

# Determination of the Fair Market Value of Oncology Advanced Practitioners

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Author's disclosure of conflicts of interest is found at the end of this article.

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## Abstract

It is essential for the advanced practitioner to have an understanding of how fair market value is determined by employers in order to successfully negotiate a compensation package or salary raise. However, because of the compliance and regulatory environment, determining fair market value is never simple. In addition, potential variances in compensation reported in national surveys and other factors can affect fair market value. This article defines fair market value and discusses the factors that go into determining it to aid the oncology advanced practitioner in preparing for salary negotiations.

The 2020 American Cancer Society's Annual Cancer Facts & Figures Report notes that approximately 1.8 million Americans will be diagnosed and almost 606,520 will die from cancer during the year (American Cancer Society, 2020). Over 16.9 million Americans are living with cancer, more than ever in history. Because of this, oncology medical services are and will continue to be in high demand, as are the specialized health-care providers who serve in this field. Complicating this is the aging U.S. population, which will increase the demand for cancer services. Unfortunately, there is a shortage of oncology providers, as noted by multiple sources (Yang et al., 2014). The demand for oncology services, particularly those provided by oncology advanced practitioners (APs)

who understand this complex medical field, will continue to increase, and thus oncology APs must be compensated at fair market value (FMV).

The oncology AP must understand how FMV is determined by a potential employer in order to successfully negotiate an acceptable and just compensation package or increase in current salary. Due to the compliance and regulatory environment, determining FMV is not simple. In addition to potential variances in compensation from national surveys, there are other common factors that are considered when determining FMV compensation, including, but not limited to, geography, level of provider experience (required knowledge and skills of oncology providers warrant higher compensation), and provider productivity (there are also often non-

billable productivity considerations). In order to gain a well-rounded perspective of AP FMV, all relevant, potential factors that impact AP compensation should be considered.

## DEFINITION

Fair market value has been defined in multiple ways; however, the two most commonly used definitions come from the Internal Revenue Service (IRS) and Federal Regulation. In IRS Revenue Ruling 59-60, FMV is described as the negotiated agreement to terms between a willing buyer and a willing seller under conditions of no duress and where each party has full knowledge of relevant facts (Collins, 2019). Although this is used as the commercial definition of FMV, it does not really define the FMV of an advanced practitioner.

Federal Regulation Section 53.4958-6 (Code of Federal Regulations, 2019) establishes a “rebuttable presumption that a transaction is not an excess benefit transaction,” thus providing grounds for an objective and fair determination of provider compensation (Collins, 2019). Unfortunately, there is no magic or definitive formula for this determination (Collins, 2019). Fair market value is dependent upon multiple factors and circumstances, and a fair compensation is usually defined as the level of compensation that is consistent with the amount that would be paid by like organizations for like services under like circumstances (Collins, 2019).

Federal Regulation Section 53.4958-6 also describes the desired characteristics of an entity determining FMV (Collins, 2019):

1. The authorized body that is determining FMV be composed entirely of individuals who do not have a conflict of interest with respect to the compensation arrangement.
2. The authorized body obtained and relied on appropriate data as to comparability prior to making its determinations.
3. The authorized body adequately documented the basis for its determination.

In defining FMV, the IRS further notes that it is “the price at which the property of service would change hands between a willing buyer and a willing seller, neither being under a compulsion to buy or sell and both having reasonable knowledge of the relevant facts” (Estate Tax Reg. 20.2031.1-1(b)

Revenue Ruling 59-60, 1959-1, C.B.237). By this definition, all factors used in the determination of FMV should be understood by both “buyer” and “seller” (employer and employee). It should be reasonable and acceptable for the oncology AP to request how FMV is determined by a potential or current employer.

## FACTORS THAT DETERMINE FAIR MARKET VALUE

### Surveys

Understanding the legal and accepted definitions of FMV, oncology APs must also evaluate the multiple factors that must be considered in the determination of FMV. The analysis of multiple objective benchmark compensation surveys is required. These surveys should be as specific as possible to the oncology (or other specialty) market, without jeopardizing sample size. In surveys with a small sample size, the data from one respondent could greatly influence the results of that survey (Oelrich, 2012). A disadvantage of surveys such as the commonly used Medical Group Management Association (MGMA) and American Medical Group Association (AMGA) surveys are small sample sizes of specialties such as oncology.

