INCLUDES CHANGE 1

NATIONAL GUARD REGULATION
No. 40-3

HEADQUARTERS
DEPARTMENT OF THE ARMY
WASHINGTON, DC, *15 December 1978*

Medical Services

MEDICAL CARE FOR ARMY NATIONAL GUARD MEMBERS

This is a complete revision of NGR 40-3 and contains changes throughout. Authority has been added to include care for National Guard members on FTTD for more than 30 days under Section 502f, Title 10, U.S. Code. Whenever the word "he" is used in this regulation, it is intended to include both the masculine and feminine genders unless otherwise indicated.

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1. General. This regulation outlines the medical care to which Army National Guard (ARNG) personnel not on active Federal service are entitled. It prescribes the policies and procedures for obtaining such care and establishes the responsibilities for the provisions of care. AR 40-3 applies to the ARNG except as modified herein.

2. Authority. Sections 318–320 of Title 32, U.S.C. and sections 502–505 of Title 32, U.S.C.

3. Policies. *a.* Members of the ARNG are entitled to medical care for treatment of disease or injury only under the circumstances outlined in paragraph 6. Unit commanders should exercise extreme care when authorizing medical attention for ARNG personnel in order that funds will not be committed for unauthorized expenditures.

b. Army National Guard technicians who are injured in the scope of their ARNG civilian employment are not authorized medical care under this regulation, but are entitled to medical care under the Federal Employees Compensation Act (chap 15 of title 5, U.S.C.) administered by the Office of Workers' Compensation Programs.

c. Army National Guard members are entitled to medical care when ordered to perform duty under section 502, title 32, U.S.C., under the following circumstances:

(1) For a period of more than 30 days and they are disabled in line of duty from disease while so employed.

(2) For any period of time and they are disabled in line of duty from injury while so employed.

(3) In the instances outlined in (1) and (2) above, medical care and medical care benefits are authorized under paragraph 6.

4. State Responsibilities. *a.* Prior to the open-

*This regulation supersedes NGR 40-3, 31 May 1972.

ing of annual training camps, the State military authorities are responsible for the arrangements for appropriate medical services. These arrangements will consist of medical care deemed necessary but not limited to that provided by the post, camp, or station.

b. Medical treatment facilities will be used in the following priority:

(1) National Guard

(2) Army, Navy, Air Force

(3) Other Federal facilities (Veterans' Administration hospitals, etc.)

(4) Civilian

5. Medical Care. *a. General.* The definitions of medical care; policies outlining the manner, conditions, procedures, and eligibility for care; and the sources from which medical care is obtained are enumerated in AR 40–3.

b. Qualifications.

(1) Professional personnel. Qualifications of civilian personnel to furnish medical care are prescribed in AR 40–3.

(2) Treatment facilities. The exclusion of certain civilian facilities to provide medical care, and reasons therefore, are outlined in AR 40–3.

c. Payment of accounts. Statements of charges for payment of services rendered by civilian sources will be vouchered in accordance with instructions in AR 40–3 and will be forwarded as outlined in paragraph 11 of this regulation.

d. Elective care. Elective care in civilian medical treatment facilities or by civilian medical and dental personnel is not authorized. The medical care authorized by this regulation is limited to that necessary for the treatment of the disease or injury incurred under the conditions outlined herein.

e. Prosthetic devices, prosthetic dental appliances, hearing aids, spectacles, orthopedic footwear, and orthopedic appliances. These items will be furnished—

(1) By Army medical facilities—

(a) When required in the course of treatment of a disease or injury contracted or incurred in line of duty.

(b) When required to replace items that have been lost, damaged, or destroyed while engaged in training under sections 502–505 of title 32, U.S.C., not the result of negligence or misconduct of the individual concerned.

(2) By civilian sources—

(a) Under the circumstances enumerated in (1)*(a)* above, after approval of the USPFO's of the respective States.

