

**Army Regulation 135–381**

**Army National Guard of the United States  
and Army Reserve**

# **Incapacitation of Reserve Component Soldiers**

**Headquarters  
Department of the Army  
Washington, DC  
27 December 2006**

**UNCLASSIFIED**

# ***SUMMARY of CHANGE***

AR 135-381

Incapacitation of Reserve Component Soldiers

This rapid action revision dated 27 December 2006-

- o Clarifies that the Chief, Army Reserve has overall responsibility for staff supervision and management of incapacitation of Army Reserve (para 1-4a(1)).
- o Removes the authority to determine the Soldier's entitlement for incapacitation payment from the Army Reserve Pay Office and assigns this office to process completed paperwork from the approving authority (para 1-4e).
- o Adds responsibilities for the State Adjutants General (para 1-4k).
- o Clarifies how DA Form 2173 (Statement of Medical Examination and Duty) can be used in the interim to initiate paperwork for incapacitation payments and specifies a time period of how long this interim is valid for payment purposes (para 1-4m and 1-10).
- o Adds a statement that incapacitation pay can be collected if the final line of duty investigation determines the injury, illness, or disease was not incurred in the line of duty (para 1-10c).
- o Clarifies who is responsible for managing incapacitation claims for up to and greater than 6 months (para 1-12a).
- o Adds the U.S. Army Special Operations Command and direct reporting units to certify the authorization of incapacitation pay (para 1-13c).
- o Clarifies when Soldiers receive incapacitation pay and Department of Veterans Affairs disability compensation for the same disabling condition (paras 1-13k and 2-3e(6)).
- o Clarifies the policy on receiving Social Security disability payments and incapacitation payments (para 2-3e(7)).
- o Clarifies the policy on receiving welfare payments and incapacitation payments at the same time (para 2-3e(8)).
- o Makes administrative changes throughout.

This major revision, dated 29 August 2005--

- o Now includes the United States Army Reserve Command and Human Resources Command--St. Louis in responsibilities (para 1-4).
- o Implements Department of Defense Instruction 1241.2 (paras 1-4k, 2-3a, and 2-12).

- o Updates information on policy and qualifications for incapacitation pay throughout regulation (paras 1-6, 1-8, and 1-9).
- o Provides reference to the new Department of Defense Publication 7000.14-R, which provides guidance on military pay policy and procedures (paras 1-6a, 1-8a, 1-9, 2-2e, and 2-3e(8)).
- o Removes all incapacitation submission procedures and incorporates them into Department of the Army Pamphlet 135-381 (paras 2-2, 2-3, and 2-4).




Army National Guard of the United States and Army Reserve

Incapacitation of Reserve Component Soldiers

By Order of the Secretary of the Army:

PETER J. SCHOOMAKER  
General, United States Army  
Chief of Staff

Official:

  
JOYCE E. MORROW  
Administrative Assistant to the  
Secretary of the Army

**History.** This publication is a rapid action revision. The portions affected by this rapid action revision are listed in the summary of change.

**Summary.** This regulation provides policies regarding incapacitation pay for Soldiers of the Army National Guard/Army National Guard of the United States and the U.S. Army Reserve. This regulation implements DODI 1241.2. Procedures regarding application for incapacitation pay are located in DA Pam 135–381.

**Applicability.** This regulation applies to the Active Army, the Army National

Guard/Army National Guard of the United States, and the U.S. Army Reserve unless otherwise stated. During mobilization, the proponent may modify chapters and policies contained in this regulation.

**Proponent and exception authority.** The proponent of this regulation is the Deputy Chief of Staff, G–1. The proponent has the authority to approve exceptions or waivers to this regulation that are consistent with controlling law and regulations. The proponent may delegate this approval authority, in writing, to a division chief within the proponent agency or its direct reporting unit or field operating agency, in the grade of colonel or the civilian equivalent. Activities may request a waiver to this regulation by providing justification that includes a full analysis of the expected benefits and must include formal review by the activity’s senior legal officer. All waiver requests will be endorsed by the commander or senior leader of the requesting activity and forwarded through their higher headquarters to the policy proponent. Refer to AR 25–30 for specific guidance.

**Army management control process.**

This regulation contains management control provisions and identifies key management controls that must be evaluated (see appendix C).

**Supplementation.** Supplementation of this regulation and establishment of command or local forms are prohibited without prior approval from the Deputy Chief of Staff, G–1 (DAPE–PRC), 300 Army Pentagon, Washington, DC 20310–0300.

**Suggested improvements.** Users are invited to send comments and suggested improvements on DA Form 2028 (Recommended Changes to Publications and Blank Forms) directly to the Deputy Chief of Staff, G–1 (DAPE–PRC), 300 Army Pentagon, Washington, DC 20310–0300.

**Distribution.** This publication is available in electronic media only and is intended for command levels D for the Active Army and A for the Army National Guard/Army National Guard of the United States and the U.S. Army Reserve.

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### **Glossary**

## **Chapter 1 Introduction**

### **1–1. Purpose**

This regulation prescribes policies and implements statutory authorities regarding incapacitation pay and allowance and reviews requirements on these entitlements for Reserve Component (RC) Soldiers.

### **1–2. References**

Required and related publications and prescribed and referenced forms are listed in appendix A.

### **1–3. Explanation of abbreviations and terms**

Abbreviations and special terms used in this regulation are explained in the glossary.

### **1–4. Responsibilities**

*a.* The Secretary of the Army will—

(1) Delegate to the Chief, Army Reserve (CAR) the authority to continue the payment of benefits paid under Section 204(g), Title 37, United States Code (37 USC 204(g)) and 37 USC 204(h) for more than 6 months to incapacitated members of the U.S. Army Reserve (AR). The CAR may further delegate this authority to the Army Reserve Deputy Chief of Staff for Personnel.

(2) Delegate to the Chief, National Guard Bureau (CNGB) the authority to continue the payment of benefits paid under 37 USC 204(g) and 37 USC 204(h) for more than 6 months to incapacitated members of the Army National Guard (ARNG)/Army National Guard of the United States (ARNGUS).

*b.* Deputy Chief of Staff, G–1 (DCS, G–1) will—

(1) Have overall Army Staff responsibility for incapacitation policy of RC Soldiers.

(2) Have the authority to initiate and terminate incapacitation pay.

(3) Develop policy, in coordination with the Office of the Surgeon General, Defense Finance and Accounting Service (DFAS), National Guard Bureau (NGB), AR, and U.S. Army Physical Disability Agency (USAPDA).

(4) Monitor the cost and effectiveness of the AR and ARNG/ARNGUS programs.

(5) Modify the system as required.

(6) Maintain liaison with the other services and the Office of the Secretary of Defense.

(7) Initiate appropriate legislative changes when needed.

(8) Process appeal cases. The DCS, G–1 (DAPE–MPE–DR) is the appealing authority for cases exceeding 180 days.

(9) Resolve questionable cases from both AR and ARNG/ARNGUS after reviewed and after recommendations are made by the command (DAPE–PRC).

*c.* The CNGB will—

(1) Exercise staff supervision and management over incapacitation pay for the ARNG/ARNGUS.

(2) Have the authority to initiate and terminate incapacitation pay.

(3) Exercise authority to continue the payment of benefits paid under 37 USC 204(g) and 37 USC 204(h) for more than 6 months to incapacitated members of the ARNG. Each action to continue the payment of benefits under this authority must be reviewed every 6 months.

(4) Develop detailed budget submissions.

(5) Coordinate fiscal operation of the system within appropriation limits.

(6) Serve as appropriation director for incapacitation pay.

(7) Maintain a reporting system to monitor and control costs.

(8) Prepare reports and other statistical data enabling the DCS, G–1 to measure the effectiveness of the program.

(9) Publicize changes to entitlements as they occur.

(10) Evaluate the effectiveness of the system in the ARNG/ARNGUS.

(11) Develop policies, procedures, and management initiatives for the ARNG/ARNGUS and recommend changes to DCS, G–1.

(12) Resolve appeals per Department of the Army (DA) Pamphlet (Pam) 135–381, chapter 3.

*d.* The CAR will—

(1) Exercise staff supervision and management over incapacitation pay for the AR.

(2) Have the authority to initiate and terminate incapacitation pay.

(3) Exercise authority to continue the payment of benefits paid under 37 USC 204(g) and 37 USC 204(h) for more than 6 months to incapacitated members of the USAR. Each action to continue the payment of benefits under this authority must be reviewed every 6 months.

(4) Develop detailed budget submissions.

(5) Coordinate fiscal operation of the system within appropriation limits.

