

arrival of shipment, attorney fees, telephone calls, cost of transporting you or your family members, inconvenience, time spent in preparation of claim, or cost of insurance premiums) are not compensable.

(h) *Real property.* Damage to real property is not compensable. In determining whether an item is considered to be an item of personal property, as opposed to real property, normally, any movable item is considered personal property even if physically joined to the land.

(i) *Commercial property.* Articles acquired or held for sale or disposition by other commercial transactions on more than an occasional basis, or for use in a private profession or business enterprise.

(j) *Commercial storage.* Property stored at a commercial facility for your convenience and at your expense.

(k) *Claims for minimum amount.* Loss or damage amounting to less than \$25.

**§ 429.206 What if my claim involves a commercial carrier or an insurer?**

In the event the property that is the subject of the claim was lost or damaged while in the possession of a commercial carrier or was insured, the following procedures will apply:

(a) Whenever property is damaged, lost, or destroyed while being shipped pursuant to authorized travel orders, the owner must file a written claim for reimbursement with the last commercial carrier known or believed to have handled the goods, or the carrier known to be in possession of the property when the damage or loss occurred, according to the terms of its bill of lading or contract, before submitting a claim against the Government under this subpart.

(b) Whenever property is damaged, lost, or destroyed incident to your service and is insured in whole or in part, you must make demand in writing against the insurer for reimbursement under the terms and conditions of the insurance coverage, before filing a claim against the Government.

(c) Failure to make a demand on a carrier or insurer or to make all reasonable efforts to protect and prosecute rights available against a carrier or insurer and to collect the amount

recoverable from the carrier or insurer may result in reducing the amount recoverable from the Government by the maximum amount that would have been recoverable from the carrier or insurer had the claim been timely or diligently prosecuted. However, no deduction will be made where the circumstances of your service preclude reasonable filing of a claim or diligent prosecution, or the evidence indicates a demand was impracticable or would have been unavailing.

(d) After you file a claim against the carrier or insurer, you may immediately submit a claim under this subpart, without waiting until the carrier or insurer finally approves or denies your claim.

(1) Upon submitting your claim, you must certify whether you have not gained any recovery from a carrier or insurer, and enclose all pertinent correspondence.

(2) If the carrier or insurer has not taken final action on your claim, you must immediately tell the carrier or insurer to address all correspondence regarding the claim to the SSA Claims Officer, and you must provide a copy of this notice to the SSA Claims Officer.

(3) You must advise the SSA Claims Officer of any action the carrier or insurer takes on the claim and, upon request, must furnish all correspondence, documents, and other evidence pertinent to the matter.

(e) You must assign to the United States, to the extent you accept any payment on the claim, all rights, title, and interest in any claim you may have against any carrier, insurer, or other party arising out of the incident on which your claim against the United States is based. After payment of the claim by the United States, you must, upon receipt of any payment from a carrier or insurer, pay the proceeds to the United States to the extent of the payment you received from the United States.

(f) If you recover for the loss from the carrier or insurer before your claim under this subpart is settled, the amount of recovery will be applied to the claim as follows:

(1) If you recover an amount that is greater than or equal to your total loss as determined under this subpart, no

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compensation is allowable under this subpart.

(2) If you recover an amount that is less than such total loss, the allowable amount is determined by deducting the recovery from the amount of such total loss.

(3) For this purpose, your total loss is determined without regard to the maximum payment limitations set forth in § 429.201. However, if the resulting amount after making this deduction exceeds the maximum payment limitations, you will only be allowed the maximum amount set forth in § 429.201.

(g) In a claim arising from damage to an automobile or other motor vehicle, in no event may recovery exceed the reasonable deductible on the insurance policy.

### § 429.207 What are the procedures for filing a claim?

(a) *Form of claim.* Your claim must be presented in writing (SSA Form 1481 is available for this purpose). Any writing received by the SSA Claims Officer within the time limits set forth in § 429.202(d) will be accepted and considered a claim under the MPCECA if it constitutes a demand for compensation from SSA. A demand is required to be for a specific sum of money.

(b) *Award.* The SSA Claims Officer is authorized to settle claims filed under this subpart.

(c) *Notification.* The deciding official will provide you with a written determination on your claim.

### § 429.208 How do you determine the award? Is the settlement of my claim final?

(a) The amount allowable for damage to or loss of any item of property may not exceed the lowest of:

(1) The amount you requested for the item as a result of its loss, damage, or the cost of its repair;

(2) The actual or estimated cost of its repair; or

(3) The actual value at the time of its loss, damage, or destruction. The actual value is determined by using the current replacement cost or the depreciated value of the item since you acquired it, whichever is lower, less any salvage value of the item in question, if you retain the item.

(b) Depreciation in value is determined by considering the type of article involved, its cost, its condition when damaged or lost, and the time elapsed between the date you acquired it and the date of damage or loss.

(c) Current replacement cost and depreciated value are determined by use of publicly available adjustment rates or through use of other reasonable methods at the discretion of the SSA Claims Officer.

(d) Replacement of lost or damaged property may be made in kind whenever appropriate at the discretion of the SSA Claims Officer.

(e) At the discretion of the SSA Claims Officer, you may be required to turn over an item alleged to have been damaged beyond economical repair to the United States, in which case no deduction for salvage value will be made in the calculation of actual value.

(f) Settlement of claims under the Act are final and conclusive.

### § 429.209 Are there any restrictions on attorney's fees?

No more than 10 percent of the amount in settlement of each individual claim submitted and settled under this subpart shall be paid or delivered to, or received by, any agent or attorney on account of services rendered in connection with that claim. A person violating this subsection shall be fined not more than \$1,000.00 (31 U.S.C. 3721(i)).

### § 429.210 Do I have any appeal rights under this subpart?

(a) *Deciding Official.* While you may not appeal the decision of the SSA Claims Officer in regard to claims under the MPCECA, the SSA Claims Officer may, at his or her discretion, reconsider his or her determination of a claim.

(b) *Claimant.* You may request reconsideration from the SSA Claims Officer by sending a written request for reconsideration to the SSA Claims Officer within 30 days of the date of the original determination. You must clearly state the factual or legal basis upon which you base your request for a more favorable determination. Reconsideration will be granted only for reasons