(b) Under the circumstances enumerated in (1)*(b)* above in the case of prosthetic devices, prosthetic dental appliances, hearing aids, orthopedic footwear, and orthopedic appliances when the unit commander determines that

1. Member is far removed from a Federal medical treatment facility.

2. Lack of such device would interfere with the individual's performance of duty as a member of the ARNG.

3. Approval must be obtained from the USPFOs of the respective States prior to replacement.

(c) Under the circumstances enumerated in (1)*(b)* above in the case of spectacles under a determination by the unit commander that

1. The member is far removed from military medical treatment facility.

2. The member has no other serviceable spectacles.

3. Lack of a suitable pair of spectacles would interfere with the member's performance of duty as a member of the ARNG.

4. Charges for replacement of spectacles will not exceed the rates stated in AR 40–330. Charges for replacement or repair by civilian sources over and above the allowable rates will be paid from the individual's personal funds.

5. In cases covered by (2)*(b)* and *(c)* above, the unit commander will furnish a statement to support the voucher as follows:

STATEMENT

_____, _____, _____,
Name Rank SSN

_____, _____, while engaged in training under section *(502) *(503) *(504) *(505) of title 32, United States Code sustained the *(loss) *(damage) *(destruction) of his spectacles _____

_____
description

_____
of loss, damage or destruction (type of lens and frames)

not the result of misconduct or negligence on his part. The *(repair) *(replacement) by civilian sources was required since the member was removed from military medical treatment facility and the lack of *(repair) *(replacement) would interfere with his performance of duty as a member of the Army National Guard.

_____ _____
Date Signature of unit commander

6. Approval must be obtained from the USPFO of the respective State prior to repair or replacement of spectacles.

(3) Loss of or damage to prosthetic devices is neither disease nor injury. Claims and vouchers pertaining to these devices will be adjudicated by the USPFO.

6. Authorization for Care. *a*. Medical care is authorized for members of the ARNG as outlined in *b* and *c* below. Emergency medical treatment may be obtained, as deemed appropriate by the unit commander, during training under sections 503–505 and for Guardmembers on orders for over 30 days performing duty under section 502, title 32, U.S.C., without regard to the line of duty determination. However, subsequent medical care, other entitlements, and responsibilities for payment of charges for care must ultimately be decided by the final line of duty determination.

b. In line of duty. Medical care is authorized for members who incur a disease or injury in line of duty under the following circumstances:

(1) When a disease is contracted or injury is incurred while enroute to, from, or during any type of training or duty under sections 503, 504, 505, and for Guardmembers on orders for over 30 days performing duty under section 502f of title 32, U.S.C. Such training includes, but is not limited to, annual training, maneuvers and field exercises, service schools, small arms meets, and FTTD under aforementioned sections.

(2) When an injury is incurred while engaged in any type of training under section 502 of title 32, U.S.C. Such training includes but is not limited to unit training assembly, multiple unit training assembly, and training in aerial flight, other than FTTD under 502f.

(3) While not on duty and while voluntarily participating in aerial flights in Government-owned aircraft under proper authority and incident to training. Guardmembers are authorized medical and dental care required as the result of an injury incurred in line of duty.

(4) Medical care is not authorized by Army expense for members who incur an injury while enroute to or from any type of training under section 502, except for Guardmembers ordered to perform duty for over 30 days under section 502f of title 32, U.S.C.

Line of duty investigations and authorization for any medical treatment for conditions incurred while the members were performing REP 63 training in a Federal status, or training under title 10, U.S.C. are the responsibility of the Army Area commander under whose jurisdiction

* Indicate applicable portions.

the member was training even though the individual may have returned to his National Guard status.

c. Not in line of duty. Members who incur an injury or contract a disease during any type of training or duty under sections 502 f, 503, 504, or 505 of title 32, U.S.C., when it is determined to be not in line of duty, may be furnished medical care at Army expense during the period of training.

d. Members who incur an injury while in an armory drill status under section 502 of title 32, U.S.C., when it is determined to be not in line of duty, may not be furnished medical care at Army expense.

