

Department of the Navy, DoD

§ 733.1

*For the third digit of the appropriation, enter the last digit of the fiscal year current at the time claim is approved for payment.

**Refer to NAVCOMPT Manual par. 027003 for appropriate Expenditure Category Codes when disbursement or collection involves a foreign or U.S. Contractor abroad.

¹Not applicable when care is procured from non-DOD sources for a patient receiving either inpatient or out-patient care at a naval medical facility. In such instances, the expenses incurred are payable from operations and maintenance funds available for support of the naval medical facility.

²Service expenses include: hospital, emergency room clinic, office fees; physician and dentist professional fees; laboratory, radiology, operating room, anesthesia, physical therapy, and other services provided.

³Supply expenses include: medications and pharmacy charges; IV solutions; whole blood and blood products; bandages; crutches; prosthetic devices; needles and syringes; and other supplies provided.

§ 732.26 Standard document numbers.

Adjudication authorities will assign to each claim approved for payment, a unique 15 position alpha/numeric standard document number (SDN). Prominently display this number on the NAVMED 6320/10, the NAVCOMPT

2277 (Voucher for Disbursement and/or Collection), NAVCOMPT 1164 (Claim for Reimbursement for Expenditures on Official Business) and on all other documentation accompanying claims. Compose SNDs per the following example: N0016887MD00001 or N0016887RV00001.

Position Entry	1	2 thru 6	7 & 8	9 & 10	11 thru 15
	N	00168	87	MD or RV	00001

Position	Data entry
1	"N" identifies Navy.
2 thru 6	Unit Identification Code of document issuing activity.
7 and 8	Last two digits of the fiscal year in which the claim is approved for payment.
9 and 10,	For NAVCOMPT 2277s, "MD" identifies the document as Miscellaneous Financial Document.
or,	
9 and 10	For SF 1164s, "RV" identifies the document as a Reimbursement Voucher.
11 thru 15	Consecutively assigned five digit serial number beginning with "00001" each fiscal year. Each subsequent claim will then be serially numbered "00002", "00003", etc.

PART 733—ASSISTANCE TO AND SUPPORT OF DEPENDENTS; PATERNITY COMPLAINTS

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AUTHORITY: 5 U.S.C. 301; 10 U.S.C. 5013; 37 U.S.C. 101, 401, 403; 50 U.S.C. App. 2210; E.O. 11157, 29 FR 7973, 3 CFR 1964 Supp. p. 139, as amended.

SOURCE: 44 FR 42190, July 19, 1979, unless otherwise noted.

§ 733.1 Rates of basic allowance for housing (BAH).

(a) Except as otherwise provided by law, a member of the naval service entitled to basic pay is entitled to a BAH at the monthly rates according to the pay grade to which he or she is assigned, in accordance with 37 U.S.C. 403.

(b) The term "dependent" with respect to a member of the naval service, as used in this part, means:

(1) His or her spouse;

(2) His or her unmarried child (including any of the following categories of children if such child is in fact dependent on the member: A stepchild; an adopted child; or an illegitimate child whose alleged member-parent has been judicially decreed to be the parent of the child or judicially ordered to

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contribute to the child's support, or whose parentage has been admitted in writing by the member) who either:

(i) Is under 21 years of age; or
(ii) Is incapable of self-support because of a mental or physical incapacity, and in fact dependent on the member for over one-half of his or her support; and

(3) His or her parent (including a stepparent or parent by adoption, and any person, including a former stepparent, who has stood in loco parentis to the member at any time for a continuous period of at least 5 years before he or she became 21 years of age) who is in fact dependent on the member for over one-half of his or her support; however, the dependency of such a parent is determined on the basis of an affidavit submitted by the parent and any other evidence required under regulations prescribed by the Secretary of the Navy, and he or she is not considered a dependent of the member claiming the dependency unless:

(i) The member has provided over one-half of his or her support for the period prescribed by the Secretary; or

(ii) Due to changed circumstances arising after the member enters on active duty, the parent becomes in fact dependent on the member for over one-half of his or her support.

The relationship between a stepparent and his or her stepchild is terminated by the stepparent's divorce from the parent by blood.

[44 FR 42190, July 19, 1979, as amended at 65 FR 62617, Oct. 19, 2000]

§ 733.2 Delegations.

