


Approved for Release

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Date

**DEPARTMENT OF COMMERCE
OFFICE OF HUMAN RESOURCES MANAGEMENT**

HUMAN RESOURCES (HR) BULLETIN #062, FY07, (Public Law 106-58, § 642)

SUBJECT: Professional Liability Insurance

EFFECTIVE DATE: Upon release of this HR Bulletin. The provisions of this HR Bulletin were effective September 29, 1999, resulting from passage of the Treasury, Postal Service and General Appropriations Bill for Fiscal Year 2000. The Department implemented the provisions of this HR Bulletin on April 7, 2000, via issuance of Personnel/Payroll Processing Note No. 120.

EXPIRATION DATE: Effective until canceled or superseded

SUPERSEDES: Personnel/Payroll Processing Note No. 120, dated April 7, 2000

BACKGROUND: Public Law 106-58, § 642, requires agencies to use funds appropriated for salaries and expenses to pay up to one-half of the costs of Professional Liability Insurance, protecting eligible employees from potential liability and attorney fees for actions arising out of the conduct of official duties.

PURPOSE: The purpose of this HR Bulletin is to provide updated guidance and procedures for processing reimbursements for Professional Liability Insurance premiums.

COVERAGE: This HR Bulletin applies to supervisors and management officials, as defined by the Civil Service Reform Act (5 U.S.C. 7103(a)) and any law enforcement officer covered under 5 U.S.C. § 8331(20) or § 8401(17), or under 22 U.S.C § 4823.

DEFINITIONS: Professional Liability Insurance is defined as insurance which provides coverage for the following:

- “Legal liability for damages due to injuries to other persons, damage to their property, or other damage or loss to such persons (including the expenses of litigation and settlement) resulting from or arising out of any tortuous 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

- The cost of legal representation for the covered individual in connection with any administrative or judicial proceeding (including any investigations or disciplinary proceeding) relating to any act, error or omission of the covered individual while in the performance of such individual's official duties as a qualified (eligible) employee, and other legal costs and fees relating to any such administrative or judicial proceeding.”

Supervisors and management officials have the respective meaning defined by 5 U.S.C. 7103(a) as follows:

- Supervisors are “...individual(s) 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 exercising such authority;”
- Management Officials are “...individual(s) 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;” and
- Law Enforcement Officers are “...employees, the duties of whose positions are primarily the investigation, apprehension, prosecution, detention or supervision of individuals suspected of, or convicted of offenses against the criminal laws of the United States, including any law enforcement officer under Section 8331(20) or 8401(17 of such Title 5), or under Section 4823 of Title 22, United States Code.”

PAYMENTS: Operating units must reimburse any eligible employee within their organization up to one-half of the cost of Professional Liability Insurance, not to exceed \$150.00 for premiums incurred. Payment will be made in one lump-sum payment after the entire premium is paid. The [Professional Liability Insurance Reimbursement Claim Form, CD-138](#) and all required documentation is provided to the Servicing Human Resources Office (SHRO) by the employee.

TAX LIABILITY: Reimbursement for Professional Liability Insurance premiums are tax exempt since they meet the definition of an “accountable plan” under Internal Revenue Service Code.

RESPONSIBILITIES:

The Department's Office of Human Resources Management (OHRM) is responsible for issuing an annual all-hands broadcast message reminding employees of the policy for professional Liability Insurance and providing a listing of the operating unit point-of-

contacts (POCs). The OHRM will also maintain an updated POC listing on the DOC's OHRM web site, as appropriate.

Operating Units are responsible for designating a POC to facilitate the reimbursement of Professional Liability Insurance premiums for their clients and ensuring the OHRM's Program Manager (see POC information below) is kept updated of any changes to POCs. Operating Units are also responsible for evaluating employee requests for reimbursement of Professional Liability Insurance premiums and assisting employees in decisions about purchasing Professional Liability Insurance¹. In determining the manner in which employees are to be reimbursed, operating units may allow employees to:

- Submit proof of payment of Professional Liability Insurance premiums any time during the calendar year and reimburse the employee in a lump sum payment, or
- Pay the premiums through biweekly payroll deduction² and reimburse the employee (up to one-half of the costs of Professional Liability Insurance, not to exceed \$150.00) for premiums incurred after the entire premium is paid for the calendar year. Operating units allowing for payment of Professional Liability Insurance premiums via payroll deduction must inform employees that the employee is responsible for establishing the payroll deduction via the National Finance Center's (NFC) Employee Personnel Page, and monitoring the payroll deductions and stopping the deductions once the total premiums are paid.

SHROs are responsible for verifying the employee's eligibility for reimbursement and ensuring the accurate and timely processing of reimbursement for Professional Liability Insurance premiums paid. The SHRO must also effect the biweekly payroll deduction for Professional Liability Insurance premiums, if offered by the operating unit and elected by the employee.

Employees are responsible for contacting their operating unit POCs to determine eligibility for reimbursement of Professional Liability Insurance. Employees who opt to pay Professional Liability Insurance premiums through biweekly payroll deduction are responsible for:

- Establishing the payroll deduction through the NFC's Employee Personnel Page, Self-Service feature, Financial Allotment option.
- Monitoring payroll deductions and stopping them once the premium is paid in full or cancelled by the employee or insurance carrier.
- Providing all necessary information in a timely manner to the SHRO to facilitate reimbursement of the premiums, including a completed Professional Liability Insurance Reimbursement Claim Form and all required supporting documentation.

¹ Departmental officials will not endorse any professional liability insurance carrier.

² Premiums may only be made via payroll deduction if the insurance company or institution has a bank routing number.

Employees who discontinue or cancel their Professional Liability Insurance before the end of the coverage year may be reimbursed on a pro-rated basis. In all cases of discontinuance or cancellation, employees should ensure that the Professional Liability Insurance Reimbursement Claim Form and all required supporting documentation are submitted to the SHRO as soon as possible to receive reimbursement for premiums.

PROCESSING PROCEDURES: Upon receipt of the Professional Liability Insurance Reimbursement Claim Form and all required supporting documentation, the SHRO must verify the employee's eligibility through the NFC's Information Research Inquiry System (IRIS). Supervisors or management officials will be identified with a supervisory code of 2, 4, or 5, and Law Enforcement Officers will be identified with an occupational series code of 1811. Reimbursement for Professional Liability Insurance premiums must be processed through the NFC's Entry, Processing, Inquiry, and Correction System (EPIC) system via an allowance document. When processing the reimbursement, select: (1) "Professional Liability Insurance" as the allowance description; (2) enter "no" in the taxable field; and (3) enter the total amount to be refunded in the "allowance rate". Do not enter any information in the "percentage of base" field.

REFERENCES: 5 U.S.C. § 7103(a), § 8331(20) or § 8401(17), 22 U.S.C. § 4823, NFC's Title I, Chapter 23, Entry, Processing, Inquiry, and Correction System (EPIC).

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