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

property of nonappropriated-fund activities. It should be noted, however, that as a general rule, the Government does not seek payment from servicemembers and Government employees for damages caused by their simple negligence. Exceptions to this general policy will be made when the incident involves aggravating circumstances.

(b) *For medical costs from third party payers in accordance with 10 U.S.C. 1095.* These claims are asserted and collected by the medical treatment facilities under the coordination of benefits program.

(c) *For money paid or reimbursed by the government for damage to a rental car in accordance with the Joint Federal Travel Regulations (volume 1, paragraph U 3415-C and volume 2, paragraph C 2101-2).* Collection action shall be taken against third parties liable in tort. Collection action shall not be taken against Government personnel who rented the vehicle.

(d) *Other claims.* Any other claim for money or property in favor of the United States cognizable under the Federal Claims Collection Act not specifically listed above.

§ 757.5 Assertion of claims and collection procedures.

(a) *General.* The controlling procedures for administrative collection of claims are established in 4 CFR part 102.

(b) *Officials authorized to pursue claims.* The following officers are authorized to pursue and collect all affirmative claims in favor of the United States:

(1) The Judge Advocate General; the Deputy Judge Advocate General; any Assistant Judge Advocate General; and the Deputy Assistant Judge Advocate General (Claims and Tort Litigation); and

(2) Commanding officers of Naval Legal Service Offices and applicable Detachments, except Naval Legal Service Offices in countries where another service has single service responsibility in accordance with DOD Directive 5515.8.²

(c) *Dollar limitations.* All of the officers listed in § 757.5(b) are authorized to compromise and terminate collection action on affirmative claims of \$20,000.00 or less.

(d) *Determining liability.* Liability must be determined in accordance with the law of the place in which the damage occurred, including the applicable traffic laws, elements of tort, and possible defenses.

(e) *Assertion of a claim.* (1) Assertion of the claim is accomplished by mailing to the tortfeasor a "Notice of Claim." The notice is to be mailed certified mail, return receipt requested, and should include the following information:

(i) Reference to the statutory right to collect;

(ii) A demand for payment or restoration;

(iii) A description of damage;

(iv) The date and place of the incident; and

(v) The name, phone number, and office address of the claims personnel to contact.

(2) See also 4 CFR part 102.

(f) *Full payment.* When a responsible party or insurer tenders full payment or a compromise settlement on a claim, the payment should be in the form of a check or money order made payable to the collection activity, such as the "Commanding Officer, Naval Legal Service Office, (Name)." The check or money order shall then be forwarded to the disbursing officer serving the collecting activity for deposit in accordance with the provisions of the Navy Comptroller Manual.

(g) *Installment payments.* See 4 CFR 102.11 for specific procedures. In general, if the debtor is financially unable to pay the debt in one lump sum, an installment payment plan may be arranged. Installment payments will be required on a monthly basis and the size of payment must bear a reasonable relation to the size of the debt and the debtor's ability to pay. The installment agreements should specify payments of such size and frequency to liquidate the Government's claim in not more than 3 years. Installment payments of less than \$50.00 per month should be accepted only if justified on the grounds of financial hardship or for

²See footnote 1 to § 757.2.

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some other reasonable cause. In all installment arrangements, a confession of judgment note setting out a repayment schedule should be executed.

(h) *Damage to nonappropriated-fund instrumentality (NAFI) property.* Any amount collected for loss or damage to property of a NAFI shall be forwarded to the headquarters of the non-appropriated-fund activity for deposit with that activity. In those situations where the recovery involves damage to both NAFI-owned property and other Government property, e.g., destruction of an exchange building resulting in damage to both the building and the exchange-owned property inside, recovery for the exchange-owned property shall be forwarded to the NAFI. Recovery for building damage shall be deposited in accordance with § 757.5(f) above.

(i) *Damage to industrial-commercial property.* When a loss or cost of repair has been borne by an industrial-commercial activity, payment shall be deposited in the Navy Industrial Fund of the activity in accordance with the provisions of the Navy Comptroller Manual. When a claim is based on a loss or damage sustained by such an activity, a notation to this effect shall be included in any claim file forwarded to the Judge Advocate General.

(j) *Replacement in kind or repair.* The responsible party, or insurer, may want to repair or replace in kind damaged property. The commanding officer or officer in charge of the activity sustaining the loss is authorized to accept repair or replacement if, in his discretion, it is considered to be in the best interests of the United States.

(k) *Release.* The commanding officer or officer in charge is authorized to execute a release of the claim when all repairs have been completed to the Government's satisfaction, and when all repair bills have been paid. No prior approval from the Judge Advocate General is required for this procedure. If repair or replacement is made, a notation shall be made in any investigation or claims file.

§ 757.6 Waiver, compromise, and referral of claims.

(a) *Officials authorized to compromise claims.* The officers identified in § 757.5(b) may collect the full amount

on all claims, and may compromise, execute releases or terminate collection action on all claims of \$20,000.00 or less. Collection action may be terminated for the convenience of the Government if the tortfeasor cannot be located, is found to be judgment-proof, has denied liability, or has refused to respond to repeated correspondence concerning legal liability involving a small claim. A termination for the convenience of the Government is made after it is determined that the case does not warrant litigation or that it is not cost-effective to pursue recovery efforts.

(b) *Claims over \$100,000.00.* Claims in excess of \$100,000.00 may not be compromised for less than the full amount or collection action terminated without approval from the Department of Justice (DOJ).

(c) *Notification.* The Judge Advocate General shall be notified prior to all requests made to the DOJ to compromise, terminate collection, or referral for further collection action or litigation.

(d) *Litigation Reports.* Litigation reports prepared in accordance with 4 CFR part 103 shall be forwarded to the DOJ along with any case file forwarded for further collection action or litigation as required by the Federal Claims Collections Standards.

§§ 757.7–757.10 [Reserved]

Subpart B—Medical Care Recovery Act (MRCA) Claims

§ 757.11 Scope of subpart B.

Subpart B describes the assertion and collection of claims for medical care under the Medical Care Recovery Act (MCRA). The MCRA states that when the Federal Government provides treatment or pays for treatment of an individual who is injured or suffers a disease, the Government is authorized to recover the reasonable value of that treatment from any third party legally liable for the injury or disease.

§ 757.12 Statutory authority.

Medical Care Recovery Act, 42 U.S.C. 2651–2653 (1982).