

## INFORMATION PAPER

1. **PURPOSE.** To provide general information and guidance on the Army's Affirmative Claims Program.
2. **FACTS.**
  - a. The United States is entitled to recover the reasonable value of medical care furnished or to be furnished to service members, retirees and their dependents as the result of injury from wrongful or negligent acts or omissions considered tortuous under state law, or as third party beneficiary.
  - b. The United States is also entitled to collect for damage to government property resulting from the acts of any individual. Service members and government civilian employees who damage government property are subject to the provisions of the Report of Survey method of collection so long as the damage is connected to their employment. Damage caused outside of the scope of employment by service members or civilian employees is treated as an Affirmative Claim. Damages to government property by individuals not otherwise connected to the military are processed under the Affirmative Claims program.
  - c. The government has a legal obligation to seek reimbursement from the responsible party's insurance carrier or any other insurance that provides coverage to the injured party (i.e. automobile medical payment coverage, health insurance, workers compensation, uninsured/underinsured motorist coverage, property liability insurance, etc.).
  - d. Service members, retirees and their eligible dependents are required to provide information to the government concerning possible claims in favor of the government for medical care provided at government expense, lost pay for active duty service members, or damage caused to government property. Individuals who have received healthcare benefits under the provisions of the Civilian Health and Medical Program of the Uniformed Services (CHAMPUS/Tricare), or from the local medical treatment facility (MTF) and its referrals administered by TRICARE, are required to furnish information as soon as possible after the incident. Such information should include the responsible party and insurance carrier, accident report, or factual circumstances giving rise to the injury for which the medical care has been provided at government expense.
  - e. A Report of Injury Form must be completed at the MTF Patient Information Office or as requested by CHAMPUS/TRICARE representatives for each incident resulting in injury requiring medical treatment at government expense. Only one Report of Injury form is needed per incident even though there may be repeated medical appointments.

- f. The data requested under the Affirmative Claim Recovery Program is covered under the Privacy Act of 1974. It will be used to assist the government to performance of its obligations under the Federal Medical Care Recovery Act (42 U.S.C. 2651-2653.), 10 U.S.C. 1095, and the Federal Claims Collection Act (31 U.S.C.3711).
- g. The Fort Jackson Claims Office, Staff Judge Advocate (SJA), in conjunction with Moncrief Army Community Hospital, Tricare, and MTFs at other installations is responsible for the implementation of the Affirmative Claims Program. The SJA uses all resources available to collect money due to the government for reimbursement of medical care. Such action may include requesting the injured party's attorney to include the government's claim as an element of damage in the injured party's claim against the responsible party, intervening in lawsuits by filed by the injured party's attorney, or by initiating suit in the Federal District Court. Individuals are further required by regulation to cooperate in the investigation and prosecution of all actions of the United States against the person whose wrongful or negligent acts or omission caused the injuries or damage.
- h. Individuals affected by the Affirmative Claim Recovery program are entitled to seek guidance from a Legal Assistance Officer, or if none are available, the most accessible Judge Advocate.
- i. Service members who do not cooperate by providing the information necessary for investigation of the claim are subject to disciplinary action under the Uniform Code of Military Justice. Retirees, civilian employees and dependents of eligible recipients of medical care are subject to loss of medical care under CHAMPUS/TRICARE or through medical treatment facilities for failure to cooperate and provide necessary information for investigation of the claim.
- j. If contacted by an insurance company, individuals should not execute a release or settle any claim for which they have received treatment either under CHAMPUS/TRICARE or from a Military Treatment Facility for injuries without first notifying the Claims Office, 9475 Kershaw Road, Fort Jackson, South Carolina, telephone number (803) 751-2739.

3. **CONCLUSION.** Service members, civilian employees, retirees and their authorized dependents who have received healthcare from a government medical treatment facility or under the provision of CHAMPUS/TRICARE have an affirmative duty to assist the government in recovering the cost of medical care, lost pay and property damage.