- (6) Serve as appropriation director for incapacitation pay.
  - (7) Maintain a reporting system to monitor and control costs.
  - (8) Prepare reports and other statistical data enabling the DCS, G-1 to measure the effectiveness of the program.
  - (9) Publicize changes to entitlements as they occur.
  - (10) Evaluate the effectiveness of the system in the AR.
  - (11) Develop policies, procedures, and management initiatives for the AR and recommend changes to DCS, G-1.
  - (12) Resolve appeals per DA Pam 135-381, chapter 3.
- e.* The Director, AR Pay Center, U.S. Property and Fiscal Offices, defense military pay offices, and finance offices will—
- (1) Issue pay and allowances authorized by law and regulation to Soldiers.
    - (a) On receipt of authorization for payment of incapacitation pay and allowances from the appropriate headquarters, process the Soldier's entitlement for such payment.
    - (b) Provide pay and allowances for the period authorized by the appropriate headquarters within 5 days.
    - (c) Continue timely payment of pay and allowances each month when authorized by the appropriate headquarters.
    - (d) Terminate payment of incapacitation pay and allowances when no longer authorized by appropriate headquarters.
  - (2) Monitor incapacitation pay documents per DA Pam 135-381.
  - (3) Monitor the Army RC system to ensure that incapacitation pay and allowances payments are limited to a maximum of 6 months, unless extended, in relevant part, by the Secretary of the Army or a designee, as required by law.
- f.* The Surgeon General will exercise staff supervision and management over health care entitlements for RC Soldiers.
- g.* The Commander, U.S. Army Europe and Seventh U.S. Army; commanding generals (CGs) of all major commands; Commander, USARC; commanders, State Area Commands (STARC); and commanders, U.S. Army Regional Readiness Commands (RRCs) will—
- (1) Ensure policies and procedures pertaining to RC Soldiers serving, participating in training, or stationed in their respective areas of responsibility are carried out according to this regulation.
  - (2) Ensure that prompt action is taken to initiate and complete line of duty investigations (LDI) involving Soldiers per AR 600-8-4 and the standards established by this regulation.
  - (3) Ensure that prompt action is taken to initiate and ensure medical treatment.
  - (4) Ensure that administrative procedures for processing LDI and incapacitation pay actions are streamlined to eliminate unnecessary levels of review and ensure that actions are processed within the standards established by this regulation and AR 600-8-4.
- h.* The CG, U.S. Army Training and Doctrine Command (TRADOC) will—
- (1) Ensure that policies and procedures pertaining to RC Soldiers participating in initial active duty for training (IADT) are carried out according to this regulation.
  - (2) Ensure that prompt action is taken to initiate and complete LDI involving Soldiers per AR 600-8-4 and the standards established by this regulation.
- i.* The CG, Medical Command will—
- (1) Ensure that prompt medical and dental care are provided to RC Soldiers according to this regulation.
  - (2) Recommend policy and procedure changes to the DCS, G-1.
- j.* The Commander, Human Resources Command-St. Louis (HRC-St. Louis)—
- (1) Is not responsible for approving the continued payment of benefits under 37 USC 204(g) and 37 USC 204(h) for more than 6 months to incapacitated members of the Individual Ready Reserve (IRR) and the Individual Mobilization Augmentee (IMA). Cases that may be candidates for continued payment of benefits under 37 USC 204(g) and 37 USC 204(h) beyond the 6-month limit prescribed in 37 USC 204(i) and Department of Defense Instruction (DODI) 1241.2, paragraph 5.2.7, will be forwarded to the Army Reserve Deputy Chief of Staff for Personnel for a decision.
  - (2) Will ensure that policies and procedures pertaining to Soldiers assigned to the IRR and IMA Program are carried out per this regulation.
  - (3) Will recommend policy and procedural changes to the Army Reserve Deputy Chief of Staff for Personnel.
  - (4) Will ensure that prompt action is taken to initiate and complete LDI involving IRR/IMA Soldiers per AR 600-8-4.
  - (5) Will ensure that prompt action is taken to initiate and ensure continued payment of incapacitation pay for IRR/IMA Soldiers who are entitled to such pay as a result of their injury, illness, or disease.
- k.* The State Adjutants General will—
- (1) Ensure that policies and procedures pertaining to Soldiers assigned to their state are carried out per this regulation.
  - (2) Ensure that prompt action is taken to initiate and complete LDI.



(3) Ensure that prompt action is taken to initiate and ensure continued payment of incapacitation pay for Soldiers who are entitled to such pay as a result of their injury, illness, or disease.

(4) Approve claims up to 180 days for Soldiers assigned to their state.

(5) Process/review for validity and accuracy of incapacitation pay request over the initial 180-day limit for Soldiers within their state, in relevant part, prior to forwarding to the National Guard Bureau (NGB-ARP-DA) for the determination.

*l.* The commanders RRCs will—

(1) Ensure that policies and procedures pertaining to Soldiers assigned to the troop program units (TPUs) are carried out per this regulation.

(2) Ensure that prompt action is taken to initiate and complete LDI.

(3) Ensure that prompt action is taken to initiate and ensure continued payment of incapacitation pay for TPU Soldiers who are entitled to such pay as a result of their injury, illness, or disease.

(4) Process/review for validity and accuracy of incapacitation pay request over the initial 180-day limit for Soldiers within their command, in relevant part, prior to forwarding to the Army Reserve, Deputy Chief of Staff for Personnel (AFRC-PRS-M), for the determination.

(5) For those RRCs assigned to USARC—

*(a)* Support commands directly under their command and control, and direct supporting commands and general officer commands within their area of support (see AR 5-9).

*(b)* Serve as delegated approving official, for those RRCs assigned to USARC, for incapacitation pay claims up to 180 days for those organizations they support.

*m.* The following may approve claims up to 180 days for the AR: The Commander of the Seventh Army Regional Command; all RRCs; Commander, U.S. Army Special Operations Command (USASOC); Commander, HRC-St Louis (for IRR/IMA Soldiers); and Commander, USARC (for direct reporting commands and assigned TPUs).

*n.* Unit commanders will—

(1) Provide periodic briefings on entitlements to all assigned and attached Soldiers, especially prior to annual training (AT), field training, or deployments.

(2) Ensure an LDI is conducted expeditiously on injury or illness likely to result in a claim against the Government for health care, compensation, or disability benefits. Medical treatment facilities (MTFs) normally notify the commander of a Soldier's injury or illness. However, the commander must assume this responsibility when Soldiers are taken to or treated in civilian health care facilities or when service medical personnel are unaware of the requirement to initiate LDI for Soldiers. AR 600-8-4 provides further details on LDI initiation and completion. The following standards apply for LDIs completed as a result of any RC injury, illness, or disease:

*(a)* The Statement of Medical Examinations and Duty Status, DA Form 2173, will be completed within 7 calendar days of notification of the injury, illness, or disease. Completion means that Sections I and II are completed and signed by the Physician and Commander, respectively, signifying the injury, illness, or disease incurred in the line of duty. This completed DA Form 2173 will be used in the interim to initiate the required paperwork for the member to request incapacitation benefits until the LDI is approved and finalized by the appointing/approval authority. The completed DA Form 2173 is valid for 60 days from the date of the incident for an informal LDI and 90 days for a formal LDI. To continue incapacitation payments, the LDI must be approved and finalized in accordance with AR 600-8-4. Initial pay for a Soldier who has suffered an injury, illness, or disease that prevents the Soldier from performing military or civilian duties will be paid within 30 calendar days of notification of the injury, illness, or disease provided the Soldier has submitted the documentation specified in DA Pam 135-381. When the completed DA Form 2173 is used in the interim to commence incapacitation pay, the commander must immediately initiate a LDI in accordance with AR 600-8-4 to ensure continuation of incapacitation benefits.

*(b)* For informal LDI policy and requirements, see AR 600-8-4, which contains the requirements for when an informal or formal LDI will be completed. This authority is not delegated to RRCs. Initial pay for a Soldier who has suffered an injury, illness, or disease that prevents the Soldier from performing military or civilian duties with an informal LDI will be paid within 30 calendar days of notification of the injury, illness, or disease.

*(c)* If, as a result of the LDI, a determination of "not in line of duty" (NLD) is made, then incapacitation payments will be stopped effective the date of that determination and may result in termination of benefits or recoupment of funds from the Soldier's future pay.

*(d)* Commanders who fail to meet these standards will include a written explanation with the LDI as to why the standards were not met and what actions are being taken to prevent future delays in processing line of duty actions.

(3) Properly counsel each Soldier injured or taken ill on benefits, rights, privileges, and responsibilities.

(4) Provide authorized assistance to family members of incapacitated and disabled Soldiers.

(5) Provide written input per DA Pam 135-381, chapter 2, to the appropriate headquarters concerning the Soldier's inability to perform military duties or loss of civilian earned income.

(6) Document all attendance and absences from training or duty.

## **1-5. Objective**

The objective of the RC Incapacitation System is to compensate, to the extent permitted by law, members of the Reserve Components who are unable to perform military duties and/or who demonstrate a loss in civilian earned income as a result of an injury, illness, or disease incurred or aggravated in the line of duty and to provide the required medical and dental care associated with the incapacitation.

## **1-6. Entitlement**

*a.* A member of the RC incurring or aggravating any injury, illness, or disease in the line of duty is entitled to medical and dental care, incapacitation pay, and travel and transportation incident to medical and/or dental care, in accordance with 37 USC 204 and 37 USC 206. The amount of incapacitation pay for the member will be determined in accordance with DOD 7000.14-R, Volume 7A.

*b.* Members incapacitated in the line of duty are entitled to medical and dental treatment in an MTF for the in-the-line-of-duty condition until qualified for return to military duty. If the resulting incapacitation cannot be materially improved by further hospitalization or treatment, the case will be processed and finalized through the Disability Evaluation System (DES) when eligible for disability processing. Procedures governing physical disability evaluation are provided in DODI 1332.38 and Department of Defense Directive (DODD) 1332.18.

*c.* A member on a call or order to active duty specifying a period of 30 days or less who incurs or aggravates an injury, illness, or disease will not have orders terminated solely because of the injury, illness, or disease, unless requested by the member. Upon release from active duty, the member is entitled to benefits provided by this regulation.