The Director, Navy Family Allowance Activity, Anthony J. Celebrezze Federal Building, Cleveland, OH 44199, with respect to personnel of the Navy, and the Head, Personal Affairs Branch, Manpower Department, Headquarters United States Marine Corps, Washington, DC 20380, with respect to personnel of the Marine Corps, have been granted the authority by the Secretary of the Navy to make determinations including determinations of dependency and relationship when required by legislation or policy for eligibility for BAH, transportation and medical care in behalf of dependents of Navy and Marine personnel and to administer

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matters involving adequacy of support for dependents and waivers of support of a spouse, and on the basis of new evidence or for other good cause to reconsider or modify any such determination.

[44 FR 42190, July 19, 1979, as amended at 65 FR 62617, Oct. 19, 2000]

§ 733.3 Information and policy on support of dependents.

(a) *Policy*—(1) *General*. The naval service will not be a haven or refuge for personnel who disregard or evade their obligations to their families. All members of the naval service are expected to conduct their personal affairs satisfactorily. This includes the requirement that they provide adequate and continuous support for their lawful dependents and comply with the terms of separation agreements and court orders. Failure to do so which tends to bring discredit on the naval service is a proper subject of command consideration for initiation of court-martial proceedings or other administrative or disciplinary action.

(2) *Adequacy of support*. Every member has an inherent natural and moral obligation to support his or her spouse and family. What is adequate and reasonably sufficient support is a highly complex and individual matter dependent on numerous factors, and may be resolved permanently only in the civil courts. Salient factors that should be considered are the pay of the member, any other private income or resources of the member and the dependents, the cost of necessities and every day living expenses and financial obligations of the dependents, and the expenses and other financial obligations of the member in relation to his or her income. The Department of the Navy does not and cannot act as a court in these matters. It is desired that the amount of support to be provided for dependents either be established by mutual understanding between the parties concerned or adjudicated in the civil courts. The support scales set forth in paragraphs (b) and (c) of this section are not intended as a fixed rule. They are intended as guidelines and the actual support may be increased or decreased as the facts and circumstances warrant

until the amount of support to be furnished is settled by agreement of the parties or adjudicated by the civil courts. Because of the inherent arbitrary and temporary nature of the support scales set forth below, it is not intended that they be used as bases for any judicial proceedings, for to do so would lend excessive credence to administrative tools which have been designed for use only within the Navy and the Marine Corps.

(b) *Navy members.* (1) The amount of support to be provided in the absence of a mutual agreement or court order is as follows:

For spouse only— $\frac{1}{3}$ gross pay
 For spouse and one minor child— $\frac{1}{2}$ gross pay
 For spouse and two or more children— $\frac{3}{5}$ gross pay
 For one minor child— $\frac{1}{6}$ gross pay
 For two minor children— $\frac{1}{4}$ gross pay
 For three or more children— $\frac{1}{3}$ gross pay

(2) For purposes of this support guide, gross pay will include basic pay and BAH, but does not include hazardous duty pay, sea or foreign duty pay, incentive pay, or basic allowance for subsistence.

(3) *Support of a lawful wife.* The laws of jurisdictions in the United States impose a legal obligation upon a husband to support his wife. Exemptions from support of a lawful wife may be in the form of an order of a civil court of competent jurisdiction, relinquishment by the wife or mutual agreement of the parties, or a waiver of the naval support requirement granted by the Director, Navy Family Allowance Activity or the Commandant of the Marine Corps, as appropriate.

(4) *Payments of alimony.* Dependents for whom basic allowance for quarters or other allowances are payable are defined by law. For purposes of qualifying for basic allowance for quarters, medical care or other benefits, a former spouse is not a dependent even though alimony has been decreed. Members are expected to comply with the terms of court orders or divorce decrees which adjudge payments of alimony even though basic allowance for quarters is not payable.

(5) *Support of children.* The duty of a member to support his or her minor children is not affected by desertion or other misconduct on the part of the

spouse. The obligation to support a child or children is not affected by dissolution of the marriage through divorce, unless the judicial decree or order specifically negates the obligations of the member to support a child or children of the marriage. The fact that a divorce decree is silent relative to support of minor children or does not mention a child or children will not be considered as relieving the service member of the inherent obligation to provide support for the child or children of the marriage. In many cases, the courts may not be cognizant of the existence of a child or children, or may not have jurisdiction over the child or children. A commanding officer has discretion to withhold action for alleged failure to support a child under the following conditions:

(i) Where the member cannot ascertain the whereabouts and welfare of the child concerned.

(ii) Where it is apparent that the person requesting support for a child does not have physical custody of the child.

(iii) Where the member has been granted custody of the child by court order but does not have physical control of the child and the member is ready, willing, and able to care for and support the child if physical control is obtained.

