



Department of Defense
DIRECTIVE
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ASD(RA)
 614-0470

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 [Signature]



December 3, 1992
 NUMBER 1241.1

SUBJECT: Reserve Components Incapacitation Benefits ASD(RA)

- References:
- (a) Sections 204, 204(g), 204(h), and 206 of title 37, United States Code
 - (b) "Department of Defense Military Pay and Allowances Entitlements Manual," March 9, 1987
 - (c) Sections 1074 and 1074a of title 10, United States Code

A. PURPOSE

This Directive:

1. Establishes policy, assigns responsibilities, and prescribes procedures, under references (a), (b), and (c), on the entitlement to incapacitation pay and medical and dental benefits (after becoming disabled) for members of the Reserve components.
2. Standardizes procedures for all Military Services.

B. APPLICABILITY

This Directive applies to the Office of the Secretary of Defense; the Military Departments, including the Coast Guard by agreement with the Department of Transportation when it is not operating as a Service within the Department of the Navy; the Chairman of the Joint Chiefs of Staff and the Joint Staff; and the Defense Agencies. The term "Military Services", as used herein, refers to the Army, the Navy, the Air Force, the Marine Corps, and the Coast Guard, including their Reserve components. "Secretary concerned" refers to the Secretaries of the Military Departments and the Secretary of Transportation regarding the Coast Guard when it is not operating as a Service within the Department of the Navy.

C. DEFINITIONS

Terms used in this Directive are defined in enclosure 1.

D. POLICY

1. Objective. The objective of the Reserve incapacitation benefit system is to compensate, to the extent permitted by law, members of the Reserve components who experience incapacitation or loss of civilian earnings as a result of an injury, illness,

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or disease incurred or aggravated in the line of duty (LOD), and provide the required medical and dental care associated with the incapacitation.

2. Entitlement

a. A member of a Reserve component is entitled to medical and dental care, incapacitation pay, and travel and transportation incident to medical and/or dental care, in accordance with 37 U.S.C. 204 and 206, the Military Pay and Allowances Entitlements Manual, and 10 U.S.C. 1074 and 1074a (references (a), (b), and (c)), if the member becomes physically disabled as the result of an injury, illness, or disease incurred or aggravated in the LOD. The amount of incapacitation pay for the member will be determined in accordance with reference (b).

b. Members authorized incapacitation benefits are entitled to medical and dental treatment in a military treatment facility for the incapacitation until qualified for return to full military duty or the resulting incapacitation cannot be materially improved by further hospitalization or treatment, and the case has been processed and finalized through the Disability Evaluation System (DES) when eligible for disability processing.

c. Members authorized incapacitation pay under Section 204(g) of 37 U.S.C. (reference (a)) shall not be allowed to attend inactive duty training periods or to acquire retirement points for drills.

d. Nothing in this Directive shall be construed to prevent emergency medical treatment at a military treatment facility of a Reservist during any period of training duty. A Reservist presenting himself or herself for emergency treatment at a military treatment facility after termination of training duty, stating that the condition is related to an injury, illness, or disease incurred during or aggravated by an earlier period of duty, shall be examined and provided necessary medical care. The circumstances surrounding the emergency condition will be resolved after the emergency has been stabilized. No treatment beyond that justified to stabilize the determined emergency is authorized until the Service connection is validated.

3. Members Unable to Perform Military Duty

a. Members unable to perform full military duties due to incapacitation under the circumstance described in subsection D.1., above, are entitled to full pay and allowances, including all incentive and special pay to which entitled, less any civilian earned income (for the same period as incapacitation pay is received), under the Military Pay and Allowances Entitlements Manual (reference (b)).

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b. Incapacitation pay under paragraph D.3.a., above, is adjusted only by the amount of earned income received. The civilian income of the member other than earned income received shall not be a consideration in calculating incapacitation pay under that paragraph.

c. For establishing fitness to perform military duties, a Reserve member shall be determined to be medically unfit to be unable to perform military duties if, under Service procedures, the member would be determined to be medically unfit for worldwide (deployable) duty.

