

11.4 Payback Requirements

APPENDIX G

11.4.1 General

The Kirschstein-NRSA legislation requires some recipients of support (fellows or trainees) to pay back the Federal government by engaging in health-related biomedical or behavioral research, including the direct administration or review of health-related research, health-related teaching, or any combination of these activities. See [Payback—Service Payback—Definitions](#) in this subsection for complete coverage of requirements.

11.4.2 Implementation

The incurrence of a payback obligation for an NRSA recipient is solely dependent upon when NRSA support was received. This section reflects current Payback requirements for individuals supported on/after June 10, 1993. [Payback requirements](#) for individuals supported before June 10, 1993 are found on the Payback Service Center Home Page.

Predoctoral Recipients. For predoctoral trainees no payback obligation is incurred. Thus a Payback Agreement Form (PHS 6031) is not required.

Postdoctoral Recipients. For individuals receiving postdoctoral support under individual fellowships or institutional research training grants, a payback obligation is incurred for the first 12 months of Kirschstein-NRSA support. However, the 13th and subsequent months of postdoctoral NRSA supported research training serves to pay back this obligation month by month. A Payback Agreement (PHS 6031) is required but only for the initial 12-month postdoctoral support period.

Short-Term Training. Any individual receiving support for predoctoral short-term training does not incur a payback obligation; however, postdoctoral short-term training does incur a payback obligation. Support for short-term training accrues, along with any subsequent NRSA postdoctoral support, until the first 12 months is established. At that point, the 13th and subsequent months of support serve to offset the obligation month by month. If subsequent postdoctoral support is not received, the individual has an obligation to pay back in the traditional manner.

11.4.3 Payback

Once a Termination Notice has been submitted and accepted, the NIH awarding IC determines if a payback obligation exists. When a trainee or fellow must pay back, the Termination Notice and related documents are forwarded to the NIH Kirschstein-NRSA Payback Service Center (PSC). PSC personnel are NIH's experts in Kirschstein-NRSA payback requirements. The PSC administers the payback activities of all of the NIH ICs. The authorities

related to payback normally delegated to the IC are delegated to the Chief, Kirschstein-NRSA PSC. The PSC retains all records until an obligation is satisfied, and then transfers closed records to the Federal Records Center.

Most Kirschstein-NRSA recipients eventually fulfill their payback obligation by engaging in activities that are determined to be acceptable service. Some recipients fulfill their obligation via financial payback. On rare occasions, the payback obligation is waived.

As indicated in [Payback Reporting Requirements—Implementation](#) in this subsection, the amount of a payback obligation incurred is solely dependent on the total period of support and the laws in effect when the Kirschstein-NRSA support was received.

11.4.3.1 Service Payback

11.4.3.1.1 Definitions

For fulfilling the Kirschstein-NRSA service payback obligation, the following definitions apply:

- **Research.** Research is defined as an activity that involves designing experiments, developing protocols, and collecting and interpreting data. In addition, review of original research or administration of original research that includes providing scientific direction and guidance to research may be acceptable if a doctoral degree and relevant research experience is required for individuals filling such positions. Such research can be conducted in an academic, government, commercial, or other environment in either a foreign or domestic setting. In addition, when consistent with the cumulative amount, type, and frequency of research or research training experiences, functions that involve analytic or other technical activities conducted in direct support of research, as defined above, will also satisfy the service payback obligation.
- **Teaching.** Teaching is an instructional activity that takes place in an organized educational or other instructional environment. Activities classified as teaching are generally carried out in a formal didactic setting, but other activities will be considered if they are consistent with the certifying institution's policy on the definition of teaching responsibilities. Such teaching can be conducted at universities, professional schools, research institutes, teaching hospitals, primary schools, secondary schools, or colleges. When calculating hours of teaching per week, it is permissible to include 3 hours of preparation time for each hour of direct instruction. Acceptable teaching activities must have a biomedical or health-related relevance.

- **Health-Related Activities.** This incorporates a broad range of activities related to the description, diagnosis, prevention, or treatment of disease from the most basic biomedical or behavioral research to the most applied or clinical research. Activities in fields other than those usually considered to be directly related to human disease, such as agriculture, environmental sciences, biotechnology, and bioengineering, also will be considered health-related.

