

Claims Notes

The New **Claims FRV Program** - Part II

This is the second installment discussing the new congressionally mandated FRV claims program.

Here are a few clarifications/comments:

1) Filing a claim with the carrier is your option, not the carrier's. I can think of a couple of reasons that you, the shipper, might not want to file your household goods claim with the carrier. First, **if all your damaged property is newer**, less than six months old, normally, depreciation will not be applicable to replacement costs that are claimed for destroyed or missing items. [Additionally, some categories of property covered under the Army Allowance and Depreciation Guide are **not** subject to depreciation, e.g., bona fide antiques, furniture made of fine wood venires, like oak, cherry, or mahogany, Objects of Art and high end jewelry.] That means that in some circumstances you may be able to process your claim promptly with the local Military Claims Office [MCO], and receive approximately the same amount of money, faster than if you have to deal with a non-local Transportation Service Provider [TSP] [formerly called "the carrier."] Most MCO's try to adhere to the Army Claims Service "suggested processing times" of 3 days for small claims [under \$1,000], and 15 days for larger claims. Add to that processing time a week to ten days to get DFAS to pay the claim, and that is going to be the normal processing time via the MCO. The TSP on the other hand is authorized up to 60 days to try to settle your claim, and 30 more days after agreement to get you paid.

Second, you may just be more comfortable dealing with your local Claims Office personnel rather than dealing with a distant TSP claims representative. Remember, where you choose to file is your option.

2) If the TSP agent(s) tells or "directs" you to file with the Military Claims Office, why would they do this? I can think of two reasons why the TSP might do this. First, if you file with the MCO then FRV coverage does not apply, and it will cost the TSP less money if the claim is paid based upon application of the depreciation factors. Second, the

TSP won't have to arrange to get the repair estimates done from a distance. Unless they have a reputable repair shop in the area, it could be a hassle for them to secure a repair estimate, so they can avoid the issue by getting the shipper to file with the MCO. In the latter case, the responsibility for getting repair estimates remains with the shipper. Don't let the TSP determine where you file your claim.

3) At delivery what is the TSP supposed to do besides making the delivery? When the TSP [carrier] makes a delivery, he is supposed to prepare and leave three copies of the DD Form 1840 Notice of Loss and Damage Form [pink form] with the shipper. Just like under the prior system and the form is used for the same purpose. If he fails to do this, he essentially waives the notice requirement for any damaged or missing items. If you are unable to get the pink forms from the TSP, or you misplace the form, the local MCO has blank copies that can be sent to you so you can start a notice process toward a claim. Remember, filing the DD Form 1840/1840 with the TSP does not constitute the filing of a claim. A formal claim document either from the TSP or from the MCO must be used to file the claim.

4) Can the 75 day (notice of loss/damage) and 2 year (period for filing your claim) be extended by anyone? Army Claims Service has indicated that the following rules will apply. The 75 day filing period for the notice of damage can be extended if the shipper is hospitalized or on TDY for more than 45 days during the period after delivery of the goods. Additionally, if either hospitalization or TDY occurs on the end date of the 75 day period, the period is extended for a like amount of time. It is essential that the shipper be able to demonstrate either hospitalization, TDY, or applicability to the end date with written documentation. Remember, if the TSP does not get proper notice within 75 days, or valid extensions, the claimant will get shutout on his/her claim. With respect to the two-year period to file a claim, there are few exceptions to this deadline. POW status and combat activities in the field that limit access to claims paperwork, etc., would probably be the only "good cause" excuses that would apply here. Once the two-year Statute of Limitations has run there is normally no recourse for the shipper. Previously, if a shipper missed the two-year deadline with the Army, it was still possible to file a claim with the carrier for up

to six years after delivery. That rule is no longer applicable and the two-year claim filing deadline applies to either the MCO or the TSP.

5) If I file with the MCO within 9 months after delivery of the goods rather than the TSP can I still get FRV coverage?

The answer is a resounding "NO." You must file with the TSP within 9 months to get the free FRV coverage. In no circumstance can the MCO pay FRV coverage. If you do insist on filing with the MCO instead of dealing with the carrier, the MCO will have you execute a form attesting to the fact that you understand the options and the differences in coverage but want to file with the MCO anyway. In a situation where 30 days has past since the claimant filed with the TSP and the claimant is unhappy with the processing of his claim by the TSP, he can request a transfer of the claim to the MCO. If he does that, he loses the FRV coverage and the claim will be adjudicated by the MCO in accordance with the old rules involving the application of depreciation. Similarly, if the claimant is unhappy with the final offer from the TSP, or if the TSP goes into bankruptcy, the claimant can have the claim transferred to the MCO. In all of these transfer circumstances, if the MCO is able to recover a higher amount from the TSP then the coverage can be paid to the claimant. This will probably be a rare occurrence.