



# CHIEF NATIONAL GUARD BUREAU MANUAL

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NGB-JA  
DISTRIBUTION: A

CNGBM 0404.01  
22 February 2018

## PROCESSING AND REPORTING CLAIMS

References: See Enclosure A.

1. Purpose. This manual provides procedural guidance for processing claims in accordance with (IAW) references a through s.
2. Cancellation. None.
3. Applicability. This manual applies to all elements of the National Guard (NG).
4. Procedures. Property damage, personal injury, or death caused by NG members engaged in training or duty IAW references d through f; and active duty for training or other short periods of active duty under reference g, must follow procedures in the following paragraphs.
  - a. Incident Reports. Promptly report incidents that may result in claims against the U.S. through the State Claims Officer to the appropriate active component claims authority. Incidents that may result in claims against the State, or a State employee performing duty pursuant to reference i, will be promptly reported through the State Claims Officer to the Office of the National Guard Bureau Chief Counsel (NGB-JA) Litigation and Employment Division. Incident reports will be transmitted by email via attached document file, in fixed format (pdf, .jpg, or .tiff), or by facsimile. State Claims Officers will retain incident reports for two years from the date of the incident. Incident reports include:
    - (1) Date, location, and nature of the incident.
    - (2) Description of damage, loss, destruction to property, personal injury, or death resulting from the incident.

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(3) Name, address, telephone number, cell phone number (if applicable), email address, and military organization (if applicable) of: NG personnel involved; potential claimants; witness(s) to the incident and law enforcement officers, civilian or military, involved in the investigation of the incident.

b. Claim Receiving and Forwarding Process. The State Claims Officer will forward claims to the State agency responsible for adjudicating claims against the State when a claim is filed against the State as well as the U.S. The State Claims Officer will forward claims to the State agency responsible for adjudicating claims against the State when it is unclear whom the claim is against (for example, when a claim is directed to “the National Guard”). The State Claims Officer will retain a copy of the claim until final disposition of that claim. Claims will be delivered by messenger, or first class mail, to the State Claims Officer who will:

(1) Record the claim’s date, time and place of receipt, and log the claim IAW paragraph 4 of this enclosure.

(2) Reference previously processed related incident report(s).

(3) Forward the claim by First Class Mail to the appropriate active component claims authority.

(4) Forward the claim by email to the appropriate active component claims authority.

c. Procedures for Recording and Logging Claims. Maintain the State Claims Log as a permanent record. Maintain separate logs for Army and Air Force claims. The State Claims Officer will record a claim according to:

(1) Date the claim was received.

(2) Name and address and phone number of claimant(s).

(3) Nature of claim.

(4) Claim amount.

(5) Date and place of incident.

(6) Name and address of recipient/location where claim was forwarded.

(7) Date claim forwarded.

(8) References to related incident reports.

d. Claims Investigation. The active component claims authority investigates claims of the NG and incidents within their State involving the NG. Claim investigations are coordinated with and conducted by the State Claims Officer. IAW Chapter 2 of reference l, paragraph 2.8 of reference n, and Chapter 2 of reference p. The use of additional investigative bodies and guidelines such as Criminal Investigation Command; Office of Special Investigations; Financial Liability Investigations of Property Loss (FLIPL); Report of Survey (ROS), and line of duty investigations, are permitted and will be conducted IAW regulations prescribing such investigations. Records generated during the course of investigations will be considered Federal records. NG personnel in a Title 32 status are not authorized to adjudicate claims on behalf of the U.S. covered by this manual.

e. Army National Guard (ARNG) Claims Point of Contact. State Claims Officers will contact their State's counterpart in the Army Area Claims Office for claims arising from ARNG activities. State Claims Officers of the individual States are listed on the Guard Knowledge Online (GKO) website, under NGB-JA Litigation and Employment Law Division at reference s.

f. Air National Guard (ANG) Claims Point of Contact. State Claims Officers will contact:

- Air Force Legal Operations Agency, Claims and Tort Litigation Division (AFLOA/JACC), 1500 West Perimeter Road, Suite 1700, Joint Base Andrews, MD 20762
- DSN: 612-4620, Commercial: 240-612-4620.