*d.* Members authorized incapacitation pay under 37 USC 204(g) will not be allowed to attend inactive duty training (IDT) periods or to acquire retirement points for drills. However, a member may earn retirement points in order to satisfy the requirements for a qualifying year of service by completing correspondence courses.

*e.* Nothing in this regulation will be construed to prevent emergency medical treatment at an MTF for a Reservist while in a duty status. Members requesting emergency treatment at an MTF 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, will be examined and provided necessary medical care. The circumstances surrounding the emergency condition will be resolved after the emergency has been stabilized.

*f.* Soldiers who are participating in Reserve Officers Training Corps-Simultaneous Membership Program (ROTC-SMP) or Early Commissioning Program on active or IDT or in travel status as members of an RC unit are entitled to Government-funded health care on the same basis as other Soldiers.

*g.* In accordance with the Joint Federal Travel Regulations, Soldiers who qualify for medical care in accordance with this regulation are entitled to travel and transportation allowances for necessary travel incident to such care and return to their residence, upon discharge from treatment.

*h.* Travel orders will be issued by the RRC, Commander, HRC-St. Louis, or ARNG State headquarters for Soldiers who are required to travel in excess of 50 miles or 90 minutes driving time for out patient health care authorized as a result of an in-the-line-of-duty illness/injury/disease. The RRC, major subordinate command, ARNG State headquarters, or Commander, HRC-St. Louis is responsible for travel involving outpatient care.

*i.* Members are authorized medical/dental treatment while the LDI is ongoing, provided the military medical support office pre-approves the treatment. The LDI determination will determine eligibility for continued medical/dental care.

## **1-7. Medical condition as it relates to incapacitation pay**

*a.* The worsening of a pre-existing medical conditions over and above the natural progression of the condition as a direct result of military duty is considered an aggravated condition.

*b.* Commanders must initiate and complete LDIs, despite a presumption of NLD. Not in line of duty determination can be made only with a formal LDI. Completed LDIs serve as necessary documentation for application for disability entitlements with the Department of Veterans Affairs (DVA) and for the payment of civilian medical bills related to TRICARE or other Government medical care plans.

## **1-8. Members unable to perform military duties**

*a.* A member who is unable to perform military duties because of incapacitation under the circumstance described in paragraph 1-6 is entitled to full pay and allowances, including all incentive pay to which entitled, less any civilian earned income for the same period the member receives incapacitation pay (see DOD 7000.14-R, Volume 7A for entitlements).

*b.* Incapacitation pay under paragraph 1-8a is adjusted only by the amount of earned income received. The civilian income of the member other than earned income received will not be a consideration in calculating incapacitation pay under that paragraph.

*c.* For establishing fitness, an RC member will be determined to be unable to perform military duties if, under service procedures in AR 40-501 the member would be determined to be medically unfit to perform his or her military duties.

*d.* A member authorized incapacitation pay under 37 USC 204(g) of reference will not be allowed to attend IDT or

to acquire retirement points for performing IDT. A Soldier attending IDT and performing military duties may be evidence that they are not suffering from a disability that entitles them to incapacitation pay (tier 1 cases). This will not be used as a basis for terminating entitlement to medical treatment.

*e.* Return to or acceptance of civilian employment may not terminate entitlement to medical care at Government expense.

### **1-9. Members able to perform military duties**

Members able to perform military duties, but demonstrating a loss of earned income as a result of an in-the-line-of-duty incapacitation, will be compensated for lost earned civilian income. The compensation under this provision will be the lesser of the amount of demonstrated lost civilian income in the amount not to exceed military pay and allowances for which the member would be entitled if serving on active duty. Members will be compensated for loss of earned civilian income in accordance with 37 USC 204(h) and DOD 7000.14-R, Volume 7A, table 57-3.

### **1-10. Line of duty determination**

*a.* In accordance with paragraph 1-4*n*(2)(*a*), the Commander, HRC-St. Louis (for IMA and IRR Soldiers), State Adjutants General (for ARNG/ARNGUS Soldiers), and RRC commanders (for TPU Soldiers) must complete a DA Form 2173 within 7 days of notification of the Soldier's injury, illness, or disease for Soldiers incapacitated as a result of an injury, illness, or disease incurred or aggravated on active duty (AD) (including leave), on IDT, or while traveling directly to or from IDT, absent clear and convincing evidence on the contrary. Included in IDT is time spent remaining overnight immediately before the commencement of IDT, at or in the vicinity of the site of the IDT, if the site is outside reasonable commuting distance from the member's residence (50 miles or 90 minutes driving time). The completed DA Form 2173 will be used in the interim to initiate paperwork for incapacitation benefits pending completion of the LDI by the appointing/approval authority. The completed DA Form 2173 is valid for 60 days from the date of the incident for an informal LDI and 90 days for a formal LDI.

*b.* Commanders will complete DA Form 2173 within sufficient time to ensure that pay and allowances will commence within 30 days of the date that the injury, illness, or disease was reported, unless there is clear and convincing evidence that the injury, illness, or disease was not incurred or aggravated in a duty status. Because the completed DA Form 2173 is used in the interim to initiate payment of incapacitation benefits, the appropriate approving authority must immediately review and approve the LDI in accordance with AR 600-8-4 to ensure continuation of incapacitation payments.

*c.* Should a final LDI determination find that the injury, illness, or disease was not incurred in the line of duty, the commander will take action to immediately stop any incapacitation benefits. This also may include termination and collection of incapacitation pay and allowances.

*d.* A Soldier may appeal an adverse LDI determination to the appropriate appellate review authority under AR 600-8-4.

### **1-11. Duration of incapacitation pay**

*a.* Incapacitation pay will be paid only during the period a member remains unfit for military duty or demonstrates a loss of earned income as a result of the incapacitation.

*b.* Payment in any particular case may not be made for more than 6 months without review of the case by appropriate headquarters as outlined in paragraph 3-6.

*c.* To insure that continuation of incapacitation pay is warranted under this regulation, a review will be made every 6 months.

*d.* Incapacitation pay will continue as long as the conditions warranting the incapacitation pay exist and the approving authority determines that it is in the interest of fairness and equity to continue the payment.

*e.* When incapacitation lasts for over a year, the case should be processed through the DES for disability separation or retirement. Incapacitation pay will end upon retirement, separation for physical disability, or determination by military service medical personnel that the member has recovered sufficiently to perform military duties, when actually returned to military duty, whichever occurs first.

*f.* Review of individual cases will commence far in advance of the end of each 6-month period so as to ensure that incapacitation pay will not be interrupted if it is determined that it should be continued.

*g.* The following procedures must be followed:

(1) The pay will not be terminated due to administrative oversight.

(2) Incapacitation pay will not continue beyond the completion of medical treatment or return to military duty, whichever comes first, except as provided in paragraph 1-9 or beyond disability separation or retirement.

(3) The 6-month period need not be consecutive. For example, a Soldier who is injured in March and meets the eligibility requirements may be paid incapacitation pay in April, May, July, September, December, and January. The Soldier may be paid for these months provided he or she continues to meet the eligibility requirements.

(4) Prognosis will be received and reviewed to identify the need for a medical evaluation board (MEB). This action will be initiated prior to the end of the 6-month cumulative period of payment.

(5) In the case of death, incapacitation pay beyond the month of when the death occurs is not authorized nor included in pay and allowances due to the Soldier's estate.

### **1–12. Incapacitation payments**

- a.* Management of incapacitation payments to Soldiers of the RC will be assigned as follows:
- (1) For claims greater than 6 months:
    - (a) CNGB: for Soldiers of the ARNG/ARNGUS.
    - (b) CAR: for Soldiers of the AR.
  - (2) For claims up to 6 months:
    - (a) State Adjutants General: for Soldiers of the ARNG/ARNGUS.
    - (b) RRC; Commander, USASOC; Commander, USARC; and other direct reporting commands: AR TPU Soldiers in the continental United States and Puerto Rico.
    - (c) Commander, HRC–St. Louis: AR IRR, IMA, and retired Reserve Soldiers called or ordered to perform military duty.
    - (d) Commander, U.S. Army Europe and Seventh U.S. Army: AR TPU Soldiers in Europe.
    - (e) Commander, U.S. Army Pacific Command: AR TPU Soldiers in Hawaii, Alaska, Guam, American Samoa, and Saipan.
- b.* Unit commanders, RRC commanders, and Commander, HRC–St. Louis will—
- (1) Promptly process all claims for incapacitation pay.
  - (2) Closely monitor each case to ensure payments are terminated when no longer authorized.
  - (3) Ensure no duplicate payment requests are submitted for payment.
  - (4) Promptly report Soldiers' address changes in writing to supporting Finance and Accounting Office.
  - (5) Advise Soldiers of their compensation and entitlements for ILD injury, illness, or disease.
  - (6) Open and maintain a file on any incapacitation case.
  - (7) Promptly refer patients for a MEB or physical evaluation board (PEB) when required.
  - (8) Report requirements to higher headquarters.
- c.* The incapacitation review board will determine if termination of entitlement to incapacitation pay and allowances is warranted. A formal review by the incapacitation review board is required to determine the facts and circumstances of each individual case involving missed medical appointments, disregarded doctor's orders not to perform military duties, or attend training.