4. Members Able to Perform Military Duties. Members able to perform military duties, but demonstrating a loss of earned income as a result of an LOD incapacitation described in this Directive, shall be compensated for lost earned income. The maximum compensation under this provision shall not exceed full military pay and allowances for which the member would be entitled if serving on active duty, as provided in Section 204(h) of reference (a).

5. Interim Line of Duty Determination

a. Under the regulations to be issued by the Secretary concerned, an appropriate approving authority for a Reserve member incapacitated as the result of an injury, illness, or disease incurred or aggravated on active duty (including leave and liberty therefrom), inactive duty training, or traveling directly to or from inactive duty for training, absent clear and convincing evidence to the contrary, shall issue an interim "in line of duty" determination within 7 days of notification. This interim LOD is intended to ensure that incapacitation pay can be started without the delay inherent in awaiting a final approved LOD determination.

b. Should a final LOD determination find that the injury, illness, or disease was not incurred in the LOD, the Services will take action to immediately stop any incapacitation benefits.

6. Duration of Incapacitation Pay. Incapacitation pay shall be paid only during the period a member remains disabled or demonstrates a loss of earned income as a result of the disability. There is no absolute limit on the period of time for which a member may be paid disability pay under either subsection D.3. or D.4., above. However, payment in any particular case may not be made for more than 6 months without review of the case by the Secretary concerned to ensure that continuation of incapacitation pay is warranted under this Directive. Such a review shall be made every 6 months. Incapacitation pay shall continue as long as the conditions warranting the incapacitation pay exist and the Secretary concerned determines that it is in the interests of fairness and equity to continue the payment. Review of individual cases shall commence sufficiently far in advance of the end of

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each 6-month period so as to ensure that incapacitation pay will not be interrupted if it is determined that it should be continued. In addition, the Secretary concerned shall institute procedures to ensure the review of cases so that:

a. The pay is not terminated due to administrative neglect or the period of incapacitation extended because of unwarranted delays in medical treatment.

b. Cases that warrant processing through disability separation or retirement procedures are processed without delay.

c. Incapacitation pay does not continue beyond the completion of medical treatment with return to full military duty, except as provided in subsection D.4., above, or beyond disability separation or retirement.

E. RESPONSIBILITIES

1. The Assistant Secretary of Defense (Reserve Affairs), in coordination with the Assistant Secretary of Defense (Force Management and Personnel) and Assistant Secretary of Defense (Health Affairs), shall be responsible for the Reserve incapacitation benefits policy.

2. The Secretaries concerned shall promulgate regulations and procedures to implement the procedures required by this Directive, review incapacitation cases, and perform the functions identified in this Directive.

F. PROCEDURES

1. Continuing Payment. The Secretary concerned shall ensure that procedures are in place so that, when continued payment is appropriate, payments are continued without interruption.

2. Continuation on Active Duty of Reservists on Active Duty Orders for a Specified Period of 31 Days or More. Members on active duty under orders for a period of 31 days or more, who are hospitalized beyond the original termination point of the orders, shall, with the members consent, be continued on active duty for the duration of the hospitalization or final disposition of the case. Members on orders for 31 days or more, who would otherwise be retained on orders due to an incapacitation, but who elect to leave active duty, shall be entitled to incapacitation pay upon the end of the orders and medical treatment in military treatment facilities, in accordance with Section 1074 of 10 U.S.C. (reference (c)). Members treated for an injury, illness, or disease related to a LOD disability, and who later require medical treatment related to the injury, illness, or disease are authorized medical treatment at military treatment facilities in accordance with Section 1074 of reference (c). Members may be retained on active duty, or treated at a military treatment

facility, under that section until qualified for return to full military duty. Treatment under that Section should terminate when the resulting incapacitation cannot be materially improved by further hospitalization or treatment, and the case has been processed and finalized through the DES when eligible for disability processing.