g. Foreign Claims Point of Contact. Foreign Claims responsibilities are generally assigned to either the Department of the Army, Department of the Navy, or Department of the Air Force IAW reference r. State Claims Officers will assist in sending State offices and offices with single-service responsibilities requesting assistance in investigating and processing Foreign Claims in incidents involving NG members IAW references l, n, and p. Inquiries and requests for assistance involving Foreign Claims should be coordinated with either the U.S. Army Claims Service or AFLOA/JACC through the NGB-JA, Litigation and Employment Law Division.

h. Litigation of Claims. Any litigation related to a claim, or potential claim, identified in this manual will be reported IAW references k.

i. Affirmative Claims Procedures. The role of the State Claims Officer, unit commanders, and the U.S. Property and Fiscal Office (USPFO) relating to property damage recovery claims and medical care recovery claims IAW references h and j.

j. Property Damage Recovery. The State Claims Officer will establish procedures to gather and review reports of damage to U.S. property in conjunction with the USPFO. The State Claims Officer will determine whether an incident of damage may give rise to a claim against a responsible tortfeasor, IAW references l, n, p or any other applicable Federal or military department regulation. The responsibility to recover damage to United States property caused by negligence or wrongful act, other than damage covered under the ROS and FLIPL system, rests with the active component IAW Chapter 14 of reference l, Chapter 7 and 9 of reference n, and Chapter 14 of reference p. In cases where an incident of damage may give rise to a claim in favor of the U.S., the State Claims Officer will transmit the ROS and FLIPL, or other comparable investigation, to the active component claims authority and assist in asserting and monitoring claims IAW with references l, n, p, or any other applicable Federal or military department regulation.

k. Medical Care Recovery. Reference j authorizes third-party recovery for expenses related to medical care that the U.S. furnishes to a person who is injured or suffers a disease when such care is authorized or required by law. The U.S. is also entitled to recover the cost of pay for members of the uniformed services who are unable to perform duties because of injury or illness. Recovery for the U.S. will arise out of a third-party independent cause of action under local jurisdiction tort law. Pursuant to references b, c, and j, the U.S. is also deemed a third-party beneficiary or subrogee under an alternative system of compensation or benefits, such as workers' compensation; hospital lien laws; contract rights under the terms of insurance policies, including medical payment coverage; uninsured, underinsured and no-fault coverage; and no-fault laws. Furthermore, reference j permits recovery of health insurance for medical care furnished at Military Treatment Facilities (MTF), including supplemental policies.

(1) Assertable and nonassertable claims are defined in Chapter 14 of reference l, Chapter 7 and 9 of reference n, and Chapter 14 of reference p. The appropriate active component claims authority identified in references l, n, and p are responsible for asserting claims under this section and will determine if applicable criteria are met to assert a claim.

(2) When an ARNG or ANG member receives medical care at a MTF, medical care recovery will be pursued by the military department operating the MTF IAW that military department's regulations and procedures.

(3) When an ARNG or ANG member receives medical care in a non-military Federal or civilian medical treatment facility, the State Claims Officer will:

(a) Coordinate with the member's unit commander, or an authorized representative, to ensure all applicable admission authorization information is forwarded to the medical treatment facility IAW references j, and l through r.

(b) Report the incident to the commander of the MTF of the member's corresponding active component service (for example; U.S. Army for ARNG, or U.S. Air Force for ANG) which is geographically closest to the location where the member is receiving medical care.

(c) Report the incident to the active component claims authority responsible for pursuing any medical care recovery claims and servicing that MTF.

(d) Coordinate with the USPFO, or the responsible agency under references l, n and p; to identify, document and report the member's medical expenses and public voucher payments for the member's care to the active component claims authority for inclusion in the U.S.'s potential claim.

(e) Coordinate with the USPFO to establish procedures to ensure that all public voucher payments for ARNG and ANG member's medical treatments are screened for possible third party tort liability in order to identify cases that were not previously reported.

(f) Locate, compile, and forward copies of existing reports detailing the injury or death resulting in the member's medical care (for example, civilian or military police accident reports, line of duty investigations, FLIPL or ROS investigations, etc.) to the active component claims authority IAW references l, n, and p.

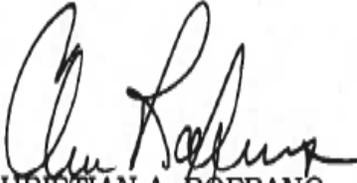
(g) Provide additional investigative assistance or reports to the active component claims authority when requested by the active component claims authority whenever manpower and resources permit.

