

[NOTE: This PDF version contains the basic regulation and Change 1 filed at the front of the document.]



PROCESSING INCAPACITATION CLAIMS

U.S. ARMY RESERVE COMMAND
3800 NORTH CAMP CREEK PARKWAY SW
ATLANTA, GA 30331-5099

1 November 1995

(with Change 1, 1 April 1996)

Army Reserve
PROCESSING INCAPACITATION CLAIMS

History. This regulation was originally published on 1 Apr 94 and its subsequent revision was published 1 Nov 95. This printing publishes change 1.

Summary. This change publishes claims processing revisions and distributes revised USARC Form 46-R.

Suggested improvements. The proponent of this change is the Deputy Chief of Staff, Personnel (DCSPER). Users are invited to send comments and suggested improvements on a DA Form 2028 (Recommended Changes to Publications and Blank Forms) directly to Commander, USARC, ATTN: AFRC-PRP, 3800 North Camp Creek Parkway SW, Atlanta, GA 30331-5099.

FOR THE COMMANDER:

ZANNIE O. SMITH.
Colonel, GS
Chief of Staff

OFFICIAL:

SIGNED
CAROLYN E. RUSSELL
Colonel, GS
Deputy Chief of Staff,
Information Management

DISTRIBUTION: A

1. Make the following pen and ink changes to USARC Regulation 140-3, 1 November 1996:

- a. **Page 7, paragraph 3-1b(b)(3), first sentence:**
Change to read, "Item 16d-e-f-g."
- b. **Page 7, paragraph 3-1b(b)(4), second sentence:**
Change to read, "Same as item 16."
- c. **Page 9, Section I, title:** Change to read, "Routine Claims (1-180 days. Submit through USARC MSC to RCPSO.)"

d. **Page 12, "DOs," item 5:** Delete the words "...directly to the RCPSO...." and replace with "through the MSC to the RCPSO."

2. Remove old USARC Form 46-R, 1 Nov 95, and insert new USARC Form 46-R, 1 Apr 96.

NOTE: Although USARC Forms 46-1-R and 46-2-R are printed front to back in USARC Regulation 140-3, these are separate forms. Reproduce them single sided (one form on a sheet of paper), and prepare and submit them in accordance with paragraphs 3-2 and 3-3, respectively.

Army Reserve
PROCESSING INCAPACITATION CLAIMS

History. This publication was originally printed on 1 Apr 94.

Summary. This regulation implements policies, procedures and guidance, and prescribes responsibilities for processing incapacitation pay claims submitted by USARC soldiers.

Applicability. This regulation applies to the U.S. Army Reserve Command (USARC) Headquarters, its major subordinate commands (MSCs), installations and activities, and all U.S. Army Reserve (USAR) units and soldiers under the command and control of the USARC. This regulation impacts on unit readiness and mobilization. Local reproduction is authorized.

Proponent and exception authority. The proponent of this regulation is the Deputy Chief of Staff, Personnel (DCSPER). The proponent has the authority to approve exceptions to this regulation that are consistent with controlling law and regulation. Proponents may delegate this approval authority, in writing, to a division or branch chief under their supervision within the proponent agency in the rank of lieutenant colonel, or the civilian equivalent.

Supplementation. Supplementation of this regulation is prohibited without prior approval from Commander, USARC, ATTN: AFRC-PRP, 3800 North Camp Creek Parkway SW, Atlanta, GA 30331-5099.

DISTRIBUTION: A

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Interim changes. Interim changes are not official unless authenticated by the Deputy Chief of Staff, Information Management (DCSIM). Users will destroy interim changes on their expiration date unless superseded or rescinded.

Suggested improvements. The proponent is the Deputy Chief of Staff, Personnel (DCSPER). Users are invited to send comments and suggested improvements on a DA Form 2028 (Recommended Changes to Publications and Blank Forms) directly to Commander, USARC, ATTN: AFRC-PRP, 3800 North Camp Creek Parkway SW, Atlanta, GA 30331-5099.

FOR THE COMMANDER:

OFFICIAL:

PHILIP Y. BROWNING, JR.
Acting Chief of Staff

SIGNED

CAROLYN E. RUSSELL

Colonel, GS

Deputy Chief of Staff,

Information Management

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Chapter 1

Introduction

1-1. Purpose

This regulation prescribes USAR policies, responsibilities, and procedures for the management of the Incapacitation Program and the preparation of incapacitation pay claims for soldiers who are injured, or suffer illness or disease, while performing military duty.

1-2. References

- a. Required publications.
 - (1) AR 135-381 (Incapacitation of Reserve Component Soldiers). Cited in paragraph 2-2r and appendix A.
 - (2) AR 600-8-1 (Army Casualty and Memorial Affairs and Line of Duty Investigations). Cited in paragraph 2-3k.
 - (3) AR 25-400-2 (The Modern Army Record keeping System (MARKS)). Cited in paragraph 1-2c.
 - b. Related publications.
 - (1) AR 5-9 (Intraservice Support Installation Area Coordination).
 - (2) AR 40-3 (Medical, Dental, and Veterinary Care).
 - (3) AR 40-501 (Standards of Medical Fitness).
 - (4) AR 635-40 (Physical Evaluation for Retention, Retirement or Separation).
 - (5) DA Update 12-4 (Military Occupational Classification and Structure).
 - (6) Department of Defense Directive # 1241.1 (Reserve Components Incapacitation Benefits).
 - (7) Public Law 100-456 (Reserve Component Health Care Benefits Act), 30 Sep 88.
 - c. Recordkeeping requirements. This regulation requires the creation, maintenance, and use of the following specific records. See AR 25-400-2, appendix B for file number descriptions and dispositions.
 - (1) Incapacitation pay cases will be filed under: File number 135-381a, Incapacitation Pay Case Files. The USARC has established this file number. The disposition for this file is: Retain in the current files area (RFA) until disposition instructions are published in AR 25-400-2.
 - (2) Line of duty investigations will be filed under: MARKS file number 600-8-1j, Line of Duty Files.
- ### 1-3. Explanation of abbreviations and terms
- Abbreviations and special terms used in this regulation are explained in the glossary.
- ### 1-4. Responsibilities
- a. The **USARC DCSPER** is the HQ, USARC directorate responsible for management of the incapacitation program within the USARC. The DCSPER will--
 - (1) Monitor all claims and review in detail those claims exceeding the statutory limit of 6 months (180 days).
 - (2) Maintain statistics on incapacitation pay and report program status.

