



**DEPARTMENT OF THE NAVY**  
OFFICE OF THE SECRETARY  
1000 NAVY PENTAGON  
WASHINGTON, D.C. 20350-1000

SECNAVINST 1770.5  
ASN (M&RA)  
23 Aug 2018

SECNAV INSTRUCTION 1770.5

Subj: MANAGEMENT AND DISPOSITION OF LINE OF DUTY BENEFITS FOR  
MEMBERS OF THE NAVY AND MARINE CORPS RESERVE

Ref: (a) 18 U.S.C. §1001  
(b) 10 U.S.C. §1074  
(c) 10 U.S.C. §1074a  
(d) 10 U.S.C. §12301  
(e) 37 U.S.C. §204  
(f) 37 U.S.C. §206  
(g) DoD Instruction 1241.01 of 19 Apr 16  
(h) SECNAVINST 1850.4E  
(i) SECNAV M-5210.1  
(j) NAVMED P-117  
(k) Joint Travel Regulations  
(l) SECNAVINST 1752.4B

Encl: (1) Responsibilities  
(2) Service Member Entitlements  
(3) Definitions  
(4) Incapacitation Pay Extension Checklist  
(5) Incapacitation Pay Extension Request  
(6) Benefits Issuing Authority Reconsideration Letter

1. Purpose. This instruction implements policies, assigns responsibilities, and prescribes procedures per references (a) through (l) to authorize healthcare and provide pay and allowances for Service Members of the Navy and Marine Corps Reserve Components who incur or aggravate an injury, illness, or disease in the line of duty.

2. Cancellation. SECNAVINST 1770.3D.

3. Applicability. This instruction applies to members of the Department of the Navy (DON) Reserve Component (RC) excluding Full Time Support/Active Reserve.

4. Policy

a. Per references (a) through (l), Navy and Marine Corps RC Service Members who incur or aggravate injuries, illnesses, or

diseases during periods of Active Duty, Inactive Duty Training, Funeral Honors duty, while 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, may be eligible for Line of Duty (LOD) benefits, unless such injury, illness, or disease is the result of the gross negligence or misconduct of the member. For purposes of this instruction, a determination that establishes a covered condition is an "in-LOD determination."

b. LOD benefits available to eligible Service Members may include inpatient or outpatient healthcare, dental care, Incapacitation Pay, Travel and Transportation Allowance, Medical Hold (MEDHOLD) benefits, Separation Pay, or disability retirement.

c. Per reference (g), eligible RC Service Members, with their consent may be placed on MEDHOLD, i.e. ordered to, or continued on, active duty to complete authorized medical care and be medically evaluated for disability.

d. Careful management of this program must be a priority at all levels of the command to ensure the protection of both the member's rights and benefits and the respective service's interest in prompt and appropriate resolution of cases. For disability, retirement, and/or separation purposes, a member who incurs or aggravates an injury, illness, or disease in the line of duty shall be evaluated per reference (h).

5. Responsibility. Elements of the DON listed below are designated and directed to act on behalf of the Secretary of the Navy (SECNAV), as detailed in enclosures (1) through (3), to make determinations as to the eligibility for healthcare and pay and allowance entitlement as provided for in law and regulation:

- a. In-LOD Determination. Benefits Issuing Authority (BIA).
- b. Incapacitation Pay Eligibility. BIA.
- c. Incapacitation Pay Extensions. Assistant Secretary of the Navy (Manpower and Reserve Affairs) (ASN (M&RA)).
- d. Ability to perform Military Duty pursuant to Drilling or Non-drilling in-LOD determination. BIA determination(s) based on recommendation(s) from Commanding Officers (CO) and/or Inspector/Instructors (I&I).

6. Records Management

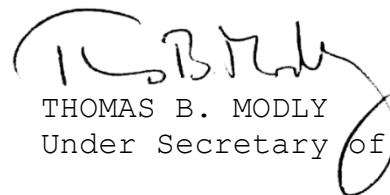
a. Records created as a result of this instruction, regardless of format or media, must be maintained and dispositioned according to the records disposition schedules found on the Directives and Records Management Division (DRMD) portal page:  
<https://portal.secnav.navy.mil/orgs/DUSNM/DONAA/DRM/SitePages/Home.aspx>.

b. For questions concerning the management of records related to this instruction or the records disposition schedules, please contact your local Records Manager or the DRMD program office.

7. Forms and Reports

a. Forms. NAVPERS 1070/613 (Page 13), Administrative Remarks is available electronically on the Naval Forms Online website at:  
<http://navalforms.documentservices.dla.mil/web/public/home>.

b. Reports. The reporting requirements throughout this instruction are exempt from information control per SECNAV M-5214.1, part IV, paragraphs 7.k. and p.

