

# Claims Report

United States Army Claims Service

## *Affirmative Claims Note*

### Medical Care Recovery Worksheets

To support requests to terminate, to compromise, or to waive medical care recovery claims which exceed its authority,<sup>1</sup> a field claims office must send a copy of its claim file to the Affirmative Claims Branch, U.S. Army Claims Service (USARCS), for decision. The file must contain a memorandum from the recovery attorney which gives her assessment of the case and her recommendation with regard to approval or denial of the claim.<sup>2</sup> The memorandum must include detailed information concerning the reasonable value of the injured party's claim for permanent injury, pain and suffering, decreasing earning power, pension rights, present and prospective assets, income, and the obligations of the injured party.<sup>3</sup>

In 1995, the Affirmative Claims Branch created the Medical Care Recovery Worksheet to simplify and to standardize the information required for requests for compromise, waiver, and termination. Since 1995, the USARCS has requested that all requests for compromise, waiver, or termination be accompanied by a completed Medical Care Recovery Worksheet. The new edition of Department of the Army Pamphlet 27-162 will make this requirement even more explicit.<sup>4</sup>

When the injured party's counsel represents the government through an attorney representation agreement, the injured party's counsel can fill out the Medical Care Recovery Worksheet. Private counsel is usually in the best position to give

detailed information about the availability of insurance, residual damages, problems proving the case at trial, and other matters. If the injured party's counsel fills out the Medical Care Recovery Worksheet, however, the recovery attorney must thoroughly review the completed worksheet before sending it to the USARCS for a compromise decision. The recovery attorney, not the injured party's attorney, must fill out block twelve ("Field Office's Recommendation and Justifications").

Claims office personnel can get a copy of the Medical Care Recovery Worksheet by sending a computer disk to the Affirmative Claims Branch, USARCS, Fort George G. Meade, Maryland 20755. The worksheet is also available for downloading from the LAAWS Bulletin Board System under Files (Claims). Recovery attorneys should save the document on their word processing programs for future use.

This worksheet provides an orderly method of setting forth the facts and the law regarding the claim as well as a recommendation for action. By thoroughly completing the Medical Care Recovery Worksheet, claims personnel will ensure that the Affirmative Claims Branch has all of the necessary information to make a prompt and final decision on requests to terminate, to compromise, or to waive medical care claims. Additionally, the worksheet provides all of the information required by the Department of Justice on cases which exceed \$100,000,<sup>5</sup> and it eliminates the need for further inquiry on the claim. Captain Beckman.

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1. For delegation of authority limits, see U.S. DEP'T OF ARMY, REG. 27-20, CLAIMS, para. 14-4 (1 Aug. 1995), [hereinafter AR 27-20]. See also, 32 C.F.R. § 537.24(c) (1996). Generally, unless limited by the Commander, USARCS, or the chief of a command claims service, the head of an area claims office has the authority to compromise up to \$15,000 in claims asserted for \$25,000 or less and to waive or to terminate collections on claims asserted for \$15,000 or less.

2. U.S. DEP'T OF ARMY, PAM. 27-162, CLAIMS, para. 9-6(d) (15 Dec. 1989); see also, 32 C.F.R. § 537.24(d)(4) (1996).

3. 32 C.F.R. § 537.24(d)(3)(ii).

4. The new requirement will be in the new version of *Department of the Army Pamphlet 27-162, Claims*, at paragraph 14-16c.

5. The Department of Justice (DOJ) has the sole authority to approve: (1) the compromise, waiver, or termination of a medical care claim asserted for more than \$100,000; (2) final actions on claims previously referred by the USARCS to the DOJ for action; and (3) settlement where a third party has filed suit against the United States or the injured party for the same incident which gave rise to the claim of the United States. AR 27-20, *supra* note 1, para. 14-4(g). See 28 C.F.R. pt. 43 (1996).