- (3) Submit periodic reports to OCAR as required.
- b. The **USARC Surgeon's Office** will--
 - (1) Assist the DCSPER in the scheduling or coordinating medical treatment for soldiers in the line of duty.
 - (2) Assist the medical treatment facility (MTF) in a determination of medical fitness for duty, Medical Evaluation Boards (MEBs) or Physical Evaluation Boards (PEBs), as deemed necessary.
- c. The **USARC Deputy Chief of Staff, Comptroller, (DCSCOMPT)** will provide pay guidance for incapacitation pay claims processed by the Reserve Component Pay Support Office (RCPSO) and DFAS-IN.
 - d. The **MSC commander** will designate a full-time support person as MSC Health Benefits Advisor (HBA) to coordinate medical care, line of duty investigations, and incapacitation pay claims.
 - e. The **MSC POC** will--
 - (1) Review and submit all approved claims to the RCPSO, Fort Riley, KS for payment by DFAS-IN.
 - (2) Review all initial and subsequent claims, monitor all current cases and ensure that unit takes all necessary steps related to the case to include medical treatment for the soldier, compilation of documentation, and medical separation actions, if appropriate.
 - f. The **unit commander** (or designated representative) will--
 - (1) Ensure that the soldier obtains immediate and follow-up medical treatment and assists soldier in preparation of claim packets.
 - (2) Initiate an informal LODI as promptly as possible and a formal LODI, if appropriate.
 - (3) Prepare and submit all claims to the MSC.
 - g. The **soldier** will--
 - (1) Notify unit of assignment of injury, illness or disease, as soon as possible.
 - (2) Submit to military medical treatment.
 - (3) Follow all instructions regarding treatment.
 - (4) Provide required documentation for initiation of incapacitation pay claim.
 - h. The **RCPSO** will--
 - (1) Accept and process claims received from either the MSC or the USARC for payment.
 - (2) Input data into Defense Joint Military Pay System-Reserve Component (DJMS-RC) to pay the soldier.
 - (3) Provide HQ USARC, ATTN: AFRC-PRP-S, a copy of each month's MSC-approved USARC Form 46-R signed and dated in section V.
 - i. The Health Services Support Areas (HSSAs) will--
 - (1) Be the primary link between U.S. Medical Command and U.S. Army Reserve Command.
 - (2) Act as the point of contact between the MSCs and USARC medical units and the active medical activities within the region.
 - (3) Serve as the central agency for all administrative medical readiness issues and requirements to include incapacitation pay and line of duty.

(4) Serve as the primary medical site support coordinator for health care support within the area.

(5) Facilitate dialogue between all area Medical Treatment Facilities and area RC medical units.

1-5. Medical treatment

a. The supporting medical department activity (MEDDAC) provides medical treatment for the soldier, provides a statement of medical examination and duty status (DA Form 2173, Section I), and initiates requests for Medical Evaluation Boards and Physical Evaluation Boards. In emergency circumstances, the initial treatment facility may be civilian or Veterans Affairs (VA), in which case that facility will complete Section I of DA Form 2173.

b. Soldiers who contract or aggravate an injury, illness, or disease while in the line of duty, during inactive duty, active duty, or travel to and from such duty are authorized military medical treatment for those conditions. This treatment will continue until the problem is resolved or until the soldier is returned to duty or separated. When the MEDDAC determines that treatment will not improve the soldier's condition, the soldier will return to duty or separate.

c. Refer to AR 40-3 for guidance on medical care entitlements.

1-6. Compensation

a. If injury, illness, or disease is such that it prevents retention in the military, the soldier may be processed for separation and may be eligible to apply for disability payments and benefits.

b. Soldiers may be compensated for lost nonmilitary income incurred as a result of an injury, illness, or disease suffered in the line of duty and while in an inactive duty training (IDT) or active duty status (Tier 2 cases).

c. Compensation will not exceed full military pay and allowances, as if the soldier were on active duty, less income received from other sources.

d. Reserve Component soldiers should not apply for both Veterans Administration (VA) disability compensation and incapacitation pay for the same disabling condition. Reserve Component soldiers injured in the line of duty are not eligible to apply for VA disability compensation as they have not yet been discharged or released from the service.

e. The MSCs have authority to approve incapacitation pay for soldiers returned to duty, but who still require necessary medical treatment, on a case by case basis. They will evaluate each claim on information such as the time and location of the appointment, travel time required, time required away from the job, and proof that the employer would not pay wages for the day.