  
THOMAS B. MODLY  
Under Secretary of the Navy

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RESPONSIBILITIES

1. ASN (M&RA). Responsible for Department policy and program oversight regarding Navy and Marine Corps Reserve LOD benefits and disability processing per reference (h).

a. Review and render a decision on appeals referred by the Chief of Naval Operations (CNO) or the Commandant of the Marine Corps (CMC) as BIAs that dissent from the determination made by the Judge Advocate General (JAG).

b. Authorize extensions to Incapacitation Pay eligibility beyond the initial six-month period when it is in the best interest of fairness and equity to do so. This authority is delegated to the Deputy Assistant Secretary of the Navy (Reserve Affairs/Total Force Integration) (DASN (RA/TFI)) for program execution.

2. DASN (RA/TFI). Authorize extensions of Incapacitation Pay eligibility beyond the initial six-month period when it is in the best interest of fairness and equity to do so. DASN (RA/TFI) has delegated authority to the First Flag to approve first extensions of Incapacitation Pay. This authority may not be further delegated to an officer who is not at least a Flag/General Officer or civilian equivalent.

3. CNO and CMC. The CNO and the CMC are the BIAs for their respective service and responsible for efficient, effective case management and disposition of RC Service Members who incur or aggravate an illness, injury, or disease that qualifies for benefits under this instruction. BIAs coordinate healthcare for RC members for an injury, illness, or disease incurred or aggravated in the line of duty, and authorize physical examinations to determine fitness for duty or disability processing. Delegated authority has been issued from SECNAV to CNO and CMC to administer the in-LOD benefits and Incapacitation Pay programs, and may be further sub-delegated as appropriate. BIAs ensure the in-LOD benefits and Incapacitation Pay programs are administered appropriately.

a. Establish administrative procedures and guidelines for in-LOD benefits per reference (g).

b. In areas outside a Military Treatment Facility (MTF) catchment area as defined by the servicing Tricare region, provide appropriate documentation for which a RC member may receive care and benefits under an in-LOD determination which will be approved via the Defense Health Agency, Great Lakes. Verify procedures are in place which ensure medical treatment for an injury, illness, or disease incurred or aggravated in-LOD is not delayed due to administrative requirements.

c. Authorize Incapacitation Pay to eligible RC Service Members who incur or aggravate an injury, illness, or disease while performing inactive or active duty, performing funeral honors, while 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 (unless such injury, illness, or disease is the result of the gross negligence or misconduct of the member).

d. Authorize pay and allowances (to include MEDHOLD per reference (h)), to the extent permitted by law, for RC Service Members receiving healthcare authorized by an in-LOD determination.

e. Endorse "Physically Able to Perform Military Duties" or "Physically Disabled/Unable to Perform Military Duties" determinations for the purpose of Incapacitation Pay per references (e) and (g).

f. Utilizing enclosures (4) and (5), endorse the Service Member's request for Incapacitation Pay eligibility beyond the initial six-month period.

g. Manage in-LOD cases and maintain a tracking system per reference (h). Maintain records, Incapacitation Pay awarded and monitor trends in incapacitating conditions, issuance and denial of in-LOD determinations, extensions, suspensions and terminations of in-LOD benefits, and placement on an extension of active duty/MEDHOLD.

h. Submit to ASN (M&RA) via DASN (RA/TFI), an annual report, signed by a Flag/General Officer or civilian equivalent,

by the 15<sup>th</sup> of October of each year on all cases receiving Incapacitation Pay in the preceding Fiscal Year.

i. Direct in-LOD determination cases to the Integrated Disability Evaluation System (IDES) for conditions that may be permanent because the nature and degree of the condition may render the member unable to continue naval service within a reasonable period of time per references (h) and (j). Ensure all cases referred to the Physical Evaluation Board (PEB) contain complete in-LOD documentation regardless of whether illness, injury, or disease incurred either on or off-duty.

j. Submit the Incapacitation Pay authorization to Defense Finance and Accounting Service (DFAS) upon receipt of the request for Incapacitation Pay and documentation of compliance with Incapacitation Pay program requirements.

k. Train subordinate commands and MEDHOLD/in-LOD counselors to advise Service Members of benefits and entitlements including Reserve activities administrative, medical personnel and mobilization site/I&I staff. Counselors must advise Service Members of their benefits and program compliance requirements.

l. Authorize RC members to be recalled to or extended on active duty orders for continued healthcare treatment for unfitting conditions or IDES adjudication per reference (g).

m. Review each Incapacitation Pay case in which the member is projected to remain incapacitated for more than six months to determine if the case should be referred to the IDES.