### **1–13. Compensation**

- a.* Soldiers are entitled to a portion of the same monthly pay and allowances as are provided members of the Active Army with corresponding grade, length of service, marital status, and dependent status for each period the Soldier is unable to perform military duties (tier 1 cases) or can demonstrate loss of compensation from civilian earned income (tier 2 cases). Maximum amount payable for any given period is an amount equivalent to military pay and allowances for the period in question.
- b.* Soldiers will not be issued AD orders in place of incapacitation pay as a means of providing benefits to which they might otherwise not be entitled.
- c.* Payment of incapacitation pay will not be made by any finance and accounting officer without a certificate of authorization from USARC, HRC–St. Louis, ARNG State headquarters, USASOC, RRC, or other direct reporting units.
- d.* Only the AR Pay Center and the finance and accounting offices (FAOs) providing support to the incapacitated Soldier's unit of assignment may pay incapacitation pay to AR Soldiers. Under no circumstances will other finance and accounting offices, such as those providing support to the U.S. Army Medical Department Activity, be authorized to pay incapacitation pay to the Soldier who qualify under paragraphs 1–8 or 1–9.
- e.* Eligibility for incapacitation pay is determined case by case and depends on whether a Soldier is unable to perform military duties or demonstrates a loss of civilian earned income.
- f.* All AR and ARNG/ARNGUS incapacitation payments and travel funds will be charged to the open allotment cited in the Defense Finance and Accounting Service–Indianapolis (DFAS–IN) Manual 37–100.
- g.* A Soldier may be paid incapacitation pay for more than 6 months only with the approval of the Secretary of the Army or a designee. The law permits additional payments only when in the opinion of the service secretary it is clearly in the interest of fairness and equity to do so. Only the most meritorious requests will be approved. (See DA Pam 135–381, fig 3–7, for a sample of a commander's request to exceed the 180–day incapacitation pay limit. The example uses "injury" as a type of incapacitation. "Illness" or "disease" as applicable may also be substituted in each instance depending on the type of incapacitation.)
- h.* Requests for extension will be sent through the chain of command or established processing procedure and must include, as a minimum, the following:
- (1) Name/rank/Social Security number.

- (2) Organization.
- (3) Date of incident.
- (4) Type of training and dates (for example, AT, temporary tour of active duty (TTAD), IDT, IDT travel).
- (5) Type of injury, illness, or disease (also state whether condition was incurred or aggravated).
- (6) Date of approved LDI determination.
- (7) History of incapacitation payments (dates and amounts).
- (8) Background of the case (how the Soldier incurred or aggravated the injury, illness, or disease) and current prognosis.
- (9) Commander's recommendation. (Only meritorious cases should be forwarded for consideration. Must include the words "fairness and equity" as required by law.)
  - i.* Regardless of the amount of lost income claimed by a Soldier, the maximum amount of military pay and allowances payable to a Soldier will be limited to the amount otherwise due a Soldier serving on AD with the same grade and years of service.
  - j.* Entitlement to incapacitation pay does not place the member on AD and therefore no leave accrual is authorized. Because no leave accrual is authorized, no lump sum payments may be made for unused leave, except leave accrued prior to incapacitation.
  - k.* RC Soldiers are not entitled to receive both DVA disability compensation and incapacitation pay for the same disabling condition. If the approving authority permits incapacitation pay for the same period and disabling condition, the Soldier must waive the DVA disability compensation to receive military pay and allowances. The DVA will reduce or stop the disability payment while the member receives incapacitation pay. If the DVA disability compensation was paid for the same period and disabling condition before the Soldier was authorized incapacitation pay, it will be deducted from the Soldier's incapacitation payment.

## Chapter 2 Eligibility Requirements

### 2-1. Duty status

Status of the Soldier at the time of injury, illness, or disease is critical in determining entitlement to medical, dental, disability, and hospitalization benefits, and incapacitation compensation.

- a. IDT.*
  - (1) IDT status for purposes of this regulation includes, but is not limited to, such activities as the following:
    - (a) Regularly scheduled unit training assemblies or multiple unit training assemblies.
    - (b) Additional training assemblies.
    - (c) Training assemblies conducted by Reserve training units and IMA detachments.
    - (d) Additional assemblies for nuclear training.
    - (e) Readiness management assemblies.
    - (f) Staff meetings.
    - (g) The Total Army School System (TASS) battalions training assemblies (including faculty, staff, and students).
    - (h) Field training.
    - (i) Rescheduled training.
    - (j) Split training assembly.
    - (k) Equivalent training.
    - (l) Additional flying training periods.
    - (m) Additional inactive duty training periods.
    - (n) Additional airborne unit training assemblies.
    - (o) IDT "for points only."
    - (p) Musters (special category of IDT).
  - (2) The training schedule is a required part of the LDI packet. It is used to determine if the Soldier's activities associated with the injury, illness, or disease incurred or aggravated were in compliance with the activity authorized for that time.
  - (3) One of the following forms will be used to verify status in the above category to substantiate entitlement to medical treatment for ILD injury, illness, or disease:
    - (a) DA Form 1379 (U.S. Army Reserve Components Unit Record of Reserve Training) or sign-in roster.
    - (b) DA Form 1380 (Record of Individual Performance of Reserve Duty Training).
  - (4) Pay for training in the activities listed in paragraph 2-1a is not a requirement to qualify for entitlement to medical treatment.

- (5) Injuries sustained by Soldiers not serving on AD and while voluntarily participating in aerial flights in Government-owned aircraft under proper authority and incident to training qualify for funded medical treatment.
- (6) ILD travel injury, illness, and/or disease incurred or aggravated during IDT qualify for medical treatment on the same basis as other IDT related incapacitation.
- (7) During multiple unit training assemblies (MUTA), the time between training periods, usually reserved for the noon meal, is considered to be a continuous part of IDT training. In-the-line-of-duty injury, illness, or disease incurred or aggravated during the time period between MUTA-2 training assemblies is deemed to have occurred in IDT status.
- (8) During MUTAs, the time period between successive days' training, usually overnight, is not considered to be IDT unless all the following criteria exist:
- (a) The training schedule reflects such time to be IDT.
  - (b) Soldiers are required to remain overnight at the training site.
  - (c) Training continues uninterrupted 24 hours a day.
  - (d) Member does not return to a residence during or between the training periods or resides outside a 50-mile radius or 90-minute commute of the training site.
  - (9) IDT status will be verified by referring to the unit's (including TASS) battalion training schedule.
  - (10) Work on correspondence courses does not confer IDT or AD status on a Soldier.
  - (11) Duty without pay will be considered as if it were duty with pay for the purposes of this regulation, as long as the proper documentation is available.
  - (12) Wearing the military uniform is not always necessary to establish entitlement to benefits.
- b. AD status.*
- (1) *AD.* For purposes of this regulation this includes such activities as the following:
    - (a) Active duty.
    - (b) Active duty in support of a contingency operation.
    - (c) AT.
    - (d) Active duty for training.
    - (e) IADT.
    - (f) TTAD.
    - (g) Active duty for special work (ADSW).
    - (h) Active duty for medical extension.
    - (i) Active Guard and Reserve (AGR).
    - (j) Full-time National Guard duty (FTNGD).
    - (k) Soldiers in an AGR or FTNGD status who remain on active duty while incapacitated continue to receive their active duty pay allowances in lieu of incapacitation pay. They receive incapacitation pay only if released from active duty (AGR or FTNGD) status.
  - (2) *AD of 30 days or less.*
    - (a) Medical treatment in military or other Federal facilities or at Government expense for Soldiers is authorized when an injury or disease is incurred or contracted while in an AD status of 30 days or less (see para 1-6). A Soldier on active duty for a period of 30 days or less may with the Soldier's consent be continued on active duty while the Soldier is being treated for, or recovering from, an injury, illness, or disease incurred or aggravated in the line of duty.
    - (b) When it is determined that an injury, illness, or disease was not incurred in the line of duty, medical treatment is not authorized beyond the expiration date of the AD orders. If NLD is determined after expiration of orders, entitlement to funded medical treatment ends on the date the Soldier is notified of final NLD finding. Entitlement ends on the date a Soldier is notified of final NLD determination (refer to AR 600-8-4 for policy concerning LDI determinations). Thereafter, the payments for all ensuing health care related expenses become the responsibility of the Soldier. The unit commander or Commander, HRC-St. Louis, as appropriate, is responsible for notifying the Soldier of final LDI determination. If the Soldier disagrees with the LDI determination, an appeal will be completed and processed according to procedures contained in AR 600-8-4. Unit commanders or Commander, HRC-St. Louis, as appropriate, will immediately notify the MTF commander, civilian medical care provider, or Department of Veterans Affairs hospital patient administrator, as appropriate, of NLD findings. The notification will also state that the Army will no longer be responsible for future treatment or care as well as the date the Soldier was notified of the LDI determination.
    - (c) When assigned duties as advance or rear party, such as during AT, and listed on an appropriate AT order annex, RC Soldiers are authorized care on the same basis as other RC personnel on AD orders of 30 days or less.
    - (d) Commanders of TRADOC installations are responsible for immediately reporting to the RC unit commander or Commander, HRC-St. Louis, as appropriate, any incident in which a Soldier incurs or aggravates an injury, illness, or disease. This will include incidents leading to disability or death while participating in IADT. This responsibility includes furnishing a copy of the approved LDI to the unit commander or order issuing authority.
    - (e) Installation commanders will immediately report to the RC unit commander or Commander, HRC-St. Louis any incident in which a Soldier incurs or aggravates an injury, illness, or disease including an incident leading to disability

or death of any Soldier at his or her installation. This includes furnishing the unit commander or order issuing authority a copy of the approved LDI.

