

Professional Liability Insurance Reimbursement

DATE: September 16, 2002

TO: Director of Operations
Director, Administrative Operations Service
Director, Federal Occupational Health Service
Director, Financial Management Service
Director, Information Resources Management Service
Director, Division of Commissioned Personnel

FROM: Director, Human Resources Service

SUBJECT: Professional Liability Insurance Reimbursement

Attached is the guidance and procedures for Reimbursement for Professional Liability Insurance for use by the PSC and customers receiving human resources support from the PSC.

For Professional Liability Insurance Reimbursement requests within the PSC the approving official is the Deputy Assistant Secretary for Program Support (DASPS).

If you have any questions or need additional information, feel free to contact Sylvia at 301-443-3215 or me on 301-443-1200.

/s/

Nancy E. Ward

Attachment

cc: DASPS

REIMBURSEMENT FOR PROFESSIONAL LIABILITY INSURANCE FOR PROGRAM SUPPORT CENTER (PSC) AND PSC-SERVICED HHS COMPONENTS

Purpose:

Section 636 of the Treasury Postal Service, and General Government Appropriations Act, 1997, as amended by Public Law 106-58, Section 642, effective October 1, 1999, requires agencies to use funds appropriated for salaries and expenses to pay an amount not to exceed one-half the costs for eligible employees who purchase professional liability insurance. This instruction sets out the policy and procedures for implementation of this amended legislation in the PSC and in Department of Health and Human Services (HHS) Operating Divisions (OPDIVs) and Staff Divisions (STAFFDIVs) that are serviced by the PSC, Human Resources Service (HRS). PSC-

serviced activities may develop supplements to this plan, but such supplementation must be coordinated with PSC.

Background:

In 1996, Congress enacted Public Law 104-208 which amended 5 U.S.C. Part III, Subpart D, Ch. 59, Subchapter 4, Historical and Statutory Notes, and authorized agencies to pay not more than one-half of the cost of professional liability insurance for supervisors, management officials, and law enforcement officers. Professional liability insurance, which can be purchased from private organizations by such individuals, generally covers the cost of a legal defense and damages arising from lawsuits against a Federal employee based on the employee's errors or omissions in the performance of his or her job. In the Treasury Appropriation Act for FY2000 cited above the discretionary agency reimbursement authority was made mandatory.

In the majority of situations, the U.S. Department of Justice will defend management officials and supervisors (without charge) when a wrongful act or omission is alleged to have been committed while they are acting within the scope of their Federal employment. It is unlikely that there will be many incidents, if any, where individual supervisors actually need professional liability insurance. However, if managers and supervisors desire this insurance and purchase it, such officials now will be reimbursed for not more than one-half the cost. In accordance with the statute, the beneficiaries of this agency reimbursement obligation are limited to supervisors, management officials and law enforcement officers.

Policy:

Eligible employees who purchase professional liability insurance to cover their work activities, upon submission of required evidence of such purchase, will be reimbursed one-half of the cost of professional liability insurance.

Definitions:

The terms referred to in this statute have the following specific meanings:

1. **Professional Liability Insurance** means insurance that provides coverage for:
 - a. 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 [eligible] employee; and

- b. 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's official duties as a qualified [eligible] employee, and other legal costs and fees relating to any such administrative or judicial proceeding.

2. **Supervisors and Management Officials** have the respective meanings given them by section 7103(a) of Title 5. This section defines these terms as follows:
 - a. Supervisors are "... individuals employed by an agency having 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."

 - b. Management Officials are "... individuals employed by the agency in positions the duties and responsibilities of which require or authorize the individuals to formulate, determine, or influence the policies of the agency."

3. **Law Enforcement Officers** are employees, the duties of whose positions are primarily the investigation, apprehension, prosecution, or detention of individuals suspected or convicted of offenses against the criminal laws of the United States.

4. **Eligible Employees** are employees who meet the definitions in paragraphs 2 and 3 above.

Procedures for Obtaining Reimbursement for Professional Liability Insurance:

Eligible employees wishing to apply for reimbursement of one-half the cost of professional liability insurance must submit Standard Form 1164, Claim for Reimbursement for Expenditures on Official Business, approved by a designated management official of the employee's agency. Along with this form the employee must submit a copy of: (1) the insurance bill in the

employee's name indicating that it is for professional liability insurance, the period of the policy, and the full amount of the policy; and (2) a paid receipt for the full cost of the insurance (if a check is used as the paid receipt, a copy of both sides of the cancelled is required).

The SF-1164 with documentation must be forwarded through normal administrative channels and through PSC/HRS for verification of employee eligibility prior to signature by the Certifying Official to whom the OPDIV/STAFFDIV has delegated authority to approve these reimbursements.

The original of the certified SF-1164 will be forwarded to the General Accounting Branch, Financial Management Service, PSC, for payment. A copy of the certified SF-1164 and attachments must be forwarded to PSC/HRS/DPO, Room 17-27, Parklawn Building.