11.4.3.1.2 Time Commitment

All acceptable activities must be undertaken for periods that average at least 20 hours per week. Total employment in such activities averaging less than 20 hours per week cannot be counted toward fulfilling the obligation except in cases of disability or other pressing personal or family circumstances, such as child care or elder care responsibilities. It is not permissible for individuals otherwise engaged in full-time employment to engage in service payback activities at effort levels below 20 hours per week.

If less than 20 hours commitment per week is permitted, the total period of service obligation will be prorated. For example, an individual who owes 12 months of service and can devote only 10 hours per week to service payback activities due to a disability will be required to engage in such service for 24 months. These exceptions are rare and must receive prior approval from the PSC.

11.4.3.1.3 Initiation of Payback Service

Service payback obligations for postdoctoral recipients may be discharged by

- receiving an equal number of months of postdoctoral Kirschstein-NRSA support beginning in the 13th month of such postdoctoral Kirschstein-NRSA support, or
- engaging in an equal number of months of health-related research, training, or teaching averaging more than 20 hours per week.

11.4.3.1.4 Source of Funding

There is no restriction on the source of funds supporting an individual's service payback activity. An individual could be supported by a PHS grant or any non-Kirschstein-NRSA Federal or non-Federal source. Unpaid service also is permitted.

11.4.3.1.5 Timing of Service Obligation

An individual must begin to undertake the payback service requirement within 2 years after the termination date of the individual's Kirschstein-NRSA support unless an extension of time to begin payback has been approved by the PSC (see [Payback—Extensions of Payback—Extensions of the 2-Year Period to Initiate Payback](#) below).

11.4.3.2 Financial Payback

11.4.3.2.1 Policy and Principal Calculation

If an individual does not perform payback service, the Federal government shall be entitled to recover certain costs. The amount the United States is entitled to recover depends on when support was received. Calculation formulas take into account the total amount paid the individual (see [Interest and Interest Rate Calculation](#) below), less any obligation already fulfilled through service or legislative allowance when applicable. The total paid an individual under an institutional research training grant or individual fellowship award at a domestic, non-Federal sponsoring institution is considered to be the stipend only. The total paid an individual under a fellowship award at a foreign sponsoring institution includes the payment for the round-trip travel costs. The total paid an individual under a fellowship award at a Federal sponsoring institution includes any money expended from the institutional allowance provided for such purposes as health insurance, travel, tuition, and fees.

11.4.3.2.2 Interest and Interest Rate Calculation

NIH computes interest on the principal amount beginning on the date the United States became entitled to recover stipends. The interest rate is the rate fixed by the Secretary of the Treasury after considering prevailing consumer rates of interest. Accordingly, interest may accrue on any Kirschstein-NRSA obligation if the 2-year grace period has passed, if deferment has expired, or if service has terminated before completion of the payback obligation. The Department of the Treasury certifies Kirschstein-NRSA interest rates quarterly. Interest is computed on a 360 day-a-year basis and is applied through the date of receipt. Any outstanding amount will continue to bear interest at the initial rate set by the Secretary of the Treasury until financial payback is complete.

The date that sets the applicable rate of interest depends on the type of Kirschstein-NRSA account received for collection. If financial payback is voluntary, the signature date of the notification of voluntary payback is the date that determines the interest rate as well as the initiation of the 3-year repayment period. If financial payback is involuntary, the date that sets the interest rate and the 3-year repayment period is the date of expiration of

the 2-year period following the termination of Kirschstein-NRSA support. For example, if during June 2007, OFM received an account reflecting January 31, 2005, as the termination date of NRSA support, the Federal government, lacking any documentation to the contrary, becomes entitled to financial payback effective February 1, 2005. The rate of interest applicable is determined based on the February 1, 2005, date, and the total NRSA obligation is required to be fulfilled by January 31, 2008.

The amount to be recovered financially, as determined from the Termination Notice plus applicable interest, shall be paid to the United States within the 3-year period following such date.

11.4.3.3 Extensions of Payback

The authorizing legislation and the implementing regulations (42 CFR 66) permit exceptions to certain requirements under the Act.

11.4.3.3.1 Extensions of the 2-Year Period to Initiate Payback

An extension of the 2-year period to initiate payback may be requested in the Annual Payback Activities Certification form. Indication of valid plans to initiate payback soon after the 2-year grace period may be good reason to grant an extension.