(6) *Adopted children.* The natural parents of an adopted child are relieved of the obligation to support the child as such duty is imposed on the adoptive parents. A Navy or Marine Corps member who contemplates the adoption of a child should be aware of the legal obligation to provide continuous support for such child during minority.

(7) *Entitlement to basic allowance for quarters.* Entitlement of members to basic allowance for quarters on behalf of dependents is provided by statute. No member should be denied the right to submit a claim or application for basic allowance for quarters, nor should any command refuse or fail to forward any such claim or application. In cases involving parents, the member should furnish an estimate of the dependency situation to the best of his or her knowledge. Commanding officers should not contact parents for dependency information to include in the member's application. This delays the

application and serves no useful purpose, as such cases are thoroughly investigated by the Navy Family Allowance Activity or Headquarters Marine Corps, which obtains necessary dependency affidavits directly from the parents. Any person, including a service member or dependent who obtains an allowance by fraudulent means is subject to criminal prosecution.

(8) *Application of the rule based on Robey v. United States 71 Ct. Cl. 561.* Determinations that no dependency exists may be made in disputed cases—if a member does not contribute to the support of spouse and child at least to the extent of:

- (i) The full amount of his/her basic allowance for quarters, or
- (ii) An amount specified in a court order or legal separation agreement, or
- (iii) An amount agreed to by the parties as acceptable, adequate support, whichever is lesser. Pertinent decisions of the Court of Claims or Comptroller General will be followed in determinations of dependency.

(c) *Marine Corps members.* (See MCO 5800.16A, Marine Corps Manual for Legal Administration (LEGADMINMAN))

(1) In the absence of a court order or a written agreement between the parties as to an amount of support to be furnished by the Marine, the following shall apply to establish interim support requirements. Note that gross pay is defined as basic pay and BAH, but does not include hazardous duty pay, incentive pay, or basic allowance for subsistence.

(2) *Single family.* (i) For a single family living in Government housing (civilian spouse): interim support shall be \$200.00 per supported person, up to a maximum of $\frac{1}{3}$ gross pay, per month.

(ii) For a single family not living in Government housing (civilian spouse): interim support shall be either \$200.00 per supported family member, or BAH at the “with dependents” rate, whichever is greater, up to a maximum of $\frac{1}{3}$ gross pay, per month.

(3) *Multiple families (not including a spouse in the armed forces).* Interim support for each family member shall be either \$200.00 per supported family member, or the pro rata share of BAH at the “with dependents” rate, which-

ever is greater, up to a maximum of $\frac{1}{3}$ gross pay, per month.

(4) *Both spouses in the armed forces.* (i) No children of the marriage: no support obligation, regardless of any disparities in pay grade.

(ii) All the children of the marriage in the custody of one spouse: interim support shall be either \$200.00 per supported child, or BAH at the “with dependents” rate, whichever is greater, up to a maximum of $\frac{1}{3}$ gross pay, per month.

(iii) If custody of children of the marriage is divided between the two parents: interim support shall be either \$200.00 per supported family member, or the pro rata share of BAH at the “with dependents” rate, whichever is greater, up to a maximum of $\frac{1}{3}$ gross pay, per month.

(5) Support amounts required pursuant to this section will be paid until a court order or written agreement is obtained.

(6) Form and timing of financial support payments

(i) Unless otherwise required by court order or by written financial support agreement, a financial support payment will be made in one of the following ways:

- (A) Check.
- (B) Money order.
- (C) Electronic transfer.
- (D) Voluntary allotment.
- (E) Cash.
- (F) Involuntary allotment.
- (G) Garnishment.

(ii) As an exception to paragraph 15002.6a of the LEGADMINMAN, a commanding officer may direct compliance with the financial support requirements of this section by making in-kind financial support. For example, paying non-Government housing expenses on behalf of family members, automobile loans, or charge accounts.

(7) *Alimony and child support.* (i) Dependents for whom BAH or other allowances are payable are defined by law. For purposes of qualifying for BAH, medical care, or other benefits, a former spouse is not a dependent even though alimony has been decreed. Marines are expected to comply with the terms of court orders which adjudge alimony payments (even though BAH is not payable) until the responsibility

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for compliance is terminated by a court of competent jurisdiction; a written agreement between the persons concerned; relinquishment by the former spouse in writing; or the waiver of the support requirement is granted by the general court-martial (GCM) authority in writing.