It is worth noting that although most of these benchmark surveys are updated yearly, these generally lag 1 to 2 years. Also, comparison of data between surveys is not always an “apples to apples” comparison. For example, compensation data from some groups collect data in categories, such as \$100,000 to \$109,999, \$110,000 to \$119,999, etc. The assumption then is that the midpoints of the ranges are the salaries of every respondent who selected the category (American Academy of Physician Assistants, 2018). The disadvantage of this is the loss of accuracy.

On the other hand, surveys such as the American Academy of Physician Assistants (AAPA) Salary Survey ask the oncology AP to report their actual salary to the nearest whole number, such as \$111,425. The AAPA Salary Report is one of the most comprehensive resources that provides detailed information on salary, bonuses, and hourly wages, broken out by state, experience, specialty, setting, and employer type. This is the type of survey oncology APs will find most relevant to his/her specific situation.

The potential differences between employee- and employer-reported data have been scrutinized by those determining FMV. When compared to employer-reported compensation data (such as the National Commission on Certification of Physician Assistants), the AAPA salary report is within \$140 of the base salary reports (AAPA, 2018).

### Additional Factors

Survey data is important to consider in the determination of FMV, but cannot be the sole determinant. There are multiple other relevant factors and key assumptions that must be taken into consideration when determining FMV of the oncology AP. Here are some examples, although this is not an all-inclusive list.

1. Supply and demand for the oncology AP affect FMV. It is estimated that there are only between 5,350 and 7,000 oncology APs in the United States (Bruinooge et al., 2018). The known shortage of oncologists impacts the increasing demand for oncology APs (Yang et al., 2014). Difficulty recruiting and retaining oncologists and oncology APs in the area should be examined, as this potentially increases the demand for skilled and experienced APs.
2. Many community cancer centers are accredited by the American College of Surgeons Commission on Cancer (CoC), and as such, there are multiple requirements that must be maintained in order to retain this accreditation. Oncology APs are key drivers in the culmination of the accreditation and provide the skill and expertise that is required to maintain this accreditation.
3. The reputation of the oncology AP as well as that of the employer will influence FMV. Review of individual oncology AP curriculum vitae, patient satisfaction surveys, and performance reviews are just a few ways to examine reputation. Employer reputation may influence the ability of the employer to recruit and retain employees.
4. Examination of relevant changes in the market driving oncology care is required. For example, payor reimbursement trends such as the Oncology Care Model (OCM) require multiple accommodations and buy-in from the oncology AP in order to meet quality measures and team outcomes. The OCM requires some significant practice changes, including increased amount of provider documentation of quality measures.
5. The skills and knowledge base of the oncology AP are above those of a generalist AP. Many oncology APs (specifically nurse practitioners) carry two board certifications: a general certification such as family practice and an advanced certification in oncology (for example, AOCNP® or AOCNS® from the Oncology Nursing Certification Corporation). Certificates can be obtained from programs such as the Advanced Practitioner Certificate Programs from the American Society of Clinical Oncology. Literature supports that new APs coming into oncology take an average of 2 years to feel comfortable practicing somewhat independently (Mackey, Noonan, Sheldon, Singer, & Turner, 2018; Rosenzweig et al., 2012). The oncology AP with additional certifications, education, and experience would confer a higher value in a fair marketplace.
6. The needs of the community for the defined oncology AP position are highlighted by the fact that 1 out of every 3 persons in the United States will develop cancer over their lifetime (American Cancer Society, 2020). There are specific qualifications and skills required of the oncology AP to provide safe and quality care to persons with cancer. The significant and unique characteristics and needs of the community must be considered; for example, the rates of obesity, sedentary lifestyle, and tobacco/alcohol/substance abuse should be compared with those in other regions of the United States.
7. Administrative duties, responsibilities, and documentation influence FMV. A significant citation from the Stark II Phase III regulations describes the approach for determining FMV when both administrative and clinical work is performed (Federal Register, 2007). Oncology APs perform multiple (often nonreimbursable) administrative as well as clinical functions that must be noted in the determination of FMV.