n. Direct IDES referrals for medical conditions deemed permanent or in cases when a member remains not fit for duty no later than one year after the initial date when the injury, illness, or disease was first incurred or aggravated and the member is not projected by a medical provider to be fit for duty within the next six months.

o. Ensure RC Service Members who decline to remain on MEDHOLD or decline in-LOD medical benefits complete the Release from Active Duty Against Medical Advice and have appropriate Page 11/13 entries made into the Service Member's record book per reference (j).

p. Direct Post-Traumatic Stress Disorder (PTSD) and Traumatic Brain Injury (TBI) determination in cases where service records, or any document from the period of service, substantiate the existence of one or more symptoms of what is recognized as PTSD, TBI, or a PTSD-related or TBI-related condition during the time of service. Consideration is given in cases where civilian providers confer diagnoses of PTSD, TBI, or PTSD-related or TBI-related conditions, when case records contain narratives that support symptomatology at the time of service, or when any other evidence which may reasonably indicate that PTSD, TBI, or a PTSD-related or TBI-related disorder existed at the time of discharge. This guidance is not applicable to cases involving pre-existing conditions which are determined not to be service-related.

q. Deny or terminate LOD benefits and process resultant appeals in accordance with the procedures in enclosure (2) of this instruction.

4. Deputy Chief of Naval Operations (Manpower, Personnel, Training, and Education) (DCNO (MPT&E)). The DCNO (MPT&E) has management and oversight authority for Navy Reserve Service Members in MEDHOLD and in-LOD determination programs.

5. Deputy Commandant for Manpower and Reserve Affairs (DC (M&RA)). DC (M&RA) has management and oversight authority for all Marine Corps RC Service Members in MEDHOLD and in-LOD determination programs.

6. Director, Secretary of the Navy Council of Review Boards. Responsible for the management, integrity, and efficiency of the PEB.

7. Chief, Bureau of Medicine and Surgery (CHBUMED). Responsible for the efficient delivery of medical/dental care, timely disability processing, and overall quality of Medical Board reports.

a. Coordinate with the BIA to effectively resolve medical cases which are receiving medical and/or dental care through the MEDHOLD or in-LOD determination programs.

b. Establish procedures to ensure all medical records and reports for a member referred to a TRICARE designated provider for evaluation and treatment are appropriately entered in the Service Member's medical and dental records.

c. Ensure MTF Commanders assign and train managers for cases involving members who may or may not be on active duty but require healthcare at that facility.

d. Establish and publish criteria for determining "Physically Able to Perform Military Duties" or "Physically Disabled/Unable to Perform Military Duties" for the purpose of determining Incapacitation Pay per references (e) and (g).

e. Establish policy that ensures Medical Evaluation Boards (MEBs) are convened and conducted, in accordance with reference (h), for medical conditions deemed permanent or in cases when a member remains not fit for duty no later than one year after the initial date when the injury, illness, or disease was first incurred or aggravated and the member is not projected by a medical provider to be fit for duty within the next six months.

8. Judge Advocate General (JAG). The JAG shall review appeals and render opinions regarding the denial or termination of LOD benefits. This authority is delegated to the Deputy Assistant JAG, Administrative Law Division, Office of the Judge Advocate General (OJAG) (Code 13).

9. Commander, Navy Expeditionary Combat Command/Expeditionary Combat Readiness Center. Responsible for processing Service Members for mobilization and demobilization, as required. Submit in-LOD healthcare determination requests. Ensure proper documentation of incurred injury, illness, or disease into the Service Member's Service Treatment Record prior to demobilizing Sailors completing checkout. If a Service Member declines to remain on MEDHOLD, enclosure (6) must be completed, and the member must provide the chain of command all pertinent and/or applicable information required to complete an LOD Investigation prior to being released from Active Duty or Mobilization. The Service Member shall be counselled that failure to provide the information to facilitate an in-LOD determination prior to demobilization, could negatively impact benefits eligibility.



10. Regional Reserve Component Command/Commander, Marine Forces Reserve (COMMARFORRES). In coordination with the BIA, provide training and administrative support to the CO/I&I regarding the process of RC Service Member Incapacitation Pay and in-LOD benefits, Line of Duty Investigations (LODIs), and in-LOD determinations. Provide oversight regarding in-LOD determination cases and LODIs. If a Service Member declines to remain on MEDHOLD, it must be documented via Page 13, and the Service Member must provide the chain of command all pertinent/applicable information required to complete an LODI prior to be released from active duty or mobilization.

