



COMDTINST 12800.1
JUL 21 2000

COMMANDANT INSTRUCTION 12800.1

Subj: COAST GUARD PROFESSIONAL LIABILITY INSURANCE REIMBURSEMENT
(PLIR) POLICY

Ref: (a) Department Personnel Manual Letter 1000-1
(b) Public law 106-58

1. PURPOSE. This Instruction establishes the policies and procedures for implementing the Coast Guard's Professional Liability Insurance Reimbursement (PLIR) requirement for Civilian employees.
2. ACTION. Area and district commanders, commanders of maintenance and logistics commands, commanding officers of headquarters units, assistant commandants for directorates, Chief Counsel, and chiefs of special staff offices at Headquarters shall ensure all qualified employees covered by the policy are made aware of its availability.
3. DIRECTIVES AFFECTED. None.
4. COVERAGE. The Professional Liability Insurance Reimbursement Policy applies to civilian law enforcement officers, supervisors and management officials whose decisions have an impact on civilian employees. Civilians covered by this policy are those paid from Appropriated Funds. A determination of the eligibility of military members is still being discussed. Non- Appropriated Fund (NAF) civilian employees are not covered.

5. BACKGROUND. Public Law 104-208, dated September 30, 1996, Section 636, granted authority to executive agencies which permitted the payment of up to 50 percent of professional liability insurance premiums on behalf of qualified employees. When enacted, the law authorized but did not require agencies to pay a portion of the premiums. Public Law 106-58, September 29, 1999, amended PL 104-208 by requiring agencies to pay a portion of a qualified employee's professional liability insurance premiums. Generally, when an employee is sued while acting in the scope of his or her job responsibilities, the U.S. Department of Justice (DOJ) assigns an attorney at no cost to the employee. However, in certain limited circumstances, DOJ may determine that defending the employee is not in the best interest of the Government, and therefore, may refuse to defend the employee. In such instances, an employee would be responsible for the payment of his or her own defense.
6. EFFECTIVE DATE AND NOTIFICATION REQUIREMENT. By law, the effective date of this policy is October 1, 1999. All qualified employees must be notified of this policy and the opportunity for reimbursement and provided the appropriate program information.
7. DEFINITIONS.
 - a. The definitions in (1) and (2) below are based in 5 U.S.C. Section 7103 and apply to civilian employees of executive agencies.
 - (1) The term "*supervisor*" means an individual employed by an agency having the authority in the interest of the agency to hire, direct, assign, promote, reward, transfer, furlough, layoff, recall, suspend, discipline, or remove employees, to adjust their grievances, or to effectively recommend such action, if the exercise of the authority is not merely routine or clerical in nature but requires the consistent exercise of independent judgment, except that, with respect to any unit which includes firefighters or nurses, the term "supervisor" includes only those individuals who devote a preponderance of their employment time to exercising such authority. Determinations on employee eligibility for liability insurance reimbursement as a supervisor must be consistent with the determinations on supervisory status for labor relations purposes.
 - (2) The term "*management official*" means an individual employed by an agency in a position the duties and responsibilities of which require or authorize the individual to formulate, determine, or influence the policies of the agency. Determinations on employee eligibility for liability insurance reimbursement as a management official must be consistent with determinations on management official status for labor relations purposes.
 - b. The term "*law enforcement officer*" (LEO) means an employee, the duties of whose position are primarily the investigation, apprehension, prosecutions or detention of individuals suspected or convicted of offenses under the criminal laws of the United States, including any law enforcement officer under section 833 1(20) or 8401(17) of Title 5, U.S.C., or under Section 4823 of Title 22, U.S.C.

