

value of medical expenses, lost military pay or property loss or damage based on a tort must be made not later than three years from the date of accrual, 28 U.S.C. 2415(b). The date of accrual is usually the date of the occurrence giving rise to the recovery, for example, the date of injury or death for medical expenses and lost military pay or the date of damage or loss for a government property assertion. There are exceptions. For example, the loss of property in rightful possession of another accrues when that person claims ownership or converts the property to his own use.

(2) Recovery assertions based on an implied-in-law contract against a no-fault or personal-injury-protection insured must be brought no later than six years from the date of accrual, 28 U.S.C. 2415(a), *United States v. Limbs*, 524 F.2d 799 (9th Cir. 1975). The date of accrual is usually the date of occurrence.

(3) Actions asserted on a third-party beneficiary basis against an insurer or workers compensation fund must comply with the state notice requirement, which varies from one to six years, or the insurer's notice requirement set forth in the policy. *United States v. Hartford Acci. & Indem. Co.*, 460 F.2d 17 (9th Cir. 1972), cert. den. 409 U.S. 979 (1972).

(4) The statute of limitations is tolled or does not start running until the responsible federal official is notified of the existence of a recoverable loss, *Jankowitz v. United States*, 533 F.2d 538 (D.C. Cir. 1976), *United States v. Golden Acres, Inc.*, 684 F. Supp. 96 (D. Del. 1986). The responsible federal official can be the area claims office (ACO), the claims processing office (CPO), a command claims service or USARCS, depending on who receives the notice under this regulation. However, because of the responsibility to notify the MTF or TRICARE fiscal intermediary, and by regulation the notice must be expeditious, delayed notification could start the statute of limitations running. Additionally, when an ACO or CPO discovers the existence of an assertion, the statute of limitations will begin to run regardless of when the MTF or the TRICARE intermediary sends a notice. The date

of receipt of a notice must be entered into the affirmative claims management program/database (ACMP) and the notice must be date-stamped and initialed.

#### § 537.6 Identification of recovery incidents.

(a) *Responsibilities.* Each command claims service and ACO will develop means to identify recovery incidents arising in its geographic area of responsibility. See §§ 536.10 and 536.11 of this chapter and paragraph 2-2 of DA Pam 27-162. This requires publication of a claims directive to all DOD and Army installations, units and activities in its area, emphasizing the importance of reporting serious incidents to recovery judge advocates (RJAs) or civilian recovery attorneys.

(b) *Screening procedures.* (1) Establish a point of contact in each unit and activity in the area of responsibility and screen their sources periodically, including motor pools, family housing, departments of public works, safety offices, provost marshals, and criminal investigation divisions. Review civilian news and police reports, military police blotters and reports, court proceedings, line of duty and AR 15-6 investigations and similar sources to identify potential medical care recovery claims.

(2) The MTF commander will ensure that the claims office is notified of instances in which the MTF provides, or is billed by a civilian facility for, inpatient or outpatient care resulting from injuries (such as broken bones or burns arising from automobile accidents, gas explosions, falls, civilian malpractice, and similar incidents) that do not involve collections from a health benefits or Medicare supplemental insurer. Claims personnel will coordinate with MTF personnel to ensure that inpatient and outpatient records and emergency room and clinic logs are properly screened to identify potential cases. The RJA or recovery attorney will screen the MTF comptroller records database and division records as well as ambulance logs to identify potential medical care recovery cases. The RJA or recovery attorney will also coordinate with Navy and Air Force claims

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offices and MTFs to ensure they identify potential claims involving treatment provided to Army personnel.

(3) The MTF commander will also ensure that the MTF does not release billings or medical records, or respond to requests for assistance with workers' compensation forms, without coordinating with the RJA or recovery attorney.

(4) The TRICARE fiscal intermediary is required to identify and mail certain information promptly to the claims office designated as the state point of contact. The fiscal intermediary must mail the TRICARE Explanation of Benefits, showing the amount TRICARE paid on the claim along with what diagnostic codes were used, and DD Form 2527, Statement of Personal Injury. A sample Statement of Personal Injury (DD Form 2527) is posted on the USARCS Web site; for the address see the Note to § 537.1.

(5) The RJA or recovery attorney will also coordinate with Navy and Air Force claims offices and MTFs to ensure they identify potential claims involving treatment provided to Army personnel, AR 40-400, paragraph 13-5.

(c) *When to open a recovery file.* (1) Upon identification of a potential recovery incident or upon receipt of a billing from a TRICARE Fiscal Intermediary or an MTF, a file will be opened and entered into the ACMP by the first ACO or CPO that learns of the event even if liability has not been established. Incidents under Navy, Air Force or Coast Guard jurisdiction will not be so entered but referred to the responsible service. Complete listings of claims/recovery offices worldwide are posted on the USARCS Web site; for the address see the Note to § 537.1. At the site, select the link "Claims Resources." At the next screen, click on "Tables Listing Claims Offices Worldwide.").

(2) Army responsibility for affirmative claims is as follows:

(i) Damage to or loss of real or personal property of the DOD or the Army even if located at installations or activities under the jurisdiction of other uniformed services.

(ii) Personal injury to persons whose primary care for an accident-related injury is furnished at an Army MTF,

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regardless of the uniformed services affiliation of the person or sponsor, but not to those treated at another uniformed service's MTF even if the person is an active duty Army member.

(iii) Personal injury to an active duty or retired Army member or a family member of either category treated under TRICARE.

(iv) A lead agency will be established whenever:

(A) Property damaged or lost belonging to more than one service is involved in the same incident.

(B) Personal injury victims are treated at MTFs of more than one service.

(C) Personal injury victims with affiliations to more than one service are treated under TRICARE.

(D) Lead agencies may be established locally for claims valued at \$50,000 or less. For claims greater than \$50,000 USARCS will be notified and will deal with the other service at headquarters level. (See § 536.32 of this chapter.)

## § 537.7 Notice to USARCS.

Upon receipt of notice of a claim involving either actual or potential amounts within USARCS' monetary jurisdiction, that is, where final action will be taken by USARCS or the Department of Justice, immediate notice will be given to USARCS. Forwarding a copy of the serious incident report, discussed in § 536.22(c) of this chapter, to USARCS, will meet this requirement. Thereafter, mirror file copies will be furnished to USARCS in accordance with AR 27-20, paragraph 2-12. This allows for continuous monitoring and discussion between the ACO and the USARCS area action officer (AAO).

## § 537.8 Investigation.

(a) *Claims over \$50,000.* Hands-on investigation will be conducted by claims personnel as set forth in DA Pam 27-162, Chapter 2, Section IV, regardless of the amount of insurance coverage immediately available, with a view to discovery of other sources of recovery, for example, vehicle defects or improper maintenance, road design and absence of warning signs, products liability, medical malpractice in civilian treatment facilities. Where the employment