1-7. Required documentation

a. The following documents are required for payment:

(1) Completed USARC Form 26-R, Transmittal Letter.

(2) Completed USARC Form 24-R, Individual Claim for Active Duty Pay and Allowances.

(3) Completed USARC Form 46-R, Incapacitation Pay Monthly Claim Form (see para 3-1).

(4) Completed USARC Form 46-1-R, Soldier's Acknowledgment of Incapacitation Pay Counseling (see para 3-2). Required with initial USARC Form 46-R.

(5) Completed USARC Form 46-2-R, Military Physician's Statement of Soldier's Incapacitation/Fitness for Duty, indicating fitness for duty status (see para 3-3).

(6) Approved LODI; DA Form 2173 (Informal) or DD Form 261 (Formal).

(7) OCAR approval for claims exceeding 6 months/180 days (if applicable).

b. Follow procedures in chapter 2 to initiate and process incapacitation claims and use checklist in appendix A to ensure claim packets contain complete and accurate documentation.

Chapter 2

Procedures For Making Incapacitation Claim

2-1. Claim initiation

When a soldier has suffered an injury, illness, or disease that results in a disability and renders the soldier unable to perform military or nonmilitary duties during active duty or inactive duty, he/she is responsible for initiating an incapacitation pay claim. Loss of nonmilitary income must be provided for Tier 2 claims. The incapacitated soldier will--

a. Notify his/her immediate first line leader and unit commander of the injury, illness, or disease, as soon as possible.

b. Submit to medical treatment and follow all instructions provided by medical personnel. Obtain medical care from civilian medical care provider in emergencies and **ONLY** if directed to in writing by military medical facility or at **Own Expense**.

c. Travel at Government expense (in excess of 50 miles or 90 minutes) to treatment facility (DD Form 1610). (**NOTE: This is not TDY and expenses paid by the Government are limited to actual costs expended.**)

d. Complete and submit an Incapacitation Pay Monthly Claim Form, USARC Form 46-R, for each calendar month claimed (IAW para 3-1.) **The form must--**

(1) Accurately disclose income from all sources. This includes, but is not limited to, wages, salaries, tips, income protection plans, vacation and sick pay. Notify unit commander of any outside insurance settlements as a result of the injury, illness, or disease. Civilian insurance settlements may not be counted as income, unless the payment was for lost income. Insurance settlements for "pain and suffering" are not considered income.

(2) Identify any and all periods of military duty performed during the calendar month and provide the reason why duty was performed.

(3) List all medical treatment received during the calendar month by location and date.

e. Notify unit immediately upon any change of duty or civilian work status.

- f. Obtain statements from employer(s) regarding civilian employment status. (Employer must complete appropriate section on USARC Form 46-R IAW para 3-1b.)
- g. Obtain copies of all medical treatment documents received and provide to unit, to include USARC Form 46-2-R completed by a military physician IAW paragraph 3-3.
 - h. Report for Fitness for Duty Evaluations, as directed.
 - i. Report for Medical Evaluation Board, as directed.
 - j. Report for Physical Evaluation Board, as directed.
 - k. Provide copies of all pay vouchers for incapacitation pay received.
 - l. Not attend any form of military duty for pay or retirement points (except for completion of correspondence courses), if determined to be not fit for military duty (Tier 1 cases).
 - m. Sign a Soldier's Acknowledgment of Incapacitation Pay Counseling (USARC Form 46-1-R) IAW paragraph 3-2.

2-2. Unit processing procedures

Upon learning of the injury, illness, or disease, the unit commander or designated representative will--

- a. Notify the next higher headquarters of the injury, illness, or disease, and the circumstances involved.
- b. Depending upon the type of injury, illness, or disease, and the location of the MTF, coordinate with the MTF (or direct a representative to coordinate with the MTF) to determine if services are available. If services are not available, ascertain from the MTF what protocol will be followed and document instructions.
- c. Notify the supporting MEDDAC of the injury, illness, or disease, and request medical treatment for the soldier. (Document phone call with memorandum for record (MFR) or record of conversation (OF 271 or equivalent)).
- d. Direct a noncommissioned officer (NCO) or officer to immediately transport the injured soldier to the medical facility indicated by the supporting MEDDAC. (Use government transportation when available.) Ensure the soldier is provided immediate appropriate medical attention.
- e. Initiate action to ensure an informal LODI (DA Form 2173) is completed (if applicable an Interim LODI may be completed).
- f. Counsel soldier using a counseling checklist (sample format is at appendix B) and USARC Form 46-1-R.
- g. Assist soldier in preparing Section I of USARC Form 46-R.
- h. Complete and sign Section III of the USARC Form 46-R Claim Form.
 - i. Request travel orders for soldier and escorts (if applicable) to go to the MTF (DD Form 1610).
 - j. Make appointment at the MTF for the soldier. (Document with MFR or Conversation Record.)
 - k. Provide documents from soldier's records as needed to complete claim.

- l. Provide copy of DA Form 1379 (U.S. Army Reserve Components Unit Record of Reserve Training) or DA Form 1380 (Record of Individual Performance of Reserve Training), if injury occurred during IDT.
 - m. Provide copy of annual training orders with annex if injury occurred during annual training.
 - n. Provide copy of DD Form 214 (Certificate of Release of Discharge from Active Duty) if claim involves an injury which occurred while serving on extended active duty.
 - o. Provide copy of unit training schedule covering period of duty during which the soldier is incapacitated.
 - p. Submit claim to MSC, recommending approval or disapproval, with copies furnished to the chain-of-command.
 - q. Order soldier to obtain fitness for duty evaluation from supporting MTF.
 - r. Initiate request for extension of incapacitation pay beyond 6 months/180 days (in exceptional cases) by preparing a memorandum in accordance with AR 135-381, chapter 4 (see sample request at fig 2-1).
 - s. Ensure soldier keeps medical appointments. (Incapacitation pay can be terminated for those months that the soldier fails to keep a medical appointment.)