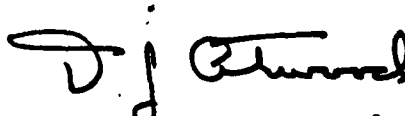
3. Timely Payment for Reservists on Active Duty Orders for 30 Days or Less and Those Reservists in Inactive Duty Training Status Entitled to Incapacitation Pay. The Secretary concerned shall ensure that members on active duty under orders specifying a period of 30 days or less or in an inactive duty training status and who become entitled to incapacitation pay shall begin receiving their pay within 30 days of the notification of the injury, illness, or disease.

4. Status of Reservists on Orders for 30 Days or Less Who Become Incapacitated. Members on inactive duty drill orders or on active duty orders for 30 days or less may not have orders terminated due to incapacitation alone, but shall become entitled to incapacitation pay upon the end of their orders. Members participating on authorized inactive duty drill or serving under orders specifying a period of 30 days or less who are hospitalized shall, with the consent of the member, be placed in a patient status, under Section 1074a of 10 U.S.C. (reference (c)), for the duration of the hospitalization without entitlement to additional benefits based on the period of such hospitalization.

5. Incapacitation for Periods Over 1 Year. Incapacitation for periods of over 1 year, or permanently disabling conditions, should be processed as soon as recognized through the DES for disability separation or retirement.

G. EFFECTIVE DATE AND IMPLEMENTATION

This Directive is effective immediately. The Secretaries concerned shall forward two copies of implementing documents to the Assistant Secretary of Defense (Reserve Affairs) within 180 days.



Donald J. Atwood
Deputy Secretary of Defense

Enclosures - 2

1. Definitions
2. Entitlement to Reserve Incapacitation Pay



DEFINITIONS

1. 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. Members who are in receipt of Department of Veterans Affairs (VA) benefits may elect to receive either military pay or VA pay under Section 80204 of the Military Pay and Allowances Entitlements Manual (reference (b)). If the member is in receipt of incapacitation payments, the member may not be eligible for welfare payments. If a member receives both incapacitation and welfare payments, the Service member would be required to reimburse welfare payments to the welfare agency.

2. Incapacitation. Physical disablement as the result of an injury, illness, or disease.

3. Line of Duty (LOD). The duty status and conduct of a member at the time an injury, illness, or disease is incurred or aggravated by military service. An injury, illness, or disease occurred in the LOD if it was incurred or aggravated while performing active duty, while on authorized leave or liberty therefrom, while performing inactive duty training, other than work or study in connection with a correspondence course or attendance in an inactive status at an educational institution under the sponsorship of an Armed Force of the Public Health Service, or while traveling directly to or from such duty. Excluded from LOD are injuries, illnesses, diseases, or aggravations by military service of a previous condition that occurred as the result of the member's own gross negligence or misconduct, while avoiding duty by deserting the Service, during a period of unauthorized absence, while confined under sentence of a court-martial that included an unremitted dishonorable discharge, or while confined under sentence of a nonmilitary court following conviction for an offense defined as a felony by the law of the jurisdiction where convicted.

Entitlement to Reserve Incapacitation Pay

IF	and	and	Then
Member is not fit for full military duty	incapacitation was in the LOD	Member is able to perform civilian job; in full, part, or not at all	Member is entitled to appropriate pay and allowances less any earned income ¹
Member is not fit for full military duty	Incapacitation was not in the LOD		Member is not entitled to Reserve incapacitation pay
Member is fit for full military duty	Incapacitation was in the LOD	Member is able to perform civilian job, but not fully and loses income	Member is entitled to amount of loss of income up to the amount of pay and allowances ²
Member is fit for full military duty	Incapacitation was not in the LOD		Member is not entitled to Reserve incapacitation pay

¹ Member entitled under 37 U.S.C. 204(g)(reference (a))

² Member entitled under 204(h) of reference (a)