460, Medical Emergency Assistance (see 16 FAM, Medical and Health Program, at <http://www.foia.state.gov/REGS/fams.asp?level=2&id=59&fam=0>).

However, the AIDAR, Appendix D provisions for USPSCs do not address recovery of the costs for these payments. Although USAID has agreed to be direct-charged for these costs for its PSCs for the reason stated above, this agreement does not mean that USAID has agreed to be responsible for these costs any more than it agrees to cover these costs for its direct-hire employees. PSCs are responsible for either having adequate health insurance coverage for themselves and their authorized dependents or acknowledging that such expenses are their responsibility if they do not have medical insurance. Nothing in the above-referenced cable is intended to transfer the PSC's financial responsibility to USAID.

REMINDER: Separate from health insurance is the requirement for PSCs to purchase medical evacuation insurance (see AAPD 06-01, Medical Evacuation Insurance), although some health insurance policies may include emergency evacuation coverage. The provision in this AAPD applies to any situation in which a PSC or authorized dependent requires medical care, including emergency evacuation, and USAID is directly charged and pays for the cost.

U.S. Department of State Foreign Affairs Manual Volume 16—Medical Program

16 FAM 520
RESPONSIBILITY FOR PAYMENT OF
MEDICAL EXPENSES

(CT:MED-3; 06-30-2005) (Office of Origin: M/MED)

16 FAM 521 RESPONSIBILITY

(CT:MED-3; 06-30-2005) (Uniform/State/USAID/BBG/Commerce/Foreign Service Corps–USDA) (Applies to Civil Service and Foreign Service Employees)

- a. Each employee and eligible family member participating in the Medical and Health Program is strongly encouraged to obtain health insurance coverage (see 16 FAM 116), whether under the Federal Employees Health Benefits Program (FEHBP) or by contract with a private insurer.
- b. When an employee or eligible family member is covered by insurance, that insurance is the primary payer for medical services provided to that employee or eligible family member(s) both in the United States and abroad. The primary insurer's liability is determined by the terms, conditions, limitations, and exclusions of the insurance policy. When an employee or eligible family member is not covered by insurance, the employee becomes the primary payer for the total amount of medical costs incurred and the U.S. Government has no payment obligation (see paragraph e of this section).
- c. U.S. Government agencies that participate in the Department of State Medical and Health Program serve as secondary payers for medical expenses of employees and eligible family members who are covered by insurance, up to the allowable charges and within the scope of privacy policy, where the following conditions are met:
 - (1) The illness, injury, or medical condition giving rise to the expense is incurred, caused, or materially aggravated while the eligible individual is stationed or assigned abroad (see 16 FAM 116);
 - (2) The illness, injury, or medical condition giving rise to the expense required or requires hospitalization and the expense is directly related to the treatment of such illness, injury, or medical condition, including obstetrical care; and

- (3) The Office of Medical Services (M/MED) or a Foreign Service medical provider (FSMP) determines that the treatment is appropriate for, and directly related to, the illness, injury, or medical condition.
- d. M/MED or an FSMP at post may authorize medical travel for an eligible medical program participant in accordance with the medical travel regulations (see 3 FAM 3710 et seq.).
- e. When an employee or eligible family member is not covered by primary health insurance, the employee becomes the primary payer for the total amount of medical costs incurred. In the event of a medical emergency, the Medical and Health Program may authorize issuance of Form DS-3067, *Authorization for Medical Services for Employees and/or Dependents*, to secure admission to a hospital located abroad for an uninsured employee or eligible family member. In that case, the employee will be required to reimburse the U.S. Government in full for funds advanced by the U.S. Government pursuant to the issuance of the authorization. Reimbursement may be made directly or through payroll deductions from the employee's salary.
- f. Notwithstanding other limitations on outpatient expenses (see 16 FAM 531), M/MED may also authorize payment for the total co-payment amount of outpatient evaluation and treatment whenever the evaluation and treatment is covered by insurance and the co-payment exceeds \$500 for a given illness, injury, or medical condition that was caused or materially aggravated by, or directly related to, duty or assignment abroad:
 - (1) In order to request payment, the employee must file a petition for coverage with the health unit or regional medical officer (RMO). The petition must include documentation from the local provider substantiating the costs and indicating that the treatment and evaluation are directly related to the same illness, injury, or medical condition;
 - (2) No payment will be made under this paragraph unless the Medical Director, Office of Medical Services, or designee has determined that there is a direct relationship between the illness, injury, medical condition, and service or assignment abroad. Accordingly, payment will not be authorized absent approval from the Medical Director or designee; and