2-3. MSC processing procedures

The MSC will--

- a. Receive, review and approve or disapprove the Incapacitation Pay Monthly Claim Forms, USARC Forms 46-R, submitted by the soldier through the unit.
 - (1) Complete Section IV of USARC Form 46-R IAW paragraph 3-1d.
 - (2) Forward approved requests to the RCPSO for processing. If disapproved, return the request to the soldier.
- b. Maintain log of all claims received, indicating dates received and forwarded, and current status.
- c. Maintain photo copies of claims submitted.
- d. Review all requests to exceed 6 months (180 days) of incapacitation pay and forward by endorsement with recommendation and all other supporting documentation to HQ, USARC, ATTN: AFRC-PRP-S.
- e. Assist unit, as necessary, in obtaining medical treatment from supporting MTF.
- f. Assist unit, as necessary, in obtaining completed LODI from officially designated approving authority.
- g. Budget, fund and prepare necessary paperwork for travel expenses related to obtaining treatment at Military Medical Treatment Facility.
- h. Monitor and review all LODIs to ensure timely and accurate completion at unit level through records, reports, and assistance visits.
 - i. Monitor and review all LODIs to ensure timely and accurate completion by the approving authority.
 - j. Appoint Investigating Officers to conduct formal LODIs as needed. Ensure DD Form 261 is completed IAW AR 600-8-1.

k. A full-time support person at the MSC will coordinate the medical care and treatment of the incapacitated soldier with the HBA and MEDDAC, Patient Administration Division.

2-4. USARC processing procedures

The USARC DCSPER will--

- a. Receive and maintain copies of completed claims forwarded by RCPSO (46-R).
- b. Maintain data base on all incapacitation pay submissions.
- c. Prepare periodic reports.

d. Review all requests for exception to exceed 6 months (180 days) of incapacitation pay and forward to HQDA, DAAR-PE, 2400 Army Pentagon, Washington, DC 20310-2400. Office of the Chief, Army Reserve (OCAR) is the approval authority for all exceptions beyond the 6-month (180-day) statutory limit, on behalf of the Secretary of the Army.

[NOTE: *See additional guidance at appendix C]*

(Letterhead)

OFFICE SYMBOL (135-381a)

MEMORANDUM THRU

COMMANDER, 888th MESS KIT REPAIR BN, AUSTIN, TX 00000-0001

COMMANDER, 444th CANTEEN CUP BDE, HOUSTON, TX 00000-0001

COMMANDER, 55th ARCOM, SAN ANTONIO, TX 00000-0001

FOR COMMANDER, USARC, ATTN: AFRC-PRP-S, 3800 NORTH CAMP CREEK PARKWAY SW, ATLANTA, GA 30331-5099

SUBJECT: Request to Exceed 6-Month Limit on Receipt of Incapacitation Pay

1. Request an extension to receive incapacitation pay beyond the 6-month statutory limitation (37 USC 204(h)) for SP4 James D. Brown, 000-00-0000, a member of this unit.
2. The following additional information is provided:
 - a. Date of incident: 15 January 1993
 - b. Type of training and Date(s): Annual Training 4-17 January 1993
 - c. Description of injury: Soldier has two fractured neck vertebrae, broken left clavicle (3 places), six broken ribs, and a fractured pelvis.
 - d. Type/date/approving authority: Informal, 8 APR 93, CAC Fort Polk, LA; finding of in line of duty as indicated on reverse of DA Form 2173, enclosure 1.
 - e. Civilian employment/occupation/location: Generator Mechanic, Acme Auto Service Company, 123 Mainstreet, Longhorn, TX 00000-0001
 - f. How injury prohibits civilian employment: Soldier cannot stand for prolonged periods, and is not able to move around due to injuries.
 - g. How injury prohibits soldier's military employment: Soldier cannot perform the required physical demands of his military occupational specialty (MOS).
 - h. History of incapacitation payments:

18-31 January 1993.....	\$1,018.59
1-28 February 1993.....	\$1,692.26
1-31 March 1993.....	\$1,742.63
1-30 April 1993.....	\$1,706.22
1-31 May 1993.....	Pending Pymt*
1-30 June 1993.....	Pending Pymt*
1-16 July 1993.....	Pending Pymt*

*Submit Commander's Memorandum at 4-5 month when it's likely the soldier will be incapacitated beyond 180 days.

i. Background: SPC Brown was severely injured as described above while performing annual training at Fort Polk, LA. He was thrown from earth-moving equipment when a bridge collapsed, causing his injuries. He continues to require medical treatment and his case has been reviewed by a MEB at Brooke Army Medical Center (BAMC), Fort Sam Houston, TX. Physical evaluation board liaison officer (PEBLO) at BAMC indicates SPC Brown's case has been referred to the Army Physical Disability System for review, and discharge or separation by virtue of physical disability. It is anticipated that the final decision will not be reached for approximately 120 days.

3. I have personally reviewed the circumstances surrounding this case and firmly believe that it is in the interest of fairness and equity for the Secretary of the Army to grant authorization to exceed the 6-month statutory limitation mandated by law. The severity and nature of the injuries incurred and physical disability merit favorable consideration.