11. COs/Officers-in-Charge (OICs)/I&Is. The RC Service Member's chain of command shall ensure expeditious medical treatment and proper case management. The command shall ensure counseling on the rights and benefits to which the Service Member is entitled, is provided.

a. When a Service Member reports an injury incurred or aggravated during a period of duty or while in a covered travel status, an LODI utilizing DD Form 261 will be conducted, to document the occurrence and establish the Service Member's basis for eligibility. Forward the completed LODI to the BIA.

b. When a Service Member reports an injury not incurred or aggravated during a period of authorized duty or when not in a covered travel status, but the injury impacts the member's ability to perform military duties, the command shall conduct proper screening of records to ensure the injury is not related to a previously reported injury incurred in-LOD.

c. Consult Medical Officers, Medical Department Representatives (MDR), and/or civilian healthcare providers to determine the level of care required and estimated recovery timeframe. As required, coordinate with healthcare providers to facilitate care and timely recovery.

d. Make a recommendation to the BIA as to whether or not the Service Member can perform military duties pursuant to Drilling or Non-Drilling in-LOD. Recommend the Service Member for a Drilling in-LOD when the RC Service Member is able to perform military duty or Non-Drilling in-LOD when military duty is precluded as a result of the Service Member's in-LOD condition. Make recommended changes to the BIA with regard to in-LOD type in accordance with the medical condition.

e. In coordination with the BIA, ensure the Service Member understands the requirements of the in-LOD and MEDHOLD programs, the benefits available, and the program's specific administrative processes. Ensure the Service Member understands the ramifications of falsifying documentation/injuries.

f. As directed by the BIA, ensure MEB and PEB processes are initiated for conditions that may be permanent, because the nature and/or degree of the condition may render the member unable to continue naval service within a reasonable period of time per references (h) and (j).

g. Ensure the Service Member complies with in-LOD and/or MEDHOLD procedures to include the submission of monthly medical status reports.

h. Actively manage each case. Ensure submitted documentation supports entitlements and disability decisions, and that applicable recovery and case administration milestones are achieved.

i. Endorse and forward to the BIA all Service Member requests for healthcare and/or pay and allowance entitlements that meet eligibility criteria. If confusion exists as to whether or not the Service Member's eligibility is valid, contact the BIA for assistance in determination.

12. The Individual Sailor/Marine. The Service Member is the focal point of this program with the goal to return the Service Member to full duty or referral to IDES for disability evaluation in a timely manner.

a. Report any injury, illness, or disease incurred or aggravated during a period of duty as soon as possible via the chain of command after occurrence and prior to termination of such duty. This notification shall be made to the CO/I&I via the MDR. In general, a Service Member has up to 180 days after completion of the qualified duty status to submit a request for an in-LOD determination absent special circumstances. Special circumstances are those in which the covered condition pre-dated the 180-day period, e.g. latent onset of symptoms of post-traumatic stress disorder. Failure to report any injury (incurred either on or off duty) within this timeframe may

impact the Service Member's access to full benefit, absent special circumstances as descriptions above.

b. Provide the chain of command all applicable information to complete an LODI. Additionally, sign and acknowledge MEDHOLD or in-LOD determination requirements regarding medical care, documentation and civilian income verification per enclosures (4) and (5).

c. Per reference (h), immediately report to the CO/I&I via the MDR any injury, illness, or disease incurred outside of duty (civilian-incurred condition) which may impact the ability to perform military duties and comply with processes stipulated in the DON Medical Manual.

d. Fully comply with case management regarding arrangement and attendance of all medical appointments, and all medical provider instructions in order to facilitate a timely recovery and return to full duty. Inform case managers, in writing, of any appointment cancellations including detailed justification for the cancellation. Provide the case manager copies of all medical documentation.

e. Ensure medical providers complete all required forms and reports in order to accurately document care.

f. Facilitate medical provider (to include all relevant medical care documentation) and all relevant employer communications with CO/I&I and BIA as necessary. Sign and acknowledge understanding of MEDHOLD or in-LOD determination requirements, to include strict attendance at scheduled appointments and the submission of all healthcare documentation to the CO/I&I as part of monthly medical status reports. Non-compliance with program requirements may lead to termination of applicable benefits.

g. Inform chain of command of current address and phone number.