(f) Commanders of Active Army units not located on an installation who have RC Soldiers assigned or attached to them will immediately report to the RC unit commander, order issuing authority, or Commander, HRC–St. Louis any incident in which a Soldier incurs or aggravates an injury, illness, or disease, including an incident leading to disability or death of a Soldier at his or her installation. This includes furnishing the unit commander or order issuing authority a copy of the approved LDI.

(g) Soldiers on active duty orders of 30 days or less may not have orders terminated due to incapacitation alone, but may become entitled to incapacitation pay upon the end of their orders if qualified under other provisions of this regulation.

(3) *AD for more than 30 days.*

(a) The RC members who are ordered to AD (voluntarily or involuntarily) for a period of more than 30 days are authorized medical care for themselves and their authorized dependents on the same basis as their Active Army counterparts and as prescribed by AR 40–3.

(b) Installation commanders will immediately report to the RC unit commander, order issuing authority, or Commander, HRC–St. Louis any incident in which a Soldier incurs or aggravates an injury, illness, or disease including an incident leading to disability or death of any Soldier at his or her installation. This includes furnishing the unit commander a copy of the approved LDI.

(c) Commanders of Active Army units not located on an installation who have RC Soldiers assigned or attached to them will immediately report to the RC unit commander or Commander, HRC–St. Louis any incident in which a Soldier incurs or aggravates an injury, illness, or disease including an incident leading to disability or death of any Soldier at his or her installation. This includes furnishing the unit commander a copy of the approved LDI.

(d) Once the Soldier is determined to be incapacitated by incurring or aggravating an injury, illness, or disease, orders will not be revoked, amended, or extended while on AD for the sole purpose of processing under this regulation.

(e) AD status is verified by appropriate orders and after completion of a tour with pay and copies of pay vouchers. Pending receipt of pay after completion of tour, written verification from an authorized member of the chain of command is acceptable on an interim basis. Without this type of documentation, a member is not considered to be in an active duty status.

(f) AD in support of a contingency operation occurs when an RC Soldier is ordered or volunteer for active duty for a military operation that:

1. Is designated by the Secretary of Defense as an operation in which members of the Armed Forces are or may become involved in military actions, operations, or hostilities against an enemy of the United States or against an opposing military force or

2. Results in the call or order to, or retention on, active duty of members of the uniformed services under 10 USC 688, 12301(a), 12302, 12304, or 12406 or any other provision of law during a war or a national emergency declared by the President or Congress.

a. Soldiers 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, may be entitled to incapacitation pay upon the end of the orders. Continued medical treatment in military treatment facilities is authorized in accordance with 10 USC 1074a.

b. Members may be retained on active duty, or treated at a military treatment facility, under 10 USC 1074a until returned to military duty. Treatment under 10 USC 1074a will 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.

## **2–2. Travel status**

a. Entitlement to health care, incapacitation pay and allowances, and death benefits for injury, disease, or illness incurred, contracted, or aggravated while traveling to or from duty depends on the type of duty being performed (see para 2–1 for types of duty status).

b. Travel must be direct and be completed within a reasonable amount of time.

c. Travel status continues during reasonably short stops at public facilities en route for such purposes as consumption of meals, refueling a vehicle, or other purposes directly related to travel. Travel delays for reasons such as adverse weather, commercial transportation problems, or similar problems beyond the Soldier’s control may extend travel status.

d. Travel status prior to IDT begins when a Soldier leaves his or her residence and ends with the opening formation of muster at the duty station where the Soldier was first directed to report according to a published training schedule or IDT order. Travel status resumes when the commander or designated representative dismisses the member from IDT training (such as closing formation) and ends when he or she returns directly to his or her residence.

(1) Travel status connected with IDT training is normally limited to the same day the duty is performed.

(2) Soldiers performing training in an IDT status on an individual basis are subject to the same rules as unit

members. In instances where formations or musters are not used, travel status will be determined using the unit training schedule and/or commander's guidance on reporting and dismissal times.

*e.* Travel status in connection with AD tours begins when a Soldier leaves the place from which ordered to active duty. It ends when the Soldier reports for duty in compliance with the instructions contained in the AD orders. Travel following completion of such an AD tour begins when a Soldier is dismissed for departure by proper authority and ends when a Soldier returns to the place from which ordered to AD (see AR 135–200, chap 2, and DOD 7000.14–R, Volume 7A).

### **2–3. Criteria**

*a.* Incapacitation pay and allowances after release from AD for IDT may be authorized for RC Soldiers, for a period of up to 6 months. The Secretary of the Army or an authorized representative may extend the 6-month period in the interest of fairness and equity. See 37 USC 204(i)(2) and DODI 1241.2 for LDI injury, illness, or disease incurred or aggravated under any of the following conditions:

(1) Serving on AD for more than 30 days, or traveling to or from such duty (Soldiers qualify only if they do not extend their orders).

(2) Participating on IDT or ADT orders for 30 days or less (see para 2–1).

(3) Participating in organized athletics under the provisions of AR 350–1, paragraph 2–8, or undergoing cardiovascular screening at the time they are disabled.

*b.* Request for extension of incapacitation pay or continuation of AD beyond the 6-month period must be, in relevant part, approved by the Secretary of the Army or a designee.

*c.* Soldiers may not be disqualified from receipt of incapacitation pay, provided otherwise qualified, solely because they are—

(1) Participating in the Army Weight Control Program.

(2) Not wearing the military uniform at time of injury, illness, or disease.

(3) Participating in organized athletics, the Army Physical Fitness Program, or cardiovascular screening at the time they are disabled.

(4) Members of the ROTC–SMP (for injury, illness, or disease incurred or aggravated ILD while training with their RC unit only).

*d.* Incapacitation pay and allowances will not be authorized for Soldiers—

(1) When the injury, illness, or disease or the aggravation of an injury, illness, or disease is the result of gross negligence or misconduct.

(2) When the injury, illness, or disease occurred NLD.

(3) When the injury, illness, or disease was incurred or aggravated while completing correspondence courses.

(4) When denied compensation by an incapacitation board action (see DA Pam 135–381, chap 3).

(5) When a loss of nonmilitary compensation is as a result of an unauthorized elective medical, surgical, or dental treatment.

(6) When an injury or illness is incurred or aggravated during airborne operations not authorized per paragraph 2–10.

(7) For travel status related injury, illness, or disease when travel is not direct and/or completed within a reasonable period of time.

(8) Beyond the 6-month statutory limitation, in relevant part, unless approved by the Secretary of the Army or a designee.

*e.* The member's entitlement to healthcare and pay and allowances under this regulation will terminate, or be reduced as appropriate, on the date that one of the following actions occurs:

(1) The member is found fit for duty, except in the case of a Soldier able to demonstrate the loss of earned income in accordance with paragraph 1–9.

(2) The member no longer demonstrates a loss of earned income in the case of a member covered under paragraph 1–9.

(3) The member is separated or retired.

(4) The State Adjutants General, the Commander, HRC–St. Louis, and designated commanders of USAR headquarters determine that it is no longer in the interest of fairness and equity to continue pay and allowances under 37 USC 204(g) or 37 USC 204(h).

(5) The Soldier loses disabled status by failing to cooperate with the Army's efforts to evaluate the physical status of the Soldier for final disposition of the case.

(6) The Soldier receives DVA payments for the same condition justifying their incapacitation pay. It is the Soldier's responsibility to notify the DVA to reduce the disability compensation upon receipt of incapacitation pay during the same period. The Soldier is also responsible for coordinating with the servicing DVA representative to reimburse for any overpayments of DVA compensation while receiving incapacitation pay for the same disabling condition at the



same time. If the DVA disability compensation was paid before the Soldier was authorized incapacitation pay, the amount of the disability compensation will be deducted from the incapacitation pay.

(7) The Soldier receiving incapacitation payment also receives income from an income supplemental program. This income is considered earned income for the purposes of 37 USC 204 and the incapacitation pay will be appropriately reduced. Incapacitation pay will not be affected by Social Security disability payments, which is not considered earned income when calculating incapacitation pay. However, eligibility to receive Social Security disability payments may be affected by receipt of incapacitation pay.

(8) The Soldier receives income from civilian employment, including self-employment. This 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 Soldier elects to receive. It does not include rents, royalties, retirement pays, dividends or interest, welfare payments, or other nontaxable Government benefits. Soldiers who are in receipt of DVA benefits may elect to receive either military pay or DVA pay under DOD 7000.14-R, Volume 7A, chapter 57, paragraph 570104. Soldiers can receive both welfare payments and incapacitation pay at the same time. However, receipt of the incapacitation payments may affect the Soldier's welfare eligibility in regard to state or local regulations/requirements. Welfare eligibility status is an issue between the Soldier and the local welfare officials.