Encl

DONALD Z. SMITH
CPT, EN, USAR
Commanding

Figure 2-1. Sample memorandum request to exceed 6-month (180-day) limit on receipt of incapacitation pay

Chapter 3 Instructions for Prescribed Forms

3-1. Incapacitation Pay Monthly Claim Form (USARC Form 46-R)

(A blank copy of the form is at the back of this regulation for local reproduction.)

a. Section I - Claim Statement.

(1) Items 1-6. Self-explanatory.

(2) Item 7. Enter the date that the injury, illness, or disease occurred or was first experienced. (For disease indicate the type.)

(3) Item 8. Enter the month and year of this claim action. **DO NOT** cross calendar months (i.e., each calendar month must be separated, even if for only a few days).

(4) Item 9. Enter the period of the claim relative to the calendar month.

(5) Item 10. Enter the monetary amount of **lost nonmilitary income** during the calendar month.

(6) Item 11. Enter the monetary amount of **earned nonmilitary income** during the calendar month.

(7) Item 12. Self-explanatory.

(8) Item 13. Enter the name of the organization where the soldier is employed.

(9) Item 14. Enter the address of the employer.

(10) Item 15. Self-explanatory.

b. Section II - Employer's Verification.

(1) Items 16a-16b. Self-explanatory.

(2) Item 16c.

(a) Check applicable box to indicate whether employee is covered by an income protection plan provided by the employer, to include: sick leave; vacation pay; military leave pay.

(b) If "YES", enter the monetary amount provided to the applicant relative to this calendar month.

(3) Item 6d-e-f-g. Self-explanatory.

(4) Item 17. Same as Item 6. To be completed by a second employer, if applicable.

c. Section III - Commander's Verification.

(1) Items 18-21. Self-explanatory.

(2) Item 22. Commander's initials to verify review of the LODI providing the basis for this claim.

(3) Item 23. Enter the name and location of the military medical treatment facility which supports that specific unit.

(4) Item 24. Self-explanatory.

(The commander will forward claim to MSC.)

d. Section IV - MSC Review/Approval.

(1) Item 25. Enter the name of the MSC.

(2) Item 26. Enter the name and title of the MSC POC.

(3) Item 27. Enter the MSC POC's phone number.

(4) Items 28-29. Self-explanatory.

(The MSC will forward original form to the RCPSO, if approved; if disapproved, return to soldier.)

e. Section V - Finance and Accounting RCPSO Processing.

(1) Item 30. Enter the name of the RCPSO.

(2) Item 31. Enter the name and title of the RCPSO POC.

(3) Item 32. Enter the RCPSO POC's phone number.

(4) Item 33. The RCPSO POC will sign and date in this block to show that the claim has been processed for payment.

(The RCPSO will provide a copy of the completed USARC Form 46-R to the USARC, ATTN: AFRC-PRP-S.)

3-2. Soldier's Acknowledgment of Incapacitation Pay Counseling (USARC Form 46-1-R)

(A blank copy of the form is at the back of this regulation for local reproduction.)

a. Submit the USARC Form 46-1-R with the initial submission of USARC Form 46-R.

b. For claims initiated at unit level:

(1) Only unit commander (or designated representative) will counsel soldier on incapacitation pay as described in paragraph 2-2f and appendix B.

(2) The soldier will read, complete, and sign the USARC Form 46-1-R.

(3) The unit commander or designated representative will sign USARC Form 46-1-R as witness.

c. For claims initiated at MSC level:

(1) The MSC commander or individuals with "FOR THE COMMANDER" signature authority will counsel the soldier as stated in 2-2f and appendix B.

(2) The soldier will read, complete, and sign the USARC Form 46-1-R.

(3) The MSC commander or individuals with "FOR THE COMMANDER" signature authority will sign USARC Form 46-1-R as witness.

3-3. Military Physician's Statement of Soldier's Incapacitation/Fitness for Duty (USARC Form 46-2-R)

(A blank copy of the form is provided at the back of this regulation for local reproduction.)

Only statements completed by military medical physicians are acceptable; civilian doctors (including VA physicians) cannot verify fitness for military duty.

a. Section I - Soldier Identification (completed by soldier). Items 1-6. Self-explanatory.

b. Section II - Incapacitation/Fitness for Duty Verification (completed by military physician).

(1) Part A - Incapacitation for Military Duties.

(a) Item 7. Enter either the date the soldier was physically seen by the physician or the date the soldier's records were examined. Check whether soldier, records, or both were seen.

(b) Item 7a and b. Check applicable box to indicate the soldier's "**fitness for military duties**" status.

(c) If item 7a is checked, enter dates for the period the soldier has been determined to be "unfit" for duty. The starting date will, in most instances, be the date of the examination. However, in some circumstances, a previous date may be entered (e.g., if the soldier was previously treated by a civilian physician or medical facility; if a

statement was not previously completed; or other situations where an earlier portion of the incapacitation period was not properly documented).

(d) Item 7c. If a Medical Evaluation Board (MEB) or a Physical Evaluation Board (PEB) has been initiated, check box, check the applicable board action.

(2) Part B - Incapacitation for Civilian Job.

(a) Item 8. Enter either the date the soldier was physically seen by the physician or the date the soldier's records were examined. Check whether soldier, records, or both were seen.

(b) Items 8a and b. Check applicable box to indicate the soldier's "**fitness for civilian job**" status.