SERVICE MEMBER ENTITLEMENTS

1. MEDHOLD Healthcare Entitlement. MEDHOLD is a voluntary medical treatment program for RC Service Members with the sole purpose of addressing medical conditions incurred or aggravated while in the line of duty. Evidence must exist in the Service Member's medical record that a condition was identified and documented while the member was in a duty status. Once eligibility has been determined, the Service Member may request or accept MEDHOLD orders.

a. When a Service Member is on active duty for a period of more than 30 days and, at the scheduled end of that period, has an unresolved in-LOD condition that may render the member unfit for duty under the Disability Evaluation System (DES), but this has not yet been determined by the DES, the member will, with his or her consent:

(1) Be retained on active duty until outstanding in-LOD conditions are resolved; or

(2) He or she is either found fit for duty, separated, or retired as a result of a DES finding.

b. The mere existence of an illness, injury, or disease does not necessarily qualify a Service Member for MEDHOLD. The condition must be deemed to be potentially unfitting, as determined by the respective service per references (h) and (j).

c. If approved for an extension on active duty, the Service Member will be issued Voluntary Recall Orders and placed in a MEDHOLD status. Service Members will be limited to no more than 12 months on MEDHOLD. Periods exceeding 12 months in total duration require BIA approval and may be approved on a case-by-case basis if the medical condition will be resolved within an additional six-month period.

d. A Service Member in a MEDHOLD-eligible status will receive healthcare appropriate for the authorized condition until found "Fit," separated, or retired as a result of a DES finding.

e. Per references (h) and (j), conditions that will not be or are not resolved within 180 days must have a Medical

MEB initiated and Service Members with permanently disabling conditions shall have medical boards convened as soon as possible to be eligible for MEDHOLD and/or in-LOD healthcare entitlements. Service Members may be eligible to remain in MEDHOLD until their DES case is complete.

f. A Service Member eligible for MEDHOLD and/or in-LOD healthcare entitlement, who declines treatment, will be counseled by their chain of command and a Navy DES Counsel. Counselling acknowledgement must be in writing, via Page 13, and included in the Service Member's record with a copy forwarded to BIA. The Service Member must certify that the benefits of the MEDHOLD and/or in-LOD determination program have been explained and that the Service Member has elected to waive the associated benefits as determined by the BIA.

g. A Service Member on active duty for more than 30 days who has, at the scheduled end of that period, an unresolved medical condition that is eligible for MEDHOLD, may elect to be released from active duty before resolution of the conditions or completion of the DES process. In such cases, an appropriate Page 13 entry must be signed by the member. Additionally, if this option is elected, the Service Member may request LOD benefits through the BIA. The BIA will then make an in-LOD determination to decide the Service Member's entitlement to medical and dental treatment comparable to that under reference (c).

2. In-LOD Healthcare Entitlement. The in-LOD healthcare entitlement authorizes medical and/or dental care for reserve Service Members who incur or aggravate an injury, illness, or disease while in an eligible status, unless such injury, illness, or disease is the result of gross negligence or misconduct. If authorized, Service Members may receive medical benefits for approved conditions until military healthcare provider finds the Service Member Fit for Duty with no additional follow-up required, or until final disposition is determined by:

a. The CO/I&I, in consultation with medical authority, will initiate an LODI to document the illness or injury to support an in-LOD determination decision.

b. RC Service Members with an illness or injury qualifying for in-LOD benefits, as documented by an LODI, may request in-LOD Determination to the BIA via their CO/I&I following established BIA processes and procedures.

c. Upon final adjudication, the BIA will inform the RC Service Member via the CO/I&I, of the benefits approved for the in-LOD condition and the Service Member's responsibilities within the in-LOD program.

d. Per references (e) and (g), a Service Member is entitled to compensation to include travel and transportation allowances for necessary travel incident to care under the in-LOD healthcare entitlement.

e. Drilling in-LOD. A Service Member who, as recommended by the member's CO/I&I and approved by the BIA, is physically able to perform any military duty, is entitled upon request, to attend Drill Periods or Annual Training and eligible for pay and allowances per references (e) and (g).

f. Non-Drilling in-LOD. A Service Member who, as recommended by the member's CO/I&I and approved by the BIA, cannot perform any military duties is considered physically disabled and shall be placed in a Non-Drilling in-LOD status. Under these circumstances, the Service Member may not participate in Drill Periods or Annual Training (AT), but may be entitled to pay and allowances per references (e) and (g).

g. The LOD process for Sexual Assault Prevention and Response cases is contained within reference (l).

### 3. Pay and Allowances Entitlement

a. MEDHOLD. Service Members on MEDHOLD will be voluntarily retained on active duty with pay and allowances associated with their rank for the timeframe required to complete medical care and/or adjudication via PEB process as appropriate.

b. Travel and Transportation Allowance. Per reference (k), an RC Service Member is entitled to travel and transportation allowances, or monetary allowances in place thereof, for necessary travel incident to medical and dental treatment

resulting from an in-LOD determination in accordance with reference (e) as implemented by paragraph 7085 of reference (k).

c. Incapacitation Pay. An RC Service Member with an in-LOD determination may be entitled to incapacitation pay upon request in accordance with references (e) and (g). Initially, Incapacitation Pay eligibility may be authorized for a period up to six-months, but lesser periods of eligibility may be requested and authorized. Per reference (g), the Service Member's case will be subject to review every six months to determine if it is in the best interest of fairness and equity to continue benefits or refer the member to the IDES.

