

§ 757.17

32 CFR Ch. VI (7-1-05 Edition)

third parties and forward a copy of their claims file, along with recommendations on assertion, to the Judge Advocate General:

(a) *Certain Government contractors.* JAG approval is required before asserting an MCRA claim against a Federal Government contractor when the contract provides that the contractor will be indemnified or held harmless by the Federal Government for tort liability.

(b) *Foreign Governments.* JAG approval is required before asserting MCRA claims against foreign governments, their political subdivisions, Armed Forces members, or civilian employees.

(c) *U.S. personnel.* JAG approval is required before asserting MCRA claims against U.S. servicemembers, their dependents and employees of the United States, or their dependents for injury to another person.

§ 757.17 Statute of limitations.

(a) *Federal.* The United States, or the injured party on behalf of the United States, must file suit within 3 years after an MCRA action accrues. 28 U.S.C. 2415. Generally this is 3 years from the date of initial Federal treatment or Federal Government payment to a private care provider, whichever is first.

(b) *State.* Some State statutes of limitations may also apply where recovery is based on authority such as workers' compensation statutes, no-fault insurance statutes, no-fault medical payments, or uninsured motorist provisions of insurance contracts.

§ 757.18 Asserting the claim.

(a) *Initial action by JAG designee.* When advised of a potential MCRA claim, the JAG designee will determine the Federal agency or department responsible for investigating and asserting the claim.

(1) When the DON has reimbursed a non-Federal provider for health care or when CHAMPUS has made payment for a Navy health care beneficiary, the DON will assert any resulting MCRA claim.

(2) When care is provided in a Federal treatment facility, the status of the injured person will determine the agency

which will assert a resulting MCRA claim.

(i) Where Navy or Marine Corps members, retirees, or their dependents receive medical treatment from another Federal agency or department, the DON will usually assert any MCRA claim on behalf of the United States based on information provided by the treating agency or department.

(ii) Similarly, where a Navy MTF provides care to personnel of another Federal agency or department, that other agency or department will usually assert any claim on behalf of the United States.

(3) If the claim is not one which the DON should assert, the JAG designee will forward all available information to the appropriate department or agency.

(4) If the claim is one which the DON should assert, the JAG designee will ensure an appropriate investigation into the circumstances underlying the claim is initiated and will provide notice to the injured party and all third parties who may be liable to the injured person and the United States under the MCRA.

(b) *Investigating the claim.* While there is no prescribed form or content for investigating these claims, the claims file will contain sufficient information on which to base valuation, assertion, settlement, waiver, and/or compromise decisions. Usually the file will contain:

(1) Identification of each person involved in the incident including name, address, occupation, and nature of involvement;

(2) Police, social service, and other Federal, State and local agency reports on the incident;

(3) Completed copies of NAVJAG Form 5890/12³ or equivalent forms from other agencies and departments;

(4) Inpatient summaries and outpatients records of treatment of the involved injury in non-Federal facilities;

(5) Documents reflecting Federal payment for non-Federal treatment of the injured person;

(6) Calculations of the reasonable value of the Government's MCRA claim;

³See footnote 3 to § 757.2.