7. Medical Care Benefits. *a.* Medical care benefits are provided as follows:

(1) A member of the ARNG who incurs a disease or injury under the conditions enumerated herein is entitled to medical care, in a hospital or at his home, appropriate for the treatment of his disease or injury until the resulting disability cannot be materially improved by further medical care.

(2) Any disease or injury incurred by a member of the ARNG while receiving authorized medical care for a disease or injury incurred during the training period for which benefits are claimed will be investigated; and, if determined to be appropriate, a report will be submitted under NGR 600–3. If it is determined that the disease or injury was directly related to authorized activities surrounding the care of the original disease or injury, medical care may be continued in the same manner as if it had occurred during the training period.

b. When members who incur a disease or an injury during a period of training or duty under title 32, U.S.C. 503, 504, 505, or 502f are admitted to an Army medical treatment facility, and it appears that a finding of "not in line of duty" may be appropriate, a formal line of duty investigation should be promptly conducted, and a copy of the report furnished the treatment facility. If these findings result in a "not in line of duty" determination prior to the date the training is terminated, every effort should be made to assist the hospital concerned in disposing of the patient from the hospital by the date the training is terminated or as soon thereafter as he becomes transportable. Medical care furnished such member after the termination of the period of training is not authorized at Army expense unless the "not in line of duty" determination is ultimately reversed. The individual may be furnished medical care at Army expense from the date the training is terminated to the date the member receives notification of this action. Medical care received subsequent to the member's receipt of such notification is not authorized at Army expense. In the event a line of duty investigation has not been made by the date the training is terminated, every effort will be made to arrive at a determination as soon thereafter as possible.

8. Procedures for Obtaining Medical Care. *a.* Individual responsibility.

(1) When a member of the ARNG incurs a disease or an injury, while performing training duty under sections 502–505 of title 32, U.S.C., he will, without delay, report the fact to his unit commander. Each member will be informed that it is his responsibility to comply with these instructions, and that failure to promptly report the occurrence of a disease or injury may result in the loss of medical benefits.

(2) In those cases where the disease or injury does not manifest itself until after the termination of the training period, the individual will consult his unit commander regarding the procedure necessary to determine his eligibility for medical care. Commanders will be guided by this regulation and NGR 600–2.

b. Authorization for care in civilian facility.

(1) An individual who desires medical or dental care in civilian medical treatment facilities at Federal expense is not authorized such care without written or verbal authorization by the Chief, National Guard Bureau or his designee, except in an emergency.

(2) When medical care is obtained without prior authorization, the details will be submitted to NGB–ARS as soon as practicable. The notification of medical care will be made following the format in the appendix. The notification will be reviewed by NGB–ARS and replied to as deemed appropriate.

c. Action by unit commander

(1) Medical care. Whenever an individual requests medical attention, the unit commander should take action to insure that the member receives medical care under the following conditions:

(a) Procedures for obtaining medical care.

1. The unit commander will refer individuals requiring medical care to a medical officer if available. In those cases where the medical officer recommends hospitalization or treatment, and in all emergency cases where the need for hospitalization or treatment is apparent, the unit commander may authorize medical treatment in a facility in the priority shown in paragraph 4b.

2. If the urgency of the situation indicates the necessity for immediate hospitalization and a Federal facility is not available, a civilian facility may be used; however, the patient will be moved to a Government hospital as soon as such movement can be accomplished without detriment to his health or recovery. In those cases where the medical officer recommends treatment by a civilian physicians or dentist, and in instances where there is no medical officer present, the unit commander may authorize the services of a local civilian physician or dentist.

(b) Written authorization. Prior to admission to or treatment of the ARNG member at a DOD medical treatment facility, the unit commander will furnish the treatment facility a signed letter of authorization as soon as practicable. Authorization will include the following:

1. Full name, SSAN, grade, and organization of the patient.

2. Statement that patient is a member of the ARNG (designation of unit of assignment, station, and State).

3. Location of training site where disease or injury occurred.

4. Type of duty being performed.

5. Inclusive dates of training.

6. Statement that patient is authorized medical care under the provisions of paragraph 6.

7. Statement as to the line of duty status, if determined; otherwise, a statement "Line of duty status undetermined—being investigated."