(1) A RC Service Member's qualification for Incapacitation Pay is determined based upon the Service Member being physically disabled as a result of the in-LOD condition (as recommended by the member's CO/I&I and approved by the BIA) or the Service Member demonstrating a loss of civilian earned income from non-military employment or self-employment as a result of an in-LOD determination.

(2) Incapacitation Pay shall include full Basic Allowance for Housing according to the Service Member's primary residence at the time they become eligible for this pay.

(3) The BIA shall authorize payment of Incapacitation Pay at the initial six-month period of eligibility (or a lesser period of eligibility if requested by the Service Member), and extensions as authorized by the designated authority within the ASN (M&RA).

(4) Service Members may receive Incapacitation Pay, regardless of employment status per references (e) and (g).

(a) If the Service Member is physically disabled/unable to perform military duties, and placed in a Non-Drilling in-LOD status, the Service Member may receive Incapacitation Pay up to the amount of pay and allowances provided by law or regulation for a Service Member of the regular component of a uniformed service of corresponding grade and length of service for that period less any civilian earned income (including income from an income protection plan,

vacation pay, or sick leave which the Service Member elects to receive from their employer).

(b) If the Service Member is physically able to perform military duties, and placed in a drilling in-LOD status, the Service Member may receive Incapacitation Pay for lost civilian wages up to the amount of pay and allowances provided by law or regulation for a Service Member of the regular component of a uniformed service of corresponding grade and length of service for that period.

(c) A Service Member who does not have civilian employment at the time of injury/disability may still be eligible for Incapacitation Pay if the injury precludes them from seeking or securing employment as a result of the injury/disability. In these cases, the Service Member must show evidence of previous wages in their primary occupation or demonstrate inability to acquire employment due to injury or disability incurred in an in-LOD status. If the BIA determines it is in the interest of fairness and equity, the Service Member may be approved for Incapacitation Pay up to the amount of pay and allowances provided by law or regulation for a member of the regular component of a uniformed service of corresponding grade and length of service or placed in a MEDHOLD status until their medical status is adjudicated.

(d) The total amount of pay and allowances paid per references (e) and (g) may not exceed the amount of pay and allowances provided by law or regulation for a Service Member of the regular component of a uniformed service of corresponding grade and length of service for that period. Anyone who knowingly makes a false or fraudulent statement or claim for civilian-earned income may be subject to punishment under Article 132 of the Uniform Code of Military Justice, or other applicable articles.

(5) Per reference (g), Incapacitation Pay shall end when the Service Member has recovered sufficiently to be deemed "fit for Duty," or the resulting incapacitation has been processed and finalized through the PEB.

(6) Service Members who are unable to perform military duties as determined by the BIA, as a result of an in-LOD Determination condition and are placed in a convalescent leave



status following surgical intervention status are entitled to full pay and allowances minus earned income per reference (d) for the date of surgery and the authorized convalescent leave days.

(7) CO/I&Is shall review the Service Member's compliance with the treatment program and employment status every 30 days to validate Incapacitation Pay eligibility and progress toward "Fit for Duty" status.

#### 4. Extension of an Incapacitation Pay Eligibility

a. The first Flag Officer in the chain of command may extend Incapacitation Pay eligibility on a case-by-case basis beyond the initial six-month period when it is determined to be in the best interest of fairness and equity to do so. Any subsequent extension requests will be extended by the ASN (M&RA). At any time, ASN (M&RA) may request records of Incapacitation Pay extensions that have been approved.

b. Extension request packages must include a completed Incapacitation Extension Checklist (enclosure (4)). Requests shall be forwarded via the chain of command, and submitted to ASN (M&RA) no later than 30 days prior to the end of the initial benefit period.

c. Incomplete packages will be returned to the Service Member via the chain of command in order to allow the Service Member to correct any deficiencies.

d. Requests for a second extension (or more) of Incapacitation Pay eligibility where the Service Member has not yet been referred to the PEB, must include an endorsement from the BIA. The endorsement must confirm that the Service Member has not received the maximum benefit of medical or dental care (and the medical condition is expected to be resolved during the extension period), or that the Service Member is being processed through the IDES.

#### 5. Participation

a. Non-Drilling in-LOD Status. Service Members unable to perform any military duties as a result of an in-LOD determination condition will be placed in a non-drilling in-LOD status per reference (j), as determined by the BIA. Reasons

members may be placed in non-drilling in-LOD status include; in-patient treatment, driving limitations that prevent members from traveling to/from work, or debilitating conditions that could result in additional injury.