(h) Coordinate with the active component claims authority to advise the member receiving care of his or her role in the medical care recover process, IAW Chapter 14 of reference l, Chapter 7 and 9 of reference n, and Chapter 14 of reference p.

5. Summary of Changes. This is the initial publication of CNGBM 0404.01.

6. Releasability. This manual is approved for public release; distribution is unlimited. Copies are available through <<http://www.ngbpcdc.ngb.army.mil>>.

7. Effective Date. This manual is effective upon signature and must be reissued, cancelled, or certified as current within five years of its publication.



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Enclosures:

A -- References  
GL -- Glossary

ENCLOSURE A

REFERENCES

- a. CNGB Instruction 0404.01, 05 September 2017, "Claims"
- b. 10 United States Code (U.S.C.) Section 1095, "Health Care Services Incurred on Behalf of Covered Beneficiaries: Collection from Third-Party Payers"
- c. 10 U.S.C. § 1095b, "TRICARE Program: Contractor Payment of Certain Claims"
- d. 10 U.S.C. § 2734, "Property Loss; Personal Injury or Death: Incident to Noncombat Activities of the Armed Forces; Foreign Countries"
- e. 10 U.S.C. § 2734a, "Property Loss; Personal Injury or Death: Incident to Noncombat Activities of Armed Forces in Foreign Countries; International Agreements"
- f. 10 U.S.C. § 2734b, "Property Loss; Personal Injury or Death: Incident to Activities of Armed Forces of Foreign Countries in United States; International Agreements"
- g. 10 U.S.C. § 12301(b) and (d), "Reserve Components Generally"
- h. 31 U.S.C. §§ 3711-3720E, Subchapter II, "Claims of the United States Government"
- i. 32 U.S.C. § 502, "Required Drills and Field Exercises"
- j. 42 U.S.C., Chapter 32, "Third Party Liability for Hospital and Medical Care"
- k. CNGB Instruction 0405.01, 27 July 2017, "Litigation"
- l. Department of Army Pamphlet 27-162, 21 March 2008, "Claims Procedures"
- m. Air Force (AF) Instruction 41-210, 06 June 2012, "TRICARE Operations and Patient Administration Functions"
- n. AF Instruction 51-501, 13 September 2016, "Tort Claims"
- o. AF Instruction 51-502, 05 August 2016, "Personnel and Government Recovery Claims"
- p. Army Regulation 27-20, 08 February 2008, "Claims"
- q. National Guard Regulation 40-3, 15 December 1978, "Medical Care for Army National Guard Members"

r. DoD Instruction 5515.08, 30 August 2016, "Assignment of Claims Responsibility"

s. Guard Knowledge Online, NGB-JA Litigation and Employment Law Division Page:

<<https://gkoportal.ng.mil/ngb/STAFF/D01/B01/S08/SitePages/Home.aspx>>  
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## GLOSSARY

### PART I. ACRONYMS

AFLOA/JACC	Air Force Legal Operations Agency, Claims and Tort Litigation Division
AGR	Active Guard Reserve
ANG	Air National Guard
ARNG	Army National Guard
FLIPL	Financial Liability Investigations of Property Loss
GKO	Guard Knowledge Online
IAW	In accordance with
MTF	Military Treatment Facility
NG	National Guard
NGB	National Guard Bureau
NGB-JA	Office of the National Guard Bureau Chief Counsel
ROS	Report of Survey
USPFO	United State Property and Fiscal Office

### PART II. DEFINITIONS

Claim -- A demand for payment of a specified sum of money for personal injury, property damage, or wrongful death. Claims must be in writing and signed by a claimant or a properly designated representative unless otherwise specified in this instruction or the references.

Single-Service Responsibility -- In an overseas area, the responsibility of one of the Armed Services (Army, Air Force, or Navy) for processing and settling all claims arising in that area, even when caused by the negligence of another Service.

State -- The several States, the Commonwealth of Puerto Rico, the District of Columbia, Guam, and the U.S. Virgin Islands.

Tortfeasor -- A wrongdoer; an individual who commits a wrongful act that injures another and for which the law provides a legal right to seek relief; a defendant in a civil tort action.

Subrogee -- The person or entity that assumes the legal right to attempt to collect a claim of another (subrogor) in return for paying the other's expenses or debts which the other claims against a third party. A subrogee is usually the insurance company, which has insured the party whose expenses were paid. Thus, the subrogee insurance company may file a lawsuit against a party that caused the damages to its insured, which the subrogee paid.