(c) If item 8a is checked, enter dates for the period the soldier has been determined to be "unfit" to perform his/her civilian job. The starting date will, in most instances, be the date of the examination. However, in some circumstances, a previous date may be entered (e.g., if the soldier was previously treated by a civilian physician

or medical facility; if a statement was not previously completed; or other situations where an earlier portion of the incapacitation period was not properly documented).

(3) Part C - Military Physician's Verification and Next Appointment.

(a) Item 9a. Enter a description of the soldier's present condition and the prognosis for recovery. Avoid the use of such terms as "undetermined" or "unknown."

(b) Item 9b. Check box to indicate if soldier receives a temporary or permanent profile. (*If soldier receives a profile, complete item 9c.*)

(c) Item 9c. Complete PULHES if Item 9b applies. (*Enter **only one** number in each space provided.*)

(d) Item 10. Enter the date that the soldier is scheduled to return to see the physician. Appointments should not exceed 90 days (3 months) apart.

(e) Items 11-17. Self-explanatory.

Appendix A Incapacitation Pay Checklist

Section I Routine Claims (1-180 days. Submit to RCPSO.)

A-1. USARC Form 26-R, Pay Document Transmittal Letter (TL).

- Must be completed by unit for all initial and subsequent claims (Original Signature & Date).
- Must include data only for incapacitation claims.

A-2. USARC Form 24-R, Individual Claim for Active Duty Pay and Allowances.

- Required for initial and all subsequent claims (Original Signature & Date).
- Remarks section must indicate claim period (may only be maximum of 1 month per claim and may not cross calendar month). Also if soldier was determined not fit for military duty and is claiming loss of drill pay as incapacitation pay, request must be annotated here.
- If soldier performed any military duty during this claim period, the dates and type of duty must be indicated in the Remarks section.

NOTE: DO NOT submit copies of USARC Forms 26-R and/or 24-R to the USARC with requests to exceed 6-month statutory limitations.

A-3. Approved line of duty investigation (LODI) on DA Form 2173 (Statement of Medical Examination and Duty Status).

- Copy required for all claim submissions.
- Must be complete, to include date of injury and training dates.
- Must include approval statement ("BY AUTHORITY OF THE SECRETARY OF THE ARMY") from Approving Authority.
- If formal LODI is required or directed by higher headquarters, unit must submit DD Form 261 (Line of Duty Investigation).

A-4. Incapacitation Pay Monthly Claim Form (USARC Form 46-R).

- Required for initial and all subsequent claims. Original signatures and date are required.
- May only be for a maximum of 1 month and may not cross calendar months.
- Must indicate inclusive period of the claim.
- Must indicate soldier's employment status during the claim period.
- Dates and dollar amounts must agree in all sections.
- Photo copies and cross-outs/white-outs of figures are not acceptable.
- Soldier must indicate all income from all sources.
- If soldier worked a partial month, or period claimed is less than 1 month, statement must indicate amount of earned nonmilitary income for the entire claim month. If none, must so state.
- Proof of prior year's earned income (tax records, prior years pay stubs) must be provided if soldier is unemployed, seasonally-employed, family-employed, or self-employed.
- If form states soldier has received sick leave or disability compensation, specific dollar amounts must be given and must be for the current period.

A-5. Soldier's Acknowledgment of Incapacitation Pay Counseling (USARC Form 46-1-R).

- Unit Commander will ensure soldier is briefed on all items listed.
- Original must be completed and included with **initial claim**.
- Photo copies may be used for subsequent claims.

A-6. Military Physician's Statement of Soldier's Incapacitation/Fitness for Duty (USARC Form 46-2-R).

- Must be signed and dated by attending military physician.
- Must indicate inclusive period that the soldier is incapacitated.

**Section II
Requests to Exceed the 6-month Statutory Limitation (Day 181 forward. Submit to USARC.)**

A-7. Commander's Request Memorandum. Commander's may recommend consideration for a waiver of the 6-month (180-day) statutory limitation by preparing a Commander's Request Memorandum for extension IAW AR 135-381, Chapter 4 (see sample memorandum at fig 2-1).

A-8. Completed and approved line of duty.

A-9. Information concerning the soldier's civilian earnings. Copies of USARC Form 46-R, from previous payments will be used for this purpose.

A-10. Military physician's statement regarding the medical prognosis of the soldier's condition. USARC Form 46-2-R, can be used for this purpose. Statements from the Patient Administration Division of the MTF verifying dates of incapacitation are also acceptable.

A-11. Copies of all medical documentation from date of injury to present must be provided.

A-12. Information regarding disability processing (MEB/PEB) must be provided.

A-13. Copy of USARC Form 46-1-R must be provided.

A-14. *MSCs cannot approve incapacitation pay claims that exceed 180 days.*

Appendix B

Sample Counseling Checklist Format

Soldier Name: _____

____ Have soldier read the Soldier's Acknowledgment of Incapacitation Pay Counseling (USARC Form 46-1-R) and cover the following items of the form with the soldier:

____ (1) You are entitled to military medical treatment for your injury, illness, or disease.

____ (2) The military medical treatment is limited to this injury, illness, or disease. You do not receive full military medical treatment as if you were on active duty. If the informal or formal LODI determines that the injury, illness, or disease, was "not in line of duty," you may be liable for all military-incurred medical costs associated with the incident.

____ (3) You may be entitled to incapacitation pay.

____ (4) Any such pay will not exceed full pay and allowances for your pay grade and years of service, and will be reduced by income received from other sources.

