

Department of Health and Human Services

§ 34.2

§ 32.11 Ending garnishment.

(a) Once the Department has fully recovered the amounts owed by the debtor, including interest, penalties, and administrative costs assessed pursuant to and in accordance with part 30 of this title, the Secretary shall send the debtor's employer notification to discontinue wage withholding.

(b) At least annually, the Secretary shall review its debtors' accounts to ensure that garnishment has been terminated for accounts that have been paid in full.

§ 32.12 Right of action.

(a) The employer of a debtor subject to wage withholding pursuant to this part shall pay to the Department as directed in a withholding order issued under this part.

(b) The Secretary may bring suit against an employer for any amount that the employer fails to withhold from wages owed and payable to a debtor in accordance with §§32.6 and 32.8, plus attorney's fees, costs, and, if applicable, punitive damages.

(c) A suit under this section may not be filed before the termination of the collection action involving a particular debtor, unless earlier filing is necessary to avoid expiration of any applicable statute of limitations period. For purposes of this section, "termination of collection action" occurs when the Secretary has terminated collection action in accordance with part 30 of this title, or other applicable law or regulation.

(d) Notwithstanding deemed to occur if from a debtor whose paragraph (c) of this section, termination of the collection action will be a period of one (1) year the Department does not receive any payments wages were subject to a garnishment order issued under this part.

PART 34—CLAIMS FILED UNDER THE MILITARY PERSONNEL AND CIVILIAN EMPLOYEES ACT

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AUTHORITY: 31 U.S.C. 3721.

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§ 34.1 Purpose and scope.

(a) *Purpose.* This part prescribes policies and procedures for handling claims not in excess of \$40,000.00 filed by employees against the Department of Health and Human Services under the Military Personnel and Civilian Employees Claims (MPCE) Act of 1964, 31 U.S.C. 3721, for damage to, or loss of, property against the Department. Under the MPCE Act, the Secretary may approve claims made against the Government by a federal government employee for damage to or loss of personal property that is incident to employment when the loss or damage is not due to any negligence on the part of employee.

(b) *Scope.* This part applies to all Departmental Operating Divisions and Regional Offices that process and review claims under the MPCE Act. Nothing in this part shall be construed to bar other types of claims that are payable under other statutory authority such as, but not limited to, the Federal Tort Claims Act (28 U.S.C. 2671-2680).

§ 34.2 Definitions.

In this part, unless the context otherwise requires:

Claim means any claim filed by or on behalf of an employee for damage to, or loss of, property that is incident to the claimant's employment. This definition includes claims where the claimant is not the legal owner of the property in question, but has obtained authorization from the legal owner to possess or control the property.

Claimant means an employee who has filed a claim with the Department under the MPCE Act.

Damage or loss means total or partial destruction or loss of the item claimed.

Department means the Department of Health and Human Services.

Employee means an officer or employee of the Department.

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Quarters means a house, apartment or other residence assigned by the government to an employee of the Department.

§ 34.3 Filing procedures and time limits.

(a) *Who may file a claim.* A claim may be filed by the following individuals:

- (1) An employee;
- (2) An authorized agent or representative of an employee or employee's estate, regardless of whether the claim arose before or concurrent with an employee's death; and
- (3) A former employee or his authorized agent or representative if damage or loss occurred prior to the separation from the Department.

(b) *Requirements.* A claim submitted under this part must be presented in writing to the Claims Officer (*See* paragraph (c) of this section). Claims may be submitted on a HHS-481 form, Employee Claim for Loss or Damage to Personal Property. All claims must be signed by the claimant or his authorized agent or representative. The HHS-Form can be obtained from the Claims Officer or downloaded from the Program Support Center's webpage at www.psc.gov. All claims must include the following:

- (1) Name and address of the claimant;
- (2) The office in which the claimant was employed at the time of loss, current office, if different, and telephone number;
- (3) Date of loss or damage;
- (4) Amount of claim;
- (5) Description of the property, including but not limited to type, design, model number, date acquired, value when acquired, value when lost, and estimation of repair or replacement cost;
- (6) Description of incident; and
- (7) If property was insured when loss or damage occurred, a statement indicating whether a claim was filed with an insurance carrier.

(c) *Where to file your claim.* (1) Claimants employed with the Regional Offices should submit claims to the Chief Regional Counsel, Office of the General Counsel, within the claimant's Region.

(2) All other claimants must submit claims to the Office of the General Counsel, General Law Division, Claims and Employment Law Branch, 330 Inde-

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pendence Ave., SW., Room 4760, Cohen Building, Washington, DC 20201.

(d) *Evidence required.* You must submit the following:

(1) Not less than two itemized signed estimates for the cost of repairs, or an itemized bill of repair for the damaged property;

(2) In the event the property is not economically repairable or is totally lost or destroyed, proof of this fact, its market value before or after loss, purchase price, and date of acquisition of the property;

(3) Proof of ownership or right to recover for the damage such as a receipt;

(4) Police/incident report;

(5) If property is insured, insurance information, such as insurance carrier, type of coverage, deductible, and whether claim has been filed and/or paid;

(6) Travel orders, if applicable;

(7) Any citations or traffic tickets, if applicable; and

(8) Any other evidence required by the claims officer not specified above.

(e) *Time limit.* (1) A claim filed under this section must be filed in writing with the Department within two years from the date of the incident.

(2) If the claim accrues in the time of war or in the time of armed conflict in which any armed forces of the United States are engaged or if such a war or armed conflict occurs within two years after the claim accrues, and if good cause is shown, the claim shall be presented no more than two years after that cause ceases to exist, or two years after the war or armed conflict is terminated, whichever is earlier.

(3) All required evidence in support of a claim submitted under this section must be forwarded to the claims officer within sixty days after request. Failure to do so will be deemed as an abandonment of the claim and the claim will be disallowed.

§ 34.4 Allowable claims.

(a) *What you can claim.* (1) Claims for damage or loss may be allowed where possession of the property was lawful and reasonable under circumstances.

(2) Claims for property damage or loss by fire, flood, hurricane, theft, or