11.4.3.3.2 Basis for Extensions or Break in Service

The PSC may extend the period for undertaking payback service or permit breaks in continuous service. These determinations are based on the following criteria:

- An extension or break in service is necessary so the individual may complete his or her research or clinical training.
- An extension or break in service is necessary so the individual may participate in the NIH Loan Repayment Program.
- The individual is unable to complete the requirements within the specified period because of a temporary disability.
- Completion by the individual of the requirement within the specified period would involve substantial hardship to the individual, and failure to extend the period would be against equity and good conscience.

Reasons for an extension or break in service include, for example, completing residency training where clinical teaching or research are not an integral part of the training, or seeking employment that would fulfill the payback requirements.

Requests must be made in writing (separate letter or APAC) to the PSC, specifying the need for additional time and the length of the requested extension.

11.4.3.4 Waiver

11.4.3.4.1 Policy

The authorizing legislation and the implementing regulation (42 CFR 66) permit exceptions to certain requirements under the Act. NIH may waive, in whole or in part, the payback obligation, upon determination that compliance by the individual is impossible or would involve substantial hardship, and enforcement of the individual's obligation would be against equity and good conscience.

11.4.3.4.2 Waiver Criteria

Requests for waivers should be made in writing to the PSC and should include an explanation of the need for the waiver according to the following criteria:

- Compliance by an individual will be deemed impossible if the individual is permanently, and totally disabled.
- In determining whether compliance would involve substantial hardship to the individual and would be inequitable, the PSC will consider the individual's
 - financial resources and obligations at the time of request for a waiver and
 - estimated future financial resources and obligations.
- In rare cases, the following also may be considered:
 - Reasons for the individual's failure to complete the requirements within the prescribed period, such as personal problems;
 - Extent to which the individual has engaged in payback activities;
 - Sufficiency of training to qualify the individual to perform such activities;
 - Lack of employment opportunities appropriate to the individual's education and training;
 - Any other extenuating circumstances.

Any obligation of any individual toward payback will be canceled upon death of the individual.

11.4.4 Certification of Payback Activities

11.4.4.1 Annual Payback Activities Certification (Form PHS 6031-1)

11.4.4.2 Annual Certification

Payback service is certified through the use of the Kirschstein-NRSA APAC (PHS 6031-1). Individuals with an outstanding payback obligation must complete an APAC annually until their payback obligation is fulfilled.

If an individual has a payback obligation, an APAC is sent by the PSC approximately one year after the completion of Kirschstein-NRSA support. Payback service may be initiated within the first 12 months of termination even though trainees and fellows have up to 24 months to initiate payback. There is no penalty to those individuals who do not initiate payback within the first 12 months; however, it is critical that they complete an APAC form to ensure contact is maintained and addresses are current.

The individual will report on the APAC the activity in which he or she was engaged for the preceding 12 months, within the specified reporting period. These forms are to be returned within 30 days of the reporting period end date to the address specified on the mailing label included with the form.

The PSC reviews the forms, determines acceptability of reported activities, and then informs the former trainee or fellow of his or her status. This process will continue annually until the individual's total payback obligation is satisfied.

11.4.4.3 Change of Address

Any change in the mailing address of a Kirschstein-NRSA recipient must be reported promptly to the PSC until the service obligation is fully discharged. Notification of changes can be made by letter, telephone, fax, or e-mail to NRSAPaybackCenter@mail.nih.gov.

11.4.4.4 Breaks in Kirschstein-NRSA Support

Sometimes a trainee/fellow will have a period of non-Kirschstein-NRSA support between two Kirschstein-NRSA awards. An appropriate activity performed during this period of time may count for payback purposes toward the first Kirschstein-NRSA award. If the nonsupport period is 6 months or longer, the individual receives an APAC form through the regular mechanism. However, if the break is less than 6 months, an APAC will not be mailed automatically. If acceptable payback service was performed during the break, the individual may complete an APAC, which can be obtained from the NIH Web site at <http://grants.nih.gov/grants/forms.htm>.

11.4.4.5 National Health Service Corps

A Kirschstein-NRSA recipient may have also been a National Health Service Corps (NHSC) scholar. Legislative changes effective October 26, 2002, eliminated the previously existing concurrent payback option. As a result, Kirschstein-NRSA recipients that also are NHSC scholars now are required to fulfill their NHSC service commitment through direct clinical service to the underserved in accordance with NHSC policy. Any Kirschstein-NRSA payback must be fulfilled separately through acceptable Kirschstein-NRSA payback service.