#### **2-4. Employment in a military capacity**

The requirement to have been injured or become ill "while so employed" in a military status is also a critical element that must be met in order to qualify for entitlements. The term "while so employed" means that a Soldier has not yet been released from military control and duty. An example of an incident that does *not* meet the "employment" requirement occurs when a Soldier is released from duty early, but his or her orders are not yet terminated, and he or she is injured after returning home. In this example, even though the Soldier is entitled to receive pay for the full day of the release, the Soldier reverts to civilian status the instant he or she is released from military control (where no travel is involved). The Soldier is then no longer entitled to the benefits described in this regulation unless otherwise noted.

#### **2-5. Military technicians**

a. Military technicians participating in AD or IDT in a military status are eligible for the same entitlement to medical care as other Soldiers governed by this regulation.

b. Injury, illness or disease suffered while performing duties as a civilian employee of the Department of the Army does not qualify technicians for medical care at Government expense under this regulation.

c. Special attention will be devoted to military technicians to determine the status of such individuals—that is, civilian, military, or neither at the time of incapacitation—to ensure fairness and equity to the Government and the individual.

d. Wearing the military uniform at the time of injury, illness, or disease is not determinative of entitlement to medical care or dental treatment.

#### **2-6. Members released from training because of unsatisfactory participation**

a. Soldiers who are released from IDT for unsatisfactory participation are not authorized medical coverage or dental treatment at Government expense. Determinations will be made case by case by an incapacitation review board per chapter 3 of this regulation and under the procedures of DA Pam 135-381, if necessary.

b. Unit commanders will ensure that a "U" is entered on DA Form 1379 for period(s) of unsatisfactory participation to document no entitlement (see AR 140-185 for preparation of DA Form 1379 and AR 135-91 for the definition of unsatisfactory participation).

#### **2-7. Injury, illness, or disease during athletics**

Soldiers who incur or aggravate an injury, illness, or disease while participating in scheduled or authorized athletic events while in a duty status are entitled to treatment commensurate with their status (see para 2-1).

#### **2-8. Serious injury, illness, or disease**

a. Soldiers who incur or aggravate a serious injury, illness, or disease will be referred to an MEB. An MEB is convened to document a Soldier's medical status and duty limitations insofar as duty is affected by the member's status. AR 40-3 and AR 635-40 provide details for MEB processing.

b. Soldiers who are incapacitated while in a duty status as defined in paragraph 2-1 and who cannot be returned to military duties will be evaluated by a physical evaluation board (PEB) consistent with AR 635-40.

c. Soldiers who incur or aggravate an injury, illness, or disease in the line of duty while in a duty- or travel-related status, making them unfit for continued military service, will be evaluated by a PEB. Travel orders will be issued if the Soldier lives over 50 miles or 90 minutes from the MTF.

d. Soldiers who do not meet the above criteria for processing by a PEB, who are incapacitated or disabled while not

in a duty status, or who are unfit for continued military service will be processed for separation per AR 135–175; AR 135–178; AR 635–40, chapter 8; and National Guard Regulation (NGR) 40–501.

### **2–9. Injury, illness, or disease manifested after duty or travel status is complete**

*a.* Injury, illness, or disease manifesting itself after completion of duty or travel status does not qualify a Soldier for Government provided or funded medical or dental treatment.

*b.* An exception may be made if there is clear and convincing evidence that the injury, illness, or disease was incurred or aggravated in a duty or travel status, providing the Soldier otherwise qualifies. For example, when a disease condition manifests itself after completion of training, but the service medical authority determines, based on the known incubation period of the disease or nature of the condition, that the Soldier could only have contracted the disease or condition while in a duty status, the disease or condition may be determined to have been incurred in the line of duty.

### **2–10. Incapacitation resulting from participation in airborne training or operations**

*a.* To qualify for medical treatment for injury, illness, or disease incurred or aggravated in airborne training or operations, not only must the Soldier be in an AD or IDT status but must also meet the other criteria of this regulation, and the operation must have been:

- (1) Annotated on the training schedule.
- (2) Conducted on an approved drop zone.
- (3) Approved by the command and control headquarters designated to approve airborne operations.

*b.* In addition to the requirements in 2–10*a*, demonstration airborne operations must have been properly scheduled and approved in writing prior to the operation.

### **2–11. Leave accrual**

Entitlement to incapacitation pay does not place a member on AD and therefore no leave accrual is authorized.

### **2–12. Retirement points**

In accordance with DODI 1241.2, paragraph 6.2.1.1.2, Soldiers authorized incapacitation pay “will not be allowed to attend inactive duty training periods or to acquire retirements points for drills.” This applies to members unable to perform military duty (tier 1 cases).

## **Chapter 3 Incapacitation Review Board**

### **3–1. General**

ARNG, ARNGUS, USAR command and control headquarters (Seventh Army Regional Command, RRCs, USASOC, HRC–St Louis (for IRR/IMA Soldiers), and USARC (for direct reporting commands and assigned TPUs)) will each establish an incapacitation review board (hereinafter referred to as “the board”) (see DA Pam 135–381 for procedures to conduct an incapacitation review board).

### **3–2. Purpose**

The purpose of the board is to—

*a.* Protect the Soldier’s rights by ensuring that medical treatment and incapacitation pay are provided to Soldiers eligible to receive such benefits under law and as prescribed by DOD and Army regulations.

*b.* Protect the interests of the Government through controlling costs and eliminating fraud, waste, and abuse by Soldiers receiving unauthorized medical care and improper incapacitation payments.

*c.* Review each incapacitation pay case monthly and recommend that benefits be continued or terminated consistent with entitlement under governing law and regulation.

*d.* Report directly to the commander on the status of the incapacitation of RC personnel actions in their command. Make recommendations to enhance the incapacitation system.

*e.* Provide uniformity and consistency in the administration of incapacitation pay worldwide.

*f.* Ensure continuity and unanimity of effort among medical personnel, FAOs, commanders, installations, USAPDA, and Soldiers.

*g.* Investigate and take appropriate action on requests from Soldiers who believe they have been improperly denied due process.

*h.* Make determinations concerning a Soldier’s loss of nonmilitary earned income.

### **3-3. Membership**

Each board will consist of a minimum of three voting members, a recorder, and other advisory personnel if available, as follows:

- a.* A commissioned officer in the rank of major (grade 0-4) or above to serve as president (may not be an officer of the Army Medical Corps or Judge Advocate General's Corps).
- b.* A commissioned officer of the Army Medical Corps (voting member).
- c.* Other voting members (military or civilian) as determined by the commander.
- d.* A commissioned officer of the Judge Advocate General's Corps to serve as legal advisor (nonvoting member).
- e.* A recorder (nonvoting member).

### **3-4. Frequency**

Incapacitation review boards are required to meet a minimum of once a quarter as long as a case is open.

### **3-5. Reporting board results**

The board will provide a report each month in writing directly to the commander, advising of the status of the incapacitation cases within the command.

### **3-6. Limits on payment of incapacitation pay**

- a.* The board will review all requests for extension of incapacitation pay beyond the 6-month limit before the request is forwarded to the approving authority.
- b.* Normally, after a Soldier has received incapacitation pay for a period of 4 months, the board will direct an evaluation (unless already accomplished) by an Army MTF of the Soldier's suitability for retention.
- c.* The board will direct termination of incapacitation pay when review of a case leads to a determination that incapacitation pay is not authorized and will not forward further request for approval of extension of incapacitation pay. Incapacitation pay will terminate when:
  - (1) The Soldier is qualified to return to military duty.
  - (2) The Soldier's condition cannot be improved with further treatment and the case has been processed and finalized through the DES.

## **Appendix A References**

### **Section I Required Publications**

#### **AR 40-3**

Medical, Dental, and Veterinary Care. (Cited in paras 2-1*b*(3)(a) and 2-8*a*.)

#### **AR 40-501**

Standards of Medical Fitness. (Cited in para 1-8*c*.)

#### **AR 600-8-4**

Line of Duty Policy, Procedures, and Investigations. (Cited in paras 1-4*h*(2) and (4), 1-4*i*(2), 1-4*k*(4), 1-4*n*(2), 1-4*n*(2)(a) and (b), 1-10*d*, and 2-1*b*(2)(b).)

#### **DA Pam 135-381**

Incapacitation of Reserve Component Soldiers Processing Procedures. (Cited in paras 1-4*d*(12), 1-4*e*(12), 1-4*f*(2), 1-4*n*(5), 1-13*g*, 2-3*d*(4), 2-6*a*, and 3-1.)

#### **DOD 7000.14-R, Volume 7A**

Department of Defense Financial Management Regulation. (Cited in paras 1-6*a*, 1-8*a*, 1-9, 2-2*e*, and 2-3*e*(8).) (Available at [www.dtic.mil/whs/directives](http://www.dtic.mil/whs/directives).)

#### **DODI 1241.2**

Reserve Component Incapacitation System Management. (Cited in paras 1-4*k*(1), 2-3*a*, and 2-12.) (Available at [www.dtic.mil/whs/directives](http://www.dtic.mil/whs/directives).)

### **Section II Related Publications**

A related publication is a source of additional information. The user does not have to read a related publication to understand this publication.

#### **AR 5-9**

Area Support Responsibilities

#### **AR 135-175**

Separation of Officers

#### **AR 135-178**

Enlisted Administrative Separations

#### **AR 135-91**

Service Obligations, Methods of Fulfillment, Participation Requirements, and Enforcement Procedures

#### **AR 135-200**

Active Duty for Missions, Projects, and Training for Reserve Component Soldiers

#### **AR 140-185**

Training and Retirement Point Credits and Unit Level Strength Accounting Records

#### **AR 350-1**

Army Training and Leader Development

#### **AR 635-40**

Physical Evaluation for Retention, Retirement, or Separation

#### **DFAS-IN 37-100**

The Army Management Structure.