- (3) In the event an employee is denied payment under this section, he or she may request an administrative review. Once the request is made, the Medical Director shall convene a review panel comprised of three physicians whose decision will be final with no further appeals. Authorization for payment under this section is limited to the allowable charges and scope of the underlying insurance policy. Payments under this section will not be authorized for uninsured individuals.

16 FAM 522 AUTHORIZATION FOR MEDICAL SERVICES FOR EMPLOYEES AND ELIGIBLE FAMILY MEMBERS

(CT:MED-3; 06-30-2005) (Uniform/State/USAID/BBG/Commerce/Foreign Service Corps–USDA) (Applies to Civil Service and Foreign Service Employees)

- a. The Office of Medical Services (M/MED), principal officer, management officer at post, or designee each has the authority to issue Form DS-3067, Authorization for Medical Services for Employees and/or Dependents, for U.S. Government payment of medical expenses in accordance with these regulations.
- b. The principal officer or management officer at post will consult with the Foreign Service medical provider (FSMP) or post medical advisor (PMA) before issuing a Form DS-3067. In an emergency, when time does not permit consultation, the authorizing officer may issue a Form DS-3067, providing the principal or management officer at post notifies the FSMP or PMA as soon as possible following such an issuance.

16 FAM 523 ACCOUNTABILITY FOR PAYMENT OF MEDICAL EXPENSES

(CT:MED-3; 06-30-2005) (Uniform/State/USAID/BBG/Commerce/Foreign Service Corps–USDA) (Applies to Civil Service and Foreign Service Employees)

- a. When the U.S. Government pays medical expenses (e.g., pursuant to Form DS-3067, Authorization for Medical Services for Employees and/or Dependents), repayment must be made to the U.S. Government either by insurance payment or directly by the employee, except for the amount of such expenses the U.S. Government is obligated to pay under these regulations. When the U.S. Government pays the medical expenses, including medical travel costs, of an individual who is covered by

insurance, that individual promptly must claim his or her benefits under the insurance policy. As soon as the individual receives the insurance payment, the individual must reimburse the U.S. Government for the full amount of the insurance due under his or her policy. If an individual is not covered by insurance, he or she must reimburse the U.S. Government for the entire amount of all medical expenses.

- b. In the event an employee or eligible family member fails to recover insurance payments or transfer the amount of such payments to the appropriate U.S. Government agency within 90 days, the U.S. Government may take appropriate action to collect the payments due, unless such failure is for reasons beyond the control of the employee or the eligible family member (see also 4 FAM 445).
- c. The management officer at post is responsible for submitting the following documents to the Office of Medical Services (M/MED) within 60 days from the time of the patient's discharge from the treating facility:
 - (1) A final accounting of medical expenses paid;
 - (2) A copy of Form DS-996, Medical Care at Government Expense, signed by the patient and the insured;
 - (3) A copy of the insurance claim form; and
 - (4) A copy of Form DS-3067, Authorization for Medical Services for Employees and/or Dependents, with a signed release authorizing M/MED to review the status of claim payments and release necessary information related to the claim.
- d. Employees departing post are required to settle all hospitalization and/or medical accounts prior to departure. An employee who is insured must provide proof to post administration that those insurance claims have been submitted to the insurance carrier and that a signed repayment agreement is on record.

16 FAM 524 THROUGH 529 UNASSIGNED