(1) Such Service Members are not authorized to attend home-site Inactive Duty Training (IDT) periods or otherwise be placed on Active Duty except as per reference (g).

(2) In order to maintain satisfactory participation for retirement purposes subject to application and regulations, such Service Members are authorized to complete correspondence courses for service credit during the period in which benefits are received. This must be coordinated with, and pre-approved by the Service Member's chain of command.

b. Drilling in-LOD Status. Service Members who are able to perform military duties as a result of an in-LOD determination condition are placed on a drilling in-LOD status, as determined by the BIA.

(1) Such Service Members must attend home-site IDT periods as determined by the chain of command and may be assigned duties commensurate with the constraints associated with their in-LOD condition(s). On a case-by-case basis, the CO/I&I may excuse a Service Member from regularly scheduled Drill periods when the Service Member's treatment conflicts with the training schedule, or a Service Member's condition precludes participation in a specific training event. Documentation of excused drill periods must be submitted to the BIA for inclusion in the Service Member's file.

(2) The BIA must approve performance of AT or Active Duty for Training.

## 6. Medical Treatment

### a. Outpatient

(1) Service Members authorized MEDHOLD or in-LOD healthcare entitlements may obtain treatment from a Department of Defense MTF, Uniformed Service Treatment Facility (USTF), Department of Veterans Affairs (VA) Medical Center, or Military Medical Support Office approved healthcare provider.

(2) When treatment at a MTF is not reasonably available, Service Members may be authorized care outside of the Military Health System. Service Members who reside outside MTF catchment areas, must obtain prior approval for non-emergency civilian care from Defense Health Agency (DHA) via their BIA. DHA determines if the requested care is necessary or appropriate. Failure to obtain prior approval for healthcare may result in denial of payment for treatment with the Service Member assuming liability for payment.

(3) A Service Member who is entitled to healthcare is also entitled to travel and transportation allowances for necessary travel incident to such care and return to their residence upon completion of treatment.

(4) Travel orders should be written if the Service Member travels outside of the local area per reference (k) for outpatient and inpatient medical treatment.

b. Inpatient Treatment

(1) Whenever considered in the best interest of the Service Member and the respective service component, Service Members should be admitted to a MTF for inpatient treatment under voluntary MEDHOLD orders.

(2) If the Service Member resides outside of a MTF catchment area, DHA will coordinate admission to an approved healthcare facility (i.e. VA, civilian, etc.).

(3) When a Service Member is admitted to a DHA-approved healthcare facility, DHA will make the determination for the necessity of continued hospitalization or transfer to a TRICARE designated provider, MTF, or VA Medical Center for evaluation or treatment. The member should be transferred to a TRICARE designated provider, USTF, or VA Medical Center when extended hospitalization is necessary and transfer will not jeopardize the health or impede the convalescence of the Service Member.

(4) Service Members hospitalized due to an emergency while in a duty status must be placed on or continued on orders for the entire period of the hospitalization until stabilization has been achieved.

7. Emergency Care. Nothing in this instruction shall be construed to preclude emergent and immediate medical or surgical treatment of a RC Service Member during any period of duty. An RC Service Member requiring treatment for emergency medical or dental care will be authorized treatment unless clear and unmistakable evidence shows the condition was the result of the member's gross negligence or misconduct. The circumstances of origin of the condition with regard to having been incurred during or aggravated by an earlier period of duty will be resolved after the emergency has stabilized. A Service Member requiring emergency treatment after termination of a duty period stating that the condition was incurred or aggravated during a period of duty shall be examined and provided necessary medical care. No treatment beyond that which is required to stabilize the determined emergency is authorized until the service connection is validated.

8. Denial of LOD Benefits. The BIA will deny LOD benefits when the LODI determination finds that the injury, illness, or disease was not incurred or aggravated in-LOD or was due to the member's own gross negligence or misconduct.

9. Suspension of LOD Benefits Previously Granted

a. Command oversight and active case management are essential to ensure this program is executed in a fiducially responsible manner. Significant responsibility rests with the Service Member to maintain compliance. LOD benefits may be suspended for a Service Member's unreasonable failure to comply with program requirements.

b. The Service Member shall be informed of his/her suspension via the Service Member's chain of command and by certified letter from the BIA. If, during the suspension period, the Service Member regains compliance with the requirements of this instruction, the BIA will determine the effective date that LOD benefits may resume, taking into consideration the nature of non-compliance, any mitigating circumstances, and the date the member regained compliance with the program requirements. Specific situations for suspension of LOD benefits:

(1) The Service Member's unreasonable refusal to submit to medical, dental, or surgical treatment necessary to restore the member to "Fit for Duty" or "Fit for Continued

Service" medical status. A Service Member refusing medical treatment for a bona fide religious reason shall have a medical board convened as outlined per reference (j) to determine the appropriateness of the refusal. The Service Member may be eligible for continued Incapacitation Pay, if a bona fide religious basis exists.