**DODD 1215.6**

Uniform Reserve, Training and Retirement Categories.

**DODD 1241.1**

Reserve Component Medical Care and Incapacitation Pay for Line of Duty Conditions.

**DODD 1332.18**

Separation or Retirement for Physical Disability.

**DODI 1332.38**

Physical Disability Evaluation.

**NGR 40–501**

Standards of Medical Fitness—Army National Guard.

**10 USC 641(1)(E)**

Reserve officers on active duty to pursue special work

**10 USC 671**

Members not to be assigned outside United States before completing training

**10 USC 688**

Retired members: authority to order to active duty; duties

**10 USC 1074(a)**

Medical and dental care: members on duty other than active duty for a period of more than 30 days

**10 USC 10301**

Reserve Forces Policy Board

**10 USC 12301(a)**

Reserve components generally

**10 USC 12302**

Ready Reserve

**10 USC 12304**

Selected Reserve and certain Individual Ready Reserve members; order to active duty other than during war national emergency

**10 USC 12306**

Standby Reserve

**10 USC 12301(d)**

Reserve components generally

**32 USC 316**

Detail of members of Army National Guard for rifle instruction of civilians

**32 USC 502(f)**

Required drills and field exercises

**32 USC 503**

Participation in field exercises

**32 USC 504**

National Guard schools and small arms competitions

**32 USC 505**

Army and Air Force schools and field exercises

**32 USC 708**

Property and fiscal officers

**37 USC 204**

Entitlement

**37 USC 206**

Reserves; members of National Guard: inactive-duty training

**50 USC App 460**

War and National Defense

**Section III****Prescribed Forms**

This section contains no entries.

**Section IV****Referenced Forms**

The following forms are available on the APD Web site (<http://www.apd.army.mil>) unless otherwise stated. DD forms are available from the Office of the Secretary of Defense Web site (<http://www.dtic.mil/whs/directives/infomgt/forms/formsprogram.htm>).

**DA Form 11–2–R**

Management Control Evaluation Certification Statement

**DA Form 1379**

U.S. Army Reserve Components Unit Record of Reserve Training. (Available through normal forms supply channels.)

**DA Form 1380**

Record of Individual Performance of Reserve Duty Training

**DA Form 2173**

Statement of Medical Examination and Duty Status

**Appendix B****Management Control Evaluation Checklist****B–1. Function**

The function covered by this checklist is application for and approval of incapacitation pay.

**B–2. Purpose**

The purpose of this checklist is to assist the HRC–St. Louis, NGB, STARC, RRCs, and company commanders in evaluating the key management controls listed below. It is not intended to cover all controls.

**B–3. Instructions**

Answers must be based on actual testing of key management controls (for example, documents analysis, direct observation, interviewing, sampling, and simulation). Other answers that indicate deficiencies will be explained and corrective action indicated in supporting documentation. These management controls will be evaluated once a year. Certification that this evaluation has been conducted must be accomplished on DA Form 11–2–R (Management Control Evaluation Certification Statement).

**B–4. Test questions**

- a. Has management conducted a review to ensure incapacitation pay monthly claim forms have been completed in accordance with DA Pam 135–381?
- b. Has the managing and submitting command budgeted for travel expenses related to obtaining treatment at MTF?
- c. Has the managing and submitting command followed up on outstanding claims?

- d.* Has the managing and submitting command ensured completion of LDIs in a timely and accurate manner?
- e.* Has the managing and submitting command maintained a log/tracking system of all submitted claims?

**B-5. Comments**

Help make this a better tool for evaluation management controls. Submit comments to HQDA, DCS, G-1 (DAAR-PEP), 2400 Army Pentagon, Washington, DC 20310-2400.

## **Glossary**

### **Section I Abbreviations**

#### **AD**

active duty

#### **ADSW**

active duty for special work

#### **ADT**

active duty for training

#### **AGR**

Active Guard and Reserve

#### **AIT**

advanced individual training

#### **APD**

Army Publishing Directorate

#### **AR**

Army Reserve

#### **ARNG**

Army National Guard

#### **ARNGUS**

Army National Guard of the United States

#### **AT**

annual training

#### **CAR**

Chief, Army Reserve

#### **CG**

commanding general

#### **CNGB**

Chief, National Guard Bureau

#### **DA**

Department of the Army

#### **DCS**

Deputy Chief of Staff

#### **DCS, G-1**

Deputy Chief of Staff, G-1

#### **DES**

Disability Evaluation System

#### **DFAS**

Defense Finance and Accounting Service

#### **DFAS-IN**

Defense Finance and Accounting Service-Indianapolis



**DOD**

Department of Defense

**DODD**

Department of Defense Directive

**DODI**

Department of Defense Instruction

**DVA**

Department of Veterans Affairs

**FAO**

Finance and Accounting Office

**FTNGD**

Full-time National Guard duty

**HRC–St. Louis**

Human Resources Command—St. Louis

**IADT**

initial active duty for training

**IDT**

inactive duty training

**IMA**

Individual Mobilization Augmentee

**IRR**

Individual Ready Reserve

**LDI**

Line of duty investigation

**MEB**

Medical evaluation board

**MSC**

major subordinate command

**MTF**

medical treatment facility

**MUTA**

multiple unit training assembly

**NGB**

National Guard Bureau

**NGR**

National Guard Regulation

**NLD**

not in line of duty

**Pam**

pamphlet

**PEB**

physical evaluation board

**RC**

Reserve Components

**ROTC/SMP**

Reserve Officers' Training Corps/Simultaneous Membership Program

**RRC**

Regional Readiness Command

**STARC**

State area commands

**TASS**

Total Army School System

**TDA**

tables of distribution and allowances

**TOE**

table of organization and equipment

**TPU**

troop program unit

**TRADOC**

U.S. Army Training and Doctrine Command

**TTAD**

temporary tour of active duty

**USAPDA**

U.S. Army Physical Disability Agency

**USARC**

United States Army Reserve Command

**USASOC**

U. S. Army Special Operations Command

**USC**

U. S. Code

**Section II****Terms****Active Army**

The Active Army consists of (1) Active Army Soldiers on active duty; (2) ARNGUS and AR Soldiers on active duty (except as excluded below); (3) ARNG Soldiers in the service of the United States pursuant to a call to active duty; and (4) all persons appointed, enlisted, or inducted into the Army without component. Excluded are Soldiers serving on ADT; AGR status; ADSW (which includes TTAD) for 179 days or fewer; and active duty pursuant to the call of the President (10 USC 12304).

**Active duty**

Full-time duty in the active military service of the United States. As used in this regulation, this term applies to ARNG and AR Soldiers who are serving in full-time duty and includes full-time training duty, annual training duty, full-time National Guard duty, and attendance, while in the active service, at a school designated as a service school by law or by the Secretary of the Army. This includes Active Guard and Reserve (see DODD 1215.6, para E1.1.1).

**Active Guard and Reserve (AGR)**

AR and ARNGUS personnel serving on AD under 10 USC 12301(d) and ARNG personnel serving on full-time National Guard duty under 32 USC 502(f). These personnel are on FTNGD duty or AD (other than for training or AD in the Active Army) for 180 days or more for the purpose of organizing, administering, recruiting, instructing, or training the RCs and are paid from National Guard, Army, or Reserve personnel appropriations. Exceptions are personnel ordered to AD as General officers, U.S. Property and Fiscal Officers under 32 USC 708, members assigned or detailed to the Selective Service System under the Military Selective Service Act (50 USC App 460), members of the Reserve Forces Policy Board serving under 10 USC 10301, and members of RC on active duty to pursue special work per 10 USC 641(1)(E).

**Active status**

The status of an ARNGUS or AR commissioned officer, other than a commissioned warrant officer, who is not in the inactive ARNG, in the Standby Reserve (Inactive List), or in the Retired Reserve.

**Active service**

Service on active duty or full time National Guard duty.

**Aggravated**

The worsening of a pre-existing medical condition over and above the natural progression of the condition as a direct result of military duty.

**Area command**

A geographic area of command with RC functions and responsibilities.

**Area commands**

Any of the following”

- a. United States Army, Europe and Seventh U.S. Army.
- b. United States Army Pacific Command.
- c. United States Army Southern Command.
- d. USASOC.
- e. USARC.
- f. Eighth United States Army, Korea

**Area commanders**

Commanders of area commands.

**Army**

The Active Army, Army of the United States, ARNGUS, and the AR.

**Army National Guard (ARNG)**

That part of the organized militia of the several States and Territories, Puerto Rico, and the District of Columbia, active and inactive, that—

- a. Is a land force.
- b. Is trained, and has its officers appointed, under the sixteenth clause of sec. 8, art. I, U.S. Constitution.
- c. Is organized, armed, and equipped wholly or partly at Federal expense.
- d. Is federally recognized.

**Army National Guard of the United States (ARNGUS)**

The reserve component of the Army all of whose members are members of the ARNG. The ARNGUS consists of—

- a. Federally recognized units and organizations of the ARNG.
- b. Members of the ARNG who are also Reserves of the Army.

**Basic training**

Initial entry training that provides nonprior service enlisted personnel instruction in basic skills common to all enlisted Soldiers and precedes advanced individual training (AIT).