8. Date of occurrence of disease or injury and diagnosis.

9. Brief and complete summary of events leading up to and surrounding the incurrence of injury or disease.

10. For non-DOD medical treatment facilities, the commander will furnish the facility commander with DA Form 4159 (Request for Medical Care in a Federal Medical Treatment Facility Outside Department of Defense) in accordance with paragraph 15–3, AR 40–3.

(2) Notification. The unit commander will notify the State Adjutant General and NGB–ARS of all members hospitalized beyond the end of the training period (format in the appendix).

d. Authority for further hospitalization or treatment. No member who has a disease or injury will be placed in a hospital or otherwise treated at Federal expense after termination of the training period, except in case of emergency, unless such treatment is authorized by the Chief, National Guard Bureau. A member of the ARNG already under medical treatment at the expiration of the training period may continue to receive the necessary treatment at Federal expense in accordance with paragraph 7. If treatment is discontinued, an authorization (the same as for an initial period) will be required before reviewing treatment for the same condition. Request for such medical care will be submitted to NGB–ARS and may be either written or verbal, depending upon the urgency of the situation.

e. Medical care for REP trainee personnel who incurred an injury or disease in line of duty while on their initial tour of ACDUTRA and who have since completed their ACDUTRA and have been returned to the ARNG is the responsibility of the Army Area commander of the major command under whose jurisdiction the ACDUTRA was performed. Requests for such care should be submitted to the appropriate Army Area commander, since the individual was in a Federal status at the time of the incident.

f. Unit commanders should authorize emergency medical care for individuals injured while in an authorized duty status. Written approval from the Chief, National Guard Bureau is not necessary, unless there is some question as to the line of duty status, or unless more than minor care will be required after the training period ends. However, notification of the injury

will be forwarded to NGB–ARS. Format shown in the appendix will be used for this notification. A Federal medical facility should be used whenever possible.

g. In the event an individual refuses to be moved to a Federal medical facility, he, or a responsible individual in his behalf, should be informed that by such refusal his entitlement to Federal benefits may and probably would be jeopardized.

9. Status While Undergoing Hospitalization. *a. General.* The ARNG status of an individual is not affected by virtue of his hospitalization. The provisions of AR 135–200 will apply. Determination of requirement for continued hospitalization will be made by the MTF commander. Paragraph 10 will apply when a final not in line of duty determination has been made. Under no condition will an individual be assigned to the medical holding unit of a hospital.

b. Separation while undergoing hospitalization in a military facility. Ordinarily a member will not be separated from the ARNG while undergoing hospitalization for treatment of a disease or injury incurred in line of duty. Any such member whose period of service will expire during the period of his hospitalization may, with his consent, be retained in the ARNG beyond the expiration of term of service (ETS) until the case is completed. No member may be held in the service beyond the normal ETS without his consent solely to effect his hospitalization. Whenever it appears that the term of service of a member of the ARNG will expire while he is hospitalized under the provisions of this regulation, the State Adjutant General will so inform the hospital commander concerned giving the date of the ETS. This notification should be forwarded at least 2 weeks in advance of the ETS. Individuals who do not consent to further hospitalization will be required to accomplish an affidavit to the effect that they do not desire retention in the service for continued hospitalization and possible separation or retirement for physical disability. If the individual refuses to accomplish the affidavit, a written report of such refusal will be made by the hospital commander and will be placed with the individual's records. The hospital commander will then inform the State Adjutant General of the desires of the individual. In those cases where the individual does not desire to continue hospitalization beyond his ETS, and in all cases where the individual refuses to sign an affidavit, hospitalization will be terminated on his ETS date. The State Adjutant General will then initiate action to accomplish discharge by reason of ETS under NGR 635–200.