(ii) If the decree is silent as to alimony payments, it is presumed that the court did not intend such payments.

(iii) When a valid court order exists and the Marine concerned is financially unable to comply, the Marine will be advised that noncompliance with the terms of that order renders the Marine liable to further civil court action.

(iv) The duty of Marines to support their minor children is not terminated by desertion or other misconduct on the part of the Marine's spouse. Similarly, the obligation to support a child or children is not eliminated or reduced by the dissolution of the marriage through divorce, unless a judicial decree or order specifically negates the obligation of child support. The fact that a divorce decree is silent relative to support of minor children, or does not mention a child or children, will not be interpreted by command authorities as relieving the Marine of the inherent obligation to provide support for the child or children of the marriage.

(v) A commanding officer may consider releasing a Marine under his/her command from the specific requirements of this regulation in the situations described below. A commanding officer may reconsider any prior decision made by himself/herself or by a prior commanding officer:

(A) When the Marine cannot determine the whereabouts and welfare of the child concerned;

(B) When it is apparent that the person requesting support for the child does not have physical custody of the child;

(C) When the Marine has been the victim of a substantiated instance of physical abuse (this section applies only to a requirement to support a spouse, not dependent children. Commanding officers are strongly encouraged to consult the installation family

counseling center concerning such issues. In addition, commanders should exercise extreme caution in denying dependent support in cases where the servicemember is also a perpetrator of spousal abuse.); or

(D) The dependent is in jail.

(vi) All command directed support waivers shall be in writing and a copy shall be provided to the disenfranchised family member by the command. The command shall also retain a copy. Alleged verbal support waivers shall be given no force or effect.

(vii) The natural parents of an adopted child are relieved of the obligation to support the child as such duty is imposed on the adoptive parent. A Marine who contemplates the adoption of a child should be aware of the legal obligation to provide continuous support, once adopted, for such child during its minority.

[44 FR 42190, July 19, 1979, as amended at 65 FR 62617, Oct. 19, 2000]

§ 733.4 Complaints of nonsupport and insufficient support of dependents.

(a) Upon receipt of a complaint alleging that a member is not adequately supporting his or her lawful dependents (spouse or children), the member will be interviewed and informed of the policy of the Department of the Navy concerning support of dependents. In the absence of a determination by a civil court or a mutual agreement of the parties, the applicable guide in § 733.3 will apply. The member will be informed that his/her Navy or Marine Corps career may be in jeopardy if he/she does not take satisfactory action. The member may become ineligible to reenlist or extend enlistment (in the case of enlisted members), and may be subject to administrative or disciplinary action that may result in separation from the Navy or Marine Corps.

(1) *Waiver of support of spouse.* If the member feels that he or she has legitimate grounds for a waiver of support for the spouse, the Director, Navy Family Allowance Activity or in the case of a member of the U.S. Marine Corps, the general court-martial convening authority, may grant such a waiver for support of a spouse (but not children) on the basis of evidence of desertion without cause or infidelity on

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the part of the spouse. The evidence may consist of—

(i) *U.S. Navy members.* An affidavit of the service member, relative, disinterested person, public official, or law enforcement officer, and written admissions by the spouse contained in letters written by that spouse to the service member or other persons. However, affidavits of the service member and relatives should be supported by other corroborative evidence. All affidavits must be based upon the personal knowledge of the facts set forth; statements of hearsay, opinion, and conclusion are not acceptable as evidence.

(ii) *U.S. Marine Corps members.* The Marine's commander may consider all pertinent facts and circumstances. The general court-martial convening authority may consider any reliable evidence including, but not necessarily limited to, the following: affidavits of the Marine, relatives, or other witnesses; admissions of the spouse, including verbal and written statements or letters written by the spouse to the Marine or other persons; pertinent photographs or court orders; and admissions by the person with whom the spouse allegedly had sexual liaisons. Witness statements should ordinarily state facts that were personally observed. Statements that merely state a conclusion without providing the personal observations on which the conclusion is based are generally unpersuasive.

(iii) The request for waiver of support of a spouse should be submitted to the Director, Navy Family Allowance Activity or in the case of a member of the U.S. Marine Corps, the general court-martial convening authority, with a complete statement of the facts and substantiating evidence, and comments or recommendations of the commanding officer.

(2) *Action.* After a written complaint that a member has failed or refused to furnish support for his or her spouse or children has been received, and the member has been counseled with regard to his/her rights and obligations in the support matter, continued failure or refusal, without justification, to furnish support for dependents in accordance with the provisions of a valid court order, written agreement, or, in

the absence of a court order or agreement, the appropriate support guide set forth above, will be a basis for consideration of disciplinary or administrative action which may result in the member's separation from active service.