- c. The term "*qualified employee*" means an agency employee whose position is that of a law enforcement officer, supervisor, or management official.
 - d. The term "*professional liability insurance*" means insurance which provides coverage for:
 - (1) legal liability for damages due to injuries to other persons, damage to their property, or other damage or loss to such other persons (including the expenses of litigation and settlement) resulting from or arising out of any tortious act, error, or omission of the covered individual (whether common law, statutory, or constitutional) while in the performance of such individual's official duties as a qualified employee; and
 - (2) the cost of legal representation for the covered individual in connection with any administrative or judicial proceeding (including any investigation or disciplinary proceeding) relating to any act, error, or omission of the covered individual while in the performance of such individual's official duties as a qualified employee, and other legal costs and fees relating to any such administrative or judicial proceeding.
8. WHAT PROFESSIONAL LIABILITY INSURANCE PREMIUMS QUALIFY FOR REIMBURSEMENT. In order to receive partial premium reimbursement, the PLIR policy must provide the following coverage for a qualified employee who is alleged to have violated an employee's or private citizen's rights when carrying out his or her official duties:
- a. A private lawyer to represent him or her during a criminal or administrative investigation;
 - b. Representation when facing disciplinary action, such as suspension or removal, until a final decision is rendered by the Merit Systems Protection Board (MSPB); and
 - c. Attorney representation and payment of any personal judgement against him or her when standing accused of a constitutional tort.
9. WHAT PREMIUMS DO NOT QUALIFY FOR REIMBURSEMENT. The PLIR will not reimburse premiums for:
- a. Representation during arbitration under a collective bargaining agreement;
 - b. Allegations related to matters occurring outside of the scope of an employee's official duties, for example, a domestic dispute; and

- c. Any other type of insurance coverage that does not meet the definition of PLIR, as defined within this Instruction.
10. REQUIREMENTS FOR REIMBURSEMENT. To be eligible for reimbursement payments, an individual must be a current employee of the Coast Guard in a position that meets the definition of law enforcement officer, supervisor, or management official. Reimbursement may be made only for professional liability insurance as defined in this Instruction and is authorized only for *fully paid annual* premiums. Therefore, an employee who chooses to pay their premiums on a quarterly, semi-annual, or other partial basis must wait until the annual premium is fully paid before submitting a request for reimbursement. Reimbursement is authorized only for new insurance policies made effective on or after October 1, 1999, or for the renewal of annual insurance policies made effective on or after that date.
 11. AMOUNT OF REIMBURSEMENT. The Coast Guard will reimburse qualified employees 50 percent of their annual professional liability insurance premium or \$150.00, whichever is less. The reimbursement rate of 50 percent is established for Fiscal Year 2000 and succeeding fiscal years.
 12. REIMBURSEMENT REQUEST PROCEDURES.
 - a. An employee's immediate supervisor, or designee, will serve as an approving official for the reimbursement of an employee's professional liability insurance premiums. To claim reimbursement, an employee must submit the following documents to the designated District, Maintenance and Logistics Command (MLC) or Headquarters Civilian Resource Coordinator (CRC):
 - (1) a properly completed Claim For Reimbursement For Expenditures on Official Business SF-1164 (Enclosure (1));
 - (2) a copy of an insurance policy or other documentation evidencing the purchase of professional liability insurance; and
 - (3) proof of full payment of the annual premium for which reimbursement is being sought.
 - b. The designated CRC shall review the documentation to ensure that all requirements for reimbursement have been met. Prior to approving the request, the CRC must obtain (in writing) a funding certification from Commandant (G-WRP-2) (Human Resources Financial Management Division). The request for funding certification to Commandant (G-WRP-2) will include: name of employee, pay plan, grade, series, unit name, and total premium cost. The funding certification from Commandant (G-WRP-2) must include an accounting line for the charges. This accounting line must be included on the Claim For Reimbursement For Expenditures on Official Business, SF- 1164. When certified for payment, the request for

reimbursement will be forwarded to the Commanding Officer, U.S. Coast Guard Finance Center (FINCEN), 1430A Kristina Way, Chesapeake, VA 23326-1000.

13. INSURANCE POLICY CANCELLATION AND REFUNDS. When either the policyholder or the insurance carrier cancels a liability insurance policy and an employee receives a refund of all or any part of the annual premium, he or she must notify the cognizant CRC for guidance within 30 days of receipt of the refund. The employee must also provide all information requested by the CRC, or other designated officer, to assist in determining the amount of the refund representing the prorated reimbursement of the premium the employee received from the Coast Guard. The employee is obligated to repay the Coast Guard this prorated amount.
14. ADDITIONAL INFORMATION. The PLIR reimbursement requirement is complex, and the decision to buy it is a personal one. Civilian employees who qualify for this insurance protection by meeting the eligibility requirements in Paragraph 4 of this Instruction and decide to purchase it, should contact their Command Staff Advisor (CSA) for further information and assistance.
15. FORMS AVAILABILITY. The Claim for Reimbursement for Expenditures on Official Business, Standard Form 1164 (SF- 1164), available in Jetform Filler, must be used when filing professional liability insurance reimbursement claims.

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Encl: (1) Standard Form 1164 (SF-1164 (Rev. 11-77))