c. Separation under other conditions. In all cases of individuals undergoing hospitalization in other Federal medical treatment facilities, civilian hospitals, or where it appears that an individual not in a hospital status is disqualified for further military service as a result of an injury incurred in line of duty, the State Adjutant General will request from Chief, National Guard Bureau, authority for hospitalization or transfer of the individual to an Army medical treatment facility for the purpose of appearing before a medical board and a physical evaluation board, if indicated, as provided in AR 635–40.

d. Conduct while undergoing hospitalization. Individuals who are undergoing hospitalization under this regulation will abide by the rules and regulations promulgated by the medical treatment facility and the instructions issued by the hospital authorities. Violations will be reported to the State Adjutant General concerned, who will take necessary action.

10. Disposition of Hospitalized Cases. *a. Return to duty.* When it is determined that a hospitalized ARNG member has obtained the maximum benefits from hospitalization and there is no disability remaining from the condition from which hospitalized, he will be returned to his duty station or, if none, to his home of record at the time of entry into the hospital.

b. Retirement or separation. Retirement or separation for physical disability with or without severance pay, as provided by chapter 61 of title 10, U.S.C., is effected or authorized by the Department of the Army as a result of the action of any Army Physical Evaluation Board established under AR 635–40. Eligibility is limited to individuals disabled as a result of an injury incurred while performing any authorized training or duty, or as a result of a disease contracted while

performing full-time training duty (other than duty for training under 10, U.S.C. 270(b)) under a call or order that does not specify a period of 30 days or less. Upon Department of the Army notification that an individual is to be placed on the Temporary Disability Retired List of the Army, retired for disability, or separated with or without severance pay, the following action will be taken:

(1) If an individual is to be retired for physical disability, the State Adjutant General will issue an order separating the individual from the Army National Guard. The effective date of the separation will coincide with the effective date of retirement. The separation order issued will specify the cause of retirement and will cite as authority the Department of the Army order affecting the retirement.

(2) If an individual is to have his name placed on the Temporary Disability Retired List of the Army, the State Adjutant General will issue an order separating the individual from the ARNG. The effective date of the State order will coincide with the effective date of the Department of the Army order.

(3) In the event an individual is to be separated from the military service with or without severance pay, the Adjutant General of the State concerned will be furnished appropriate information by the Department of the Army in order that he can effect the separation of the individual from the ARNG. The separation order issued will include the cause of discharge and will cite the Department of the Army authority that authorized the action.

c. Transportation. ARNG personnel who are furnished medical care under these regulations are entitled to transportation and travel allowances incident to such medical care, including transportation to the duty station or place of residence upon termination of treatment. When necessary, the State Adjutant General will furnish orders for such movement. Whenever State orders are used to effect medical care or to admit an individual to a hospital, the orders should include provisions for the return upon completion of hospitalization or treatment.

11. Payment for Medical Care. Payment for medical care obtained in accordance with this regulation will be accomplished as follows:

a. In military medical facilities, medical care is provided without charge except that officer patients must pay for their subsistence. The facility concerned will collect from the patient.

b. In Government medical facilities other than those stated in a above, the following procedures are applicable:

(1) Subsistence charges:

(a) Subsistence charges for officers hospitalized in Public Health Services (PHS) facilities will be collected from the officers by the PHS facility concerned.

(b) Subsistence charges for officers hospitalized in other Federal medical facilities will be collected from officers by Commander, US Army Health Services Command, ATTN: HSCM, Fort Sam Houston, TX 78234.

(c) Subsistence charges for enlisted personnel are an element of the per diem inpatient reimbursement rate and no separate collection action is required.

(2) Medical care (inpatient and outpatient) charges: Standard Form 1080 vouchers covering charges for medical care will be prepared by the Federal medical facility concerned and forwarded directly to the Commander, US Army Health Services Command, ATTN: HS-CM-A, Fort Sam Houston, TX 78234, for settlement. The vouchers will be substantiated by the signed request for treatment by the unit commander. (Vouchers for medical examinations performed for members and prospective members of the Army National Guard will be forwarded to the State concerned for payment.)

c. In civilian hospitals or by civilian agencies, physicians, or dentists.