(b) [Reserved]

[44 FR 42190, July 19, 1979, as amended at 65 FR 62618, Oct. 19, 2000]

§ 733.5 **Determination of paternity and support of illegitimate children.**

(a) *Illegitimate children.* If the service member desires marriage, leave for this purpose is recommended whenever consistent with the needs or exigencies of the service. When the blood parents of an illegitimate child marry, the child is considered to be legitimized by the marriage unless a court finds the child to be illegitimate.

(b) *Judicial order or decree of paternity or support.* Normally any order or decree which specifies the obligation to render support of illegitimate children will include within it a determination of paternity of such children; however, some jurisdictions provide for determinations of the legal obligation to support illegitimate children without a determination of paternity. Either type of order or decree falls within the scope of this paragraph. If a judicial order or decree of paternity or support is rendered by a United States or foreign court of competent jurisdiction against a member of the Navy or Marine Corps on active duty, the member concerned will be informed of his moral and legal obligations as well as his legal rights in the matter. The member will be advised that he is expected to render financial assistance to the child regardless of any doubts of paternity that the member may have. If the court order or decree specifies an amount of support to be provided the member will be expected to comply with the terms of such decree or order. If no amount is specified, support should be rendered in accordance with such reasonable agreement as may be made with the mother or legal guardian of the child or, in the absence of such agreement, in accordance with the applicable guide set forth above. If the member refuses to comply with the

terms of the court order, administrative action will be taken as indicated in § 733.4.

(1) *Court of competent jurisdiction.* A court of competent jurisdiction is generally a court that has jurisdiction over the subject matter and the parties involved. As a general rule, the competency of the court to render the judicial order or decree may be tested by the enforceability of the order or decree. Normally, although not always, personal service of the court's process on the member is considered essential. With respect to a foreign judicial order or decree, the general rule is that where the defendant was a citizen or subject of the foreign country in which the order or decree was issued, the court may have acquired jurisdiction over the member by any mode of service or notice recognized as sufficient by the laws of that country. It should be noted, however, that an order or decree against a citizen or permanent resident of another country, without personal service or personal notice of the action to him or her, is null and void unless the member voluntarily submitted to the jurisdiction by appearing and contesting the action. In the event there is doubt as to the competency of the court to enter the order or decree, the question shall be referred to the Judge Advocate General.

(2) [Reserved]

(c) *Nonjudicial determination.* In the absence of an adjudication of paternity or of a court-ordered obligation to furnish support, the member shall be privately consulted and asked, where appropriate, whether he or she admits either paternity of, or the legal obligation to support, the child or expected child. If the answer is affirmative, the member shall be informed that he or she is expected to furnish support as set forth in paragraph (b) of this section. Where paternity or the legal obligation to support is admitted by a male member, such member should be informed of his moral obligation to assist in the payment of prenatal expenses.

(d) *Members not on active duty.* Allegations of paternity against members of the naval service who are not on active duty will be forwarded to the individual concerned in such a manner as

to insure that the charges are delivered to the addressee only. The correspondence should be forwarded via the commandant of the naval district in which the member resides.

(e) *Former members.* (1) If a certified copy of a judicial order or decree of paternity or support duly rendered by a United States or foreign court of competent jurisdiction against a former member of the Navy or Marine Corps is submitted, his or her last-known address will be furnished to the complainant with return of the correspondence and court order. The complainant will be informed of the date of discharge and advised that the individual concerned is no longer a member of the Navy or Marine Corps in any capacity.

(2) Where there has been no court adjudication, the correspondence will be returned to the complainant with an appropriate letter stating that the individual is no longer a member of the Navy or the Marine Corps in any capacity and giving the date of his or her discharge or final separation except that the last-known address of the former member shall be furnished to the claimant if the complaint against the former member is supported by a document which establishes that the former member has made an admission or statement acknowledging paternity or responsibility for support of a child before a court of competent jurisdiction, administrative or executive agency, or official authorized to receive it. In cases where the complaint, along with the corroboration of a physician's affidavit, alleges and explains an unusual medical situation which makes it essential to obtain information from the alleged father in order to protect the physical health of either the prospective mother or the unborn child, the last-known address of the former member shall likewise be furnished to the claimant.

[44 FR 42190, July 19, 1979, as amended at 65 FR 62618, Oct. 19, 2000]