These items could also be called the “burden factor” (Oelrich, 2012). Some of these oncology AP duties/responsibilities may allow the oncologists to be more productive in the practice. These could include but are certainly not limited to:

- a. Signing orders for chemotherapy (intravenous, oral and other routes), prescriptions, procedures, scans, labs, etc.
- b. Being the provider on “chemo call”: on-site monitoring and oversight of the infusion suite, management of infusion reactions including anaphylaxis, and management of transfusions of blood products
- c. Educating patients and families
- d. Providing answers and direction to nursing and staff
- e. Performing procedures (both billable and non-billable)
- f. Creating and maintaining a survivorship clinic
- g. Creating and maintaining a high-risk cancer clinic
- h. Reviewing labs and diagnostic studies
- i. Mentoring students, residents, new staff members, etc.
- j. Performing peer-to-peer reviews
- k. Providing on-call services
- l. Managing admissions to hospital, hospital discharges, hospital rounds, hospital call
- m. Modifying oncology treatment plans
- n. Educating staff
- o. Participating and holding offices in various health-care system committees/workgroups
- p. Participating in facility oncology provider meetings and contributing to the well-being of the oncology practice
- q. Participating in oncology-specific professional work such as publications and presentations and holding national and local professional association offices
- r. Participating in local community

oncology events such as fund-raising and cancer screenings

- s. Longevity/loyalty to current health-care system as well as to the local community.
8. While cost of living is considered in evaluating FMV, the Stark II Phase III regulations note that contracts for provider services may include an annual salary adjustment (Federal Register, 2007). Evaluation of the history of the health-care facility in keeping up with cost of living adjustments must also occur. Periodic salary adjustments may not have mirrored cost of living increases. The oncology AP should examine the geographical cost of living when considering a compensation package.
  9. Compensation offered to other (nononcology) APs within the organization or in the geographic region should be examined. Both general and oncology-specific survey data note that medical specialties are compensated at a higher level than family practice (AAPA, 2018; Bruinooge et al., 2018; Medical Group Management Association, 2018). It is reasonable to consider that the salary of the oncology AP should be proportional to that of the oncologist, in the same way the salary of an AP in primary care is to the primary care physician. This is a potential area of further research.
  10. Any FMV opinion must also be influenced by the consequences of not retaining current experienced and skilled oncology APs. Loss of any one current oncology AP will negatively impact cancer care within a given practice/facility and will place a significant burden on the providers who remain. The cost of recruiting, hiring, and educating a new oncology AP compared with the cost of retaining the remaining oncology APs must be considered. Some studies (such as one by the Society for Human Resource Management) predict that every time a business replaces a salaried employee, it costs 6 to 9 months’ salary on average (Boushey & Glynn, 2012; Wells, 2018).

In summary, the determination of FMV of the oncology AP is a unique evaluation that is influ-

enced by several factors. The oncology AP must understand the concept of FMV and how a potential employer determines it. Some employers may deem the FMV of an oncology AP to be identical to that of an AP in family practice or pediatrics, or another specialty. If this is the case, then the oncology AP can challenge that concept with data discussed in this article.

The FMV benchmarks of the potential employer must be transparent to potential and current employees and not held to be proprietary. This information is not only important to the oncology AP who is seeking a new position, but also to currently employed oncology APs, as this information may determine the amount of raises, benefits, and other components of current oncology AP compensation. Key players in the FMV determination must be identified and may include oncologists, administration, human resources, and most importantly, current oncology APs. The value of the oncology AP continues to increase, and they should thoughtfully articulate that value in person and in publications. The oncology AP must be an active participant in the process of determining FMV and welcome open dialogue as all factors in the negotiation are considered. ●

### Disclosure

The author has no conflicts of interest to disclose.

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