(1) Charges for civilian care are not properly payable from Federal funds for treatment of disease manifested during inactive duty training (32 U.S.C. 502), except for individuals ordered to perform duty for periods of more than 30 days under 502f, and other exceptions outlined in paragraph 4-2*a*(3), AR 40-3.

(2) Itemized DA Form 3928 (Public Voucher for Medical Service) should be prepared in accordance with chapter 17, AR 40-3, and for-

warded to NGB–ARS for approval, except as shown in (3) below. A completed copy of both the DA Form 2173 and the line of duty status will be attached to the voucher.

(3) The USPFO's are designated to approve vouchers for civilian medical care subject to the following limitations and provisions:

* *(a)* The treatment must have been rendered at a charge of $2,500.00 or less.

(b) The voucher is supported by a certificate signed by the member's unit commander, as provided in paragraph 8, when appropriate.

(c) The condition has been found to be in line of duty by the final approving authority, or

(d) Regardless of the line of duty status of the injury or disease, when all of the medical care covered by the voucher was furnished during a training period authorized by sections 503, 504, or 505 of title 32, U.S.C., or

(e) For cases where an administrative determination has been made, when the total cost of further treatment is $100.00 or less.

d. Reimbursement for payment.

(1) Reimbursement to insurance agencies is not authorized.

* (2) Itemized SF Forms 1034 (Public Voucher for Purchase and Services Other than Personal) (chap 15, AR 40-3) should be prepared and forwarded to Chief, National Guard Bureau (NGB-ARS-MS) for authority to reimburse individuals who have paid for civilian medical treatment only when amount exceeds $200.00. The USPFOs are designated to authorize reimbursement in amounts of $200.00 or less.

12. Pay and Allowances. See NGR 37–104–2.

13. Requirements for Immunization. *a.* Immunizations and reimmunizations will be administered in accordance with AR 40–562.

b. Record of immunizations and reimmunizations will be recorded on SF 601.

c. Maintaining a PHS 731 is not required unless so designated by the State Adjutant General, except that PHS 731 will be completed for all personnel prior to mobilization.

14. DD Form 689 (Individual Sick Slip). The DD Form 689 will be prepared whenever a member of the ARNG on full-time training duty or inactive duty training has requested or received medical attention. AR 600–6 will be used as a guide in the preparation of the form. The diagnosis will be entered under "Remarks" by the medical officer whenever appropriate. The form serves as an authorization by the unit commander for the individual to report for sick call and is used as a medium of interchange of information between the unit commander and the medical officer. DD Form 689 will be maintained in the MPRJ as a permanent record when it is determined that a line of duty and/or administrative determination may be required.

APPENDIX

NOTIFICATION OF INJURY

DATE _____

SUBJECT: Notification of Medical Care and/or Hospitalized Beyond the End of Training Periods

THRU: The Adjutant General
State of _____

TO: NGB–ARS
Washington, DC 20310

In accordance with paragraph 8, NGR 40–3, notification of medical care is furnished below:

NAME: SSN: GRADE:

PARENT UNIT AND STATION:

TYPE AND INCLUSIVE DATES OF TRAINING:

DATE AND PLACE OF INCIDENT:

DIAGNOSIS:

LOD STATUS:

NAME AND DISTANCE OF NEAREST FEDERAL MEDICAL FACILITY:

NAME AND ADDRESS OF MEDICAL FACILITIES UTILIZED:

ESTIMATED COST AND DURATION OF TREATMENT:

SUMMARY OF INCIDENT:

_____
Signature, Grade, and Title
of Commanding Officer

Users of this regulation are invited to send comments and suggested improvements on DA Form 2028 (Recommended Changes to Publications and Blank Forms) to NGB–ARS, Washington, DC 20310.

By Order of the Secretary of the Army:

LA VERN E. WEBER
Major General, USA
Chief, National Guard Bureau

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Distribution: A