____ (5) Any overpayments, even if accidental, may be recouped (taken back).

____ (6) Incapacitation pay is limited by law to 6 months (180 days), unless an exception is approved by HQDA OCAR (for Secretary of the Army).

____ (7) If the injury, illness, or disease results in a permanent disability or the inability to perform military duty, it may result in a medical discharge.

____ (8) You will comply with all of the actions listed in USARC Reg 140-3, paragraph 2-1.

____ (9) If you are not fit for military duty, you will not be able to perform any military duty for pay or retirement points, except completion of correspondence courses, during the period of incapacitation. You will also receive retirement points for USAR membership.

____ (10) You may or may not earn a qualifying year (good year) for retirement as a result of receiving incapacitation pay.

____ (11) A formal line of duty investigation (LODI) may be initiated at any time, even if an informal LODI initially indicated that no formal LODI was required, and that the results of the formal LODI may result in termination of benefits or recoupment of funds from the soldier's future pay.

____ (12) If you use any civilian sick leave, you **will not** be reimbursed for that period of time. It is your decision to use or not use sick leave from your civilian job. You cannot be forced to use civilian sick leave.

____ (13) If you have been determined by a military medical physician to be fit for military duty, but still cannot perform your civilian duties, you *may* be able to attend drills, but must be able to fully document your inability to perform civilian duties. In no case will you be allowed to perform military duty without a determination of "fit for duty".

____ (14) You will be subject to prosecution under federal law for falsification of any statements or non-disclosure of any outside income, which may result in fine or imprisonment, or both.

____ Ask soldier if he/she understands his/her rights and have them sign the USARC 46-1-R.

[Maintain Counseling Checklist with soldier's incapacitation pay file.]

Appendix C

Additional Guidance For Preparing Claims

"DOs"

1. **DO** counsel soldier and explain rights. Make sure soldier is fully aware of his/her responsibilities as stated in paragraph 2-1 and that he/she fully understands the program limitations and requirements as outlined in the counseling session described in paragraph 2-2f (See counseling checklist at appendix B). This may have to be done repeatedly to avoid confusion and false expectations regarding incapacitation pay.
2. **DO** process claims for unemployed soldiers who are otherwise qualified (Tier 1 cases only).
3. **DO** review informal LODI and direct a formal LODI be conducted at any time when circumstances are unusual, a motor vehicle accident is involved, or unresolved questions arise regarding the soldier's prior medical history (i.e., pre-existing medical condition) that were not mentioned in the initial LODI. Any headquarters can direct a formal LODI.
4. **DO** follow checklist at appendix A when preparing claim forms.
5. **DO** submit documents with original signatures directly to the RCPSO (first 6 months/180 days) or through USARC for cases exceeding the 6-month (180-day) statutory limit.
6. **DO** submit soldier's monthly claim form (USARC Form 46-R) as soon as possible after the end of the month.
7. **DO** monitor soldier's medical progress to ensure appointments were kept and follow-on military medical treatment is conducted.
8. **DO** have statements from non-military physicians (VA or civilian) evaluated by a profiling officer.
9. **DO** refer soldiers for fitness for duty physicals not more than 120 days (4 months) from the date of the injury.

"DON'Ts"

1. **DON'T** use civilian doctor's statements to verify fitness for military duty; only a military medical authority can make this call.
2. **DON'T** tell soldiers that approval of an extension beyond 6 months (180 days) means he/she will continue to be paid during that period. Each month's benefits will be examined separately and on its own merit. The extension beyond 6 months (180 days) may only be granted in exceptional cases and only allows the soldier to continue to submit additional monthly claim forms. They may not be approved and payment amounts may vary from month to month depending on circumstances.
3. **DON'T** submit a claim without an approved LODI.
4. **DON'T** include unnecessary/irrelevant items with claim forms (e.g. award nominations, letters from third parties, medical bills). See checklist at appendix A for description of what is needed.
5. **DON'T** imply that a soldier is entitled to incapacitation pay just because he/she has an approved LODI. The LODI is only *part* of the requirement for incapacitation payments.
6. **DON'T** allow soldiers who have been determined as not fit for military duty to **perform any type of military duty**. "Not fit for duty" means **NOT FIT FOR DUTY**. Until a military medical physician has formally determined that the soldier is fit for duty, he/she will be considered not fit for duty.
7. **DON'T** encourage soldiers one way or another regarding use of their civilian sick leave; it's the soldier's decision. Do, however, inform the soldier to expect a delay in receiving his/her incapacitation pay due to the processing time. Also explain that the amount of incapacitation pay the soldier is entitled to will be reduced by any income received from his/her civilian employer for sick leave taken.
8. **DON'T** amend orders to terminate active duty for soldier determined not fit for military duty.
9. **DON'T** allow soldier to be administratively or medically separated until all medical issues relating to the LOD injury, illness or disease have been resolved.
10. **DON'T** extend active duty orders of 30 days or less, IAW AR 135-381.

Special categories/cases

1. Annual training (AT) injuries. Initiate the LODI immediately and have an NCO or officer accompany the soldier to a military medical treatment facility. If soldier is sent home from AT, ensure that the unit obtains all copies of medical treatment by military medical facilities and that actions taken during AT are fully documented. Soldiers injured while on active duty are not automatically entitled to remain on active duty until the condition is "fixed," even though they are entitled to treatment if the injury was in the line of duty.
2. Existed prior to service (EPTS). Re-injury of a pre-existing military injury does not automatically entitle soldier to full treatment or benefits relating to the original injury, only to the extent that the injury was made worse.

