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# United States Senate

COMMITTEE ON HEALTH, EDUCATION,  
LABOR, AND PENSIONS

WASHINGTON, DC 20510-6300

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<http://help.senate.gov>

April 26, 2018

The Honorable Alex M. Azar II  
Secretary  
Department of Health and Human Services  
200 Independence Avenue SW  
Washington, DC 20201

Dear Secretary Azar:

News reports earlier this week revealed Dr. Robert Redfield, the newly appointed Director of the Centers for Disease Control and Prevention (CDC), is being paid under Title 42 of the U.S. Code and receiving a significantly larger salary than his predecessors, other public health officials, or even many cabinet secretaries, including his boss. It is difficult to understand why someone with limited public health experience, particularly in a leadership role, is being disproportionately compensated for his work as compared to other accomplished scientists and public health leaders in comparable roles within the federal government. I therefore request information on and documentation of the Department of Health and Human Services' (HHS) decision to use special hiring authorities for Dr. Redfield.

At \$375,000, Dr. Redfield's salary is significantly larger than that of his CDC Director predecessors, Dr. Brenda Fitzgerald and Dr. Tom Frieden.<sup>1</sup> It is also significantly larger than the salaries of other agency leaders within the Department, including the HHS Secretary, National Institutes of Health (NIH) Director Dr. Francis Collins, and Food and Drug Administration (FDA) Commissioner Dr. Scott Gottlieb.

Dr. Redfield is reportedly being paid under Title 42's special hiring authorities, which are designed for certain government agencies to attract staff with particular scientific, technical, or clinical skills.<sup>2</sup> According to HHS human resources documents, Title 42 may only be used after attempts to use non-Title 42 authorities have been exhausted:

Appointments under 42 U.S.C. § 209(f) may only be used to fill scientific positions when recruitment or retention efforts under other available personnel systems, including Title 5 of the U.S. Code, the [Senior Biomedical Research Service], and [Public Health Service] Commissioned Corps, have failed to yield candidates that possess critical scientific expertise. The recruitment efforts used under other available personnel systems (i.e., Title 5) must be as extensive and exhaustive as those used to recruit under Title 42. These efforts, as well as the scientific credentials of the potential appointee, must be fully documented.<sup>3</sup>

<sup>1</sup> [https://www.apnews.com/4ea52b1ff1b24142ac7d91541c3abc65/CDC-chief-makes-\\$375K,-far-exceeding-his-predecessors-pay](https://www.apnews.com/4ea52b1ff1b24142ac7d91541c3abc65/CDC-chief-makes-$375K,-far-exceeding-his-predecessors-pay)

<sup>2</sup> [https://www.apnews.com/4ea52b1ff1b24142ac7d91541c3abc65/CDC-chief-makes-\\$375K,-far-exceeding-his-predecessors-pay](https://www.apnews.com/4ea52b1ff1b24142ac7d91541c3abc65/CDC-chief-makes-$375K,-far-exceeding-his-predecessors-pay); <https://hr.nih.gov/benefits/pay/title-42-pay>

<sup>3</sup> <https://www.hhs.gov/sites/default/files/hr-resource-library-42-1.pdf>

HHS has previously faced criticism for its failure to oversee and sufficiently document the use of Title 42 hiring authorities. A 2012 Government Accountability Office (GAO) report found that HHS “does not have reliable data to manage and provide oversight of its use of Title 42.”<sup>4</sup> In over 80 percent of the cases examined, GAO found that HHS had failed to document non-Title 42 recruitment efforts before employing Title 42 hiring authorities. In over 15 percent of the cases examined, GAO determined it was unclear or questionable whether individuals hired under Title 42 to fill scientific positions were actually performing scientific duties.

I am concerned about whether HHS appropriately applied Title 42 special hiring authorities for Dr. Redfield. I therefore request a staff briefing on the practices and procedures used within HHS and across all agencies that employ Title 42 hiring authorities, including CDC, NIH, and FDA, to ensure appropriate use of these hiring authorities. Additionally, please provide the following documents and information by no later than May 10, 2018:

1. Why did the Department elect to use Title 42 to hire Dr. Redfield?
  - a. Did the Department employ “extensive and exhaustive” efforts to hire a CDC Director under non-Title 42 authorities?
  - b. Did the Department employ “extensive and exhaustive” efforts to hire Dr. Redfield under non-Title 42 authorities?
  - c. How did HHS determine that the role of CDC Director is a “scientific position,” as defined by HHS human resources documents?
  - d. Does Dr. Redfield’s position in any way vary from that of previous CDC Directors not hired under Title 42?
2. How did the Department determine Dr. Redfield’s salary?
3. Please provide any and all documentation of efforts to employ non-Title 42 authorities, including Title 5 of the U.S. Code, the Senior Biomedical Research Service, and Public Health Service Commissioned Corps, in the hiring of the CDC Director and specifically in the hiring of Dr. Redfield.
4. Please provide any and all documentation of the determination that Dr. Redfield’s role, and more broadly the role of CDC Director, is a “scientific position,” as defined by HHS human resources documents.

Thank you in advance for your attention to this matter. If you have any questions, or would like to further discuss compliance with this request, please contact Elizabeth Letter or Andi Fristedt with my HELP Committee Staff at 202-224-0767.

Sincerely,



Patty Murray  
United States Senator  
Ranking Member, Senate Committee on Health,  
Education, Labor, and Pensions

cc: The Honorable Lamar Alexander, United States Senator,  
Chairman, Senate Committee on Health, Education, Labor, and Pensions

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<sup>4</sup> <https://www.gao.gov/assets/600/592201.pdf>