**Direct Reporting Command**

A general officer who reports directly to Headquarters, USARC but receives administrative and housekeeping function support from the RRCs.

**Duty status**

A member is considered to be in a duty status during any period of active duty, funeral honors duty, or inactive duty training; while traveling directly to or from the place at which funeral honors duty, or inactive duty is performed; while remaining overnight immediately before the commencement of inactive duty training or between successive periods of inactive duty training, at or in the vicinity of the site of the inactive duty training, if the site is outside reasonable commuting distance of the member's residence; and while remaining overnight at or in the vicinity of the place the funeral honors duty is to be performed immediately before serving such duty, if the place is outside of a reasonable commuting distance from the member's residence.

**Earned income**

Income from nonmilitary employment, including self-employment. This 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 benefits may elect to receive either military pay or Department of Veterans Affairs pay under DOD 7000.14-R, Volume 7A. 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.

**Expiration of service obligation**

The scheduled date on which an individual's statutory or contractual (whichever is later) military service obligation will end.

**Extended active duty**

Active duty performed by a member of the ARNGUS or AR when strength accountability passes from the ARNG or AR to the Active Army.

**Full-time National Guard duty (FTNGD)**

Training or other duty, other than inactive duty, performed by a member of the ARNGUS or the Air National Guard of the United States in the member's status as a member of the National Guard of a State or Territory, the Commonwealth of Puerto Rico, or the District of Columbia under section 32 USC 316, 502(f), 503, 504, or 505, for which the member is entitled to pay from the United States or for which the member has waived pay from the United States.

**General officer command**

An AR command authorized a general officer commander by a table of organization and equipment (TOE)/modified TOE or by tables of distribution and allowances (TDA).

**Human Resources Command—St. Louis (formerly AR-PERSCOM)**

A field operating agency of HRC-Alexandria that manages the professional career development of individual AR Soldiers in order to provide trained individual AR Soldiers for mobilization. This agency commands the Individual Ready, Standby, and Retired Reserve and administers the AR, AGR, and IMA programs.

**Incapacitation**

Physical disability due to injury, illness, or disease that prevents the performance of military duties as determined by the Secretary of the Army, or which prevents the member from returning to the civilian occupation in which the member was engaged at the time of the injury, illness, or disease.

**Incurred**

To occur as a result of or during military duty.

**Individual Ready Reserve (IRR)/Inactive National Guard**

Consist of those Ready Reservists not in the Selected Reserve. Consisting of the following categories: A manpower pool comprised principally of individuals having had training, having served previously in the AC or in the Selected Reserve, and having some period of their military service obligation remaining. Programs such as the Armed Forces Health Program, Delayed Entry Program, and Inactive Duty Training.

**Initial entry training**

A term used to identify mandatory training each Soldier of the U.S. Army must complete upon initial entry in the service to qualify in a military specialty or branch and which is required by law for deployability on land outside the continental limits of the United States per 10 USC 671. The term encompasses the completion of basic training and specialty or branch qualification while serving on active duty or active duty for training. For ARNGUS and AR

Soldiers it includes completion of initial active duty for training, the Officer Basic Course, and the Warrant Officer Basic Course.

### **Line of duty**

A finding after all available information has been reviewed that determines an injury, illness, or disease was incurred or aggravated as a result of military duty not due to gross negligence or misconduct of the member. This includes a Reserve component member on inactive duty training, funeral honors duty, traveling directly to or from such duty or training, or while remaining overnight, immediately before the commencement of or between successive periods of such duty.

### **Line of duty determination**

An administrative determination, based on the preponderance of the evidence, that an injury, illness, or disease was incurred or aggravated while in an authorized duty status and was or was not due to gross negligence or misconduct of the member.

### **Military duties as determined by the Secretary of the Army**

The duties of a Service member's office and grade, and not necessarily the specialty or skill qualification held by the member prior to incurring or aggravating an injury, illness, or disease in the line of duty.

### **Military technicians**

Federal civilian employees required to be drilling members of the RC in which they are employed as civilians.

### **Multiple unit training assembly (MUTA)**

This term normally has a number with it (for example, MUTA-4). It refers to the number of consecutive unit training assemblies of which each is 4 hours in length. MUTA-2 would be 8 or more consecutive hours of training.

### **Ready Reserve**

Comprises military members of the ARNGUS and AR, organized in units or as individuals and liable for order to active duty in time of war or national emergency. The Ready Reserve consists of three subcategories: the Selected Reserve, the IRR, and the Inactive National Guard.

### **Reasonable commuting distance**

The longest distance a Soldier can be expected to travel involuntarily between his or her residence and a site where IDT will be conducted.

*a.* For officers, warrant officers, and enlisted Soldiers, it is a distance within a 50-mile radius of the IDT site. It will not exceed 1.5 hours (90 minutes) of travel time one way by car under average traffic, weather, and road conditions.

*b.* An alternative reasonable commuting distance for enlisted Soldiers can be applied when all of the conditions are met. If the distance is within a 100-mile radius of the IDT site, and it will not exceed 3 hours of travel time one way by car under average traffic, weather, and road conditions. The alternative reasonable commuting distance may be applied only when the Soldier is assigned to a unit that normally conducts MUTA on 2 consecutive days (MUTA-4) and Government-provided meals and quarters are furnished at the training site.

### **Regional Readiness Command**

An MSC of the USARC. The USARC RRC areas of responsibility are tied to the Standard Federal Areas/Federal Emergency Management Agency Regions, resulting in 10 RRCs in the continental United States. Additionally, the 65th RRC retains responsibility for Puerto Rico and the Virgin Islands and the 7<sup>th</sup> Army Regional Command (Europe). The 9th RRC supports the Pacific Area (such as Alaska, Hawaii, Guam, and so on) and reports to U.S. Army, Pacific Command.

### **Regional support group**

An AR general officer command that is subordinate to an RRC.

### **Release from active duty**

Termination of active duty status and transfer or reversion to a Reserve component not on active duty, including transfer to the IRR.

### **Reserve Components (RCs) of the Army**

The ARNGUS and the AR.

**Reserve of the Army**

A member of the ARNGUS or the AR.

**Selected Reserve of the Army**

Consists of those units and individuals in the Ready Reserve designated as so essential to initial wartime missions that they have priority over all other Reserves. The Selected Reserve includes officers, warrant officers, and enlisted Soldiers who are:

- a. Members of the ARNGUS.
- b. Assigned to troop program units of the AR.
- c. Serving on active duty (see 10 USC 12301(d)) or full-time National Guard duty (see 32 USC 502 (f)) in an AGR status.
- d. IMAs.

**Separation**

An all inclusive term which is applied to personnel actions resulting from release from active duty, discharge, retirement, dropped from the rolls, release from military control of personnel without a military status, death, or discharge from the ARNGUS with concurrent transfer to the Individual Ready, Standby, or Retired Reserve. Reassignments between the various categories of the AR (Selected, Ready, Standby, or Retired) are not considered as separations.

**Separation authority**

An official authorized by the Secretary of the Army, or a designated official, to take final action with respect to a specified type of separation.

**Standby Reserve**

Consists of personnel maintaining their military affiliation without being in the Ready Reserve, having been designated key civilian employees, or who have a temporary hardship or disability. These Soldiers are not required to perform training and are not part of units. It is a pool of trained Soldiers who may be mobilized as needed to fill manpower needs in specific skills. The Standby Reserve consists of two training categories: the Active Status List and the Inactive Status List.

**Temporary tour of active duty (TTAD)**

A term applied to ADSW when the tour of duty is paid from military personnel appropriations.

**Tier I**

Refers to claims by Soldiers who are unfit to perform their military duties as a result of an injury, illness, or disease caused by military service. A determination of fitness for duty must be made by a military medical physician. Eligible Soldiers are paid full military pay and allowances, less any civilian earned income received during the month of the claim, and are not eligible to draw retirement points.

**Tier II**

Refers to claims by Soldiers who are determined fit to perform their military duties by a military medical physician but who are unable to perform their civilian jobs and can demonstrate a loss of civilian earned income. Eligible Soldiers will be reimbursed for lost civilian earned income up to full military pay and allowances and are eligible to draw retirement points.

**Total Army School System (TASS)**

Fully accredited and integrated schools that provide standard, high-quality training and education for all components of the Army, both Active Army and RC.

**Troop program unit (TPU)**

A TOE or TDA unit of the AR organization which serves as a unit on mobilization or one that is assigned a mobilization mission. The "unit" in this case is the largest separate unit prescribed by the TOE or TDA.

**U.S. Army Reserve (AR)**

The AR includes all Reserves of the Army who are not members of the ARNGUS and who are in a Ready, Standby, or Retired Reserve category. It is a Federal force, consisting of individual reinforcements and combat, combat support, combat service support and training type units organized and maintained to provide military training in peacetime, and a reservoir of trained units and individual reservists to be ordered to active duty in the event of a national emergency.

**U.S. Army Reserve Command (USARC)**

A major subordinate command headquarters to the U.S. Army Forces Command, located in Atlanta, GA. The USARC headquarters commands all Army Reserve Soldiers in the continental United states (the contiguous 49 states, Puerto Rico, and the Virgin Islands), except those assigned to the USASOC.

**Section III****Special Abbreviations and Terms**

This section contains no entries.

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**PIN 067755-000**