3. Travel to and from Unit Training Assemblies. Soldiers are covered during travel directly to and from drill or other military training; however there are a number of requirements to be met, questions that must be answered, and issues to be addressed in these types of claims, to include the following:

(a) Formal LODI required for all motor vehicle accidents.

(b) Accidents occurring more than 50 miles from Reserve Center (normal commuting distance) or more than 90 minutes before or after the scheduled drill must be fully explained in the LODI, indicating the circumstances. This will include as a minimum:

(1) Where the soldier was staying the night before/after the drill, if not at primary residence.

(2) Where the soldier lives (primary residence).

(3) Where the soldier works (business name and address).

(4) Next scheduled civilian work hours after the drill.

(5) When the soldier left his/her civilian job prior to the drill.

(6) Copy of accident report.

(7) Map indicating home of record, route of travel, point of destination, and location of accident.

4. Employment in a military capacity. To qualify for entitlements, the soldier must meet the critical element of having been injured or becoming ill "while so employed" in a military status. The term, "while so employed", means that the soldier has not yet been released from military control and duty. The mere fact that the service member was in an "authorized status" (orders, pass, leave, etc.) does not support a finding of "in line of duty" in and of itself.

5. Treatment in VA hospitals.

(a) Treatment is authorized on a space available basis with a completed LODI or when referred by a military medical treatment facility.

(b) The VA physicians cannot determine fitness for military duty. The soldier must be seen by a military physician as follow-up action.

Glossary

Section I

Abbreviations

AT	annual training
DCSPER	Deputy Chief of Staff, Personnel
DCSCOMPT	Deputy Chief of Staff, Comptroller
EPTS	Existed Prior to Service
IDT	inactive duty training
HBA	Health Benefit Adviser
HQ	headquarters
HSSA	Health Services Support Areas
LODI	line of duty investigation
MEB	Medical Evaluation Board
MEDDAC	medical department activity
MTF	military medical treatment facility
OCAR	Office of the Chief, Army Reserve
PEB	Physical Evaluation Board
POC	point of contact
RCPSO	Reserve Component Pay Support Office
VA	Office of Veterans Affairs

Section II

Terms

Dual compensation

In accordance with 37 U.S.C., section 204(g) and (h) and 38 U.S.C., sections 1110 and 1131, Reserve Component soldiers injured in the line of duty are not eligible to apply for VA disability compensation, as they have not been discharged or released from the service. Reserve Component soldiers cannot receive both VA disability compensation and incapacitation pay for the same disabling condition.

Earned income

Income from nonmilitary employment, including self-employment. It includes normal wages, salaries, professional fees, tips, or other compensation for personal services actually rendered, as well as income from income protection plans, vacation pays, and sick leave that the member elects to receive. It does not include rents, royalties, retirement pays, dividends or interest, welfare payments, or other nontaxable government benefits.

Existed Prior to Service (EPTS).

Any injury or disease, to include the underlying condition causing it, is considered to have existed prior to service if the following applies: it was sustained or contracted prior to the present period of active duty (AD) or authorized training; had its inception between period of AD or authorized training; or had its inception between prior and present periods of AD or training. Each time a soldier enters a period of authorized training or duty, any condition which existed prior to this period of duty is considered as EPTS.

Formal line of duty investigation (LODI)

Completed in cases of unusual circumstances and in all motor vehicle accidents. Formal LODIs are completed on DD Form 261 (Line of Duty Investigation).

Health Benefit Adviser (HBA)

This individual will be assigned to the Surgeon's Office staff at the MSC. These individuals will work closely with the HSSA to assist in coordination of medical care for the USAR soldier.

Health Services Support Areas (HSSA)

Seven medical centers who have assumed command and control over medical treatment facilities in their HSSA. The regional HSSA are: North Atlantic - Walter Reed; Southeastern - Eisenhower; South Western - William Beaumont and Pacific - Tripler.

Incapacitation pay

Compensation paid by the Army to soldiers as compensation for injuries, illness or disease incurred or aggravated in the line of duty while serving in either inactive duty or active duty status which causes soldier loss of military and/or civilian income and renders the soldier disabled. It is not compensation for work performed. Public Law 100-456 limits payments to 6 months (180 days). Claims exceeding 6 months (180 days) must be approved by OCAR.

Informal line of duty investigation (LODI)

Completed on DA Form 2173 (Statement of Medical Examination and Duty Status), IAW Army Regulation 600-8-1.

Interim LODI

Used when a LODI cannot be completed within the established time frames. DOD 1241.1 dictates that an Interim LODI may be prepared.

Line of duty investigation (LODI)

A determination or investigation conducted to determine if the soldier was injured in the line of duty and could provide eligibility for medical treatment and incapacitation pay. LODI can be either formal or informal.

Reserve Component Pay Support Office (RCPSO)

The Designated Finance Office to support USAR units. They input directly to the Defense Finance Accounting Service, Indianapolis Center, (DFAS-IN) which processes payment.

Tier 1

Refers to claims by soldiers who are unfit to perform their military duties as a result of injury, illness or disease caused by military service. Determination of fitness for duty must be made by a **military medical physician**. Eligible soldiers are paid full military pay and allowances, less any civilian income received during the month of the claim, and are not eligible to draw retirement points.

Tier 2

Refers to claims by soldiers who are determined fit to perform their military duties by a military medical physician but who are unable to perform their civilian jobs and can demonstrate a loss of civilian income. Eligible soldiers will be reimbursed for lost civilian income up to full military pay and allowances and are eligible to draw retirement points.