(2) The Service Member's unreasonable failure to authorize release of requested medical or dental documentation or provide documentation, which adequately establishes the Service Member's medical condition, prognosis, and adherence to a treatment plan.

(3) The Service Member's unreasonable failure to obtain a medical or dental evaluation when directed by medical, dental, or administrative officials.

(4) As applicable, the Service Member's unreasonable failure to provide current evidence to establish gross civilian earned income and any loss of income incurred, or misrepresentation of lost wages. As part of active case management, the BIA shall confirm employment status and earned income amounts directly with the Service Member's employer as required.

10. Termination of LOD Benefits Previously Granted. The BIA will terminate LOD benefits in the following circumstances:

a. When a final LODI finds that the injury, illness, or disease was not incurred or aggravated in the line of duty or was due to the Service Member's own gross negligence or misconduct.

b. If the BIA determines the Incapacitation Pay was awarded in error. For example, if following the discovery of new evidence that is material to the LOD analysis, the BIA determined that the first LOD determination granting LOD benefits violated the law, regulations, or written policy, then that would constitute an "error" sufficient to terminate the benefits previously approved. Similarly, if the Service Member procured the BIA's favorable decision based on fraud or misrepresentation, then that would also constitute such an "error."

c. Upon the statutory discharge or retirement of the Service Member.

d. Unreasonable failure to provide updated documentation as required by the suspension of Incapacitation Pay within 30 days from the date of the first attempt to deliver the certified suspension letter.

e. When the Service Member has recovered sufficiently to be returned to military duty or the resulting incapacitation has been processed and finalized through the PEB.

11. Written Notice of Denial of Termination. The BIA shall inform the Service Member via written notice of all reasons why the LOD benefits were denied or terminated. The BIA will send the notice via certified mail to the Service Member, with a copy to the CO/I&I, DFAS, and/or (DHA), and, if being processed by the PEB, the President of the PEB. If the basis for the denial or termination is that the injury, illness, or disease was not incurred or aggravated in-LOD or was due to the Service Member's own gross negligence or misconduct, the written notice will inform the member of, the facts relied upon by the BIA in making its determination in order to enable the Service Member's informed response should he or she elect to appeal.

12. Appeal Process

a. A Service Member may appeal the BIA's denial or termination of LOD benefits to OJAG (Code 13). An appeal must be submitted to OJAG (Code 13) via the BIA within 60 days of notice via certified mail of the denial or termination of benefits. OJAG (Code 13) may waive the time requirement for good cause shown by the Service Member or his/her command.

b. The Service Member's letter of appeal shall indicate "Appeal" on the subject line and shall set forth in detail the reasons, with supporting documentation, for disagreement with the denial or termination.

c. The BIA will review the appeal and issue a written reconsideration of the denial or termination of benefits. If the BIA, upon reconsideration, denies the appeal for reasons not stated in the denial or termination letter, then the BIA must articulate these additional reasons in its reconsideration decision and provide the member with an opportunity to rebut

such reasons within 10 business days. If the BIA's reconsideration determines that denial or termination of benefits are still warranted, then the BIA will forward the appeal to OJAG (Code 13).

d. The BIA's reconsideration letter will comply with the format in enclosure (6). The BIA will include the Service Member's initial request for benefits, the BIA's written notice of denial or termination of benefits, Service Member's appeal letter, and the Service Member's rebuttal of the BIA's reconsideration decision if required, together with all supporting documentation marked and organized as enclosures. OJAG may return incomplete appeal packages to the BIA for further action and resubmission.

e. OJAG (Code 13) will review the administrative record to ensure compliance with applicable law and regulations, and render a written decision on the appeal to the Service Member, via the BIA, within 60 working days of receipt of the complete appeal package. Pursuant to the authority contained in reference (h), if OJAG grants the appeal by reversing the denial or termination of LOD benefits, the Service Member's eligibility for healthcare benefits will be reinstated immediately, and pay and allowances will be reinstated with payment effective from the date such pay and allowances were denied.

f. If the BIA disagrees with OJAG's decision on the appeal, the BIA may forward OJAG's decision and the administrative record to ASN (M&RA) for final disposition within 30 days of receipt.

13. Standard of Evidence. Per reference (g), the standard of evidence for in-LOD determinations is the preponderance of the evidence, except:

a. As specified in paragraph 1 of enclosure (2) of instruction;

b. For in-LOD determinations described in paragraph 1 of enclosure (2) of this instruction, a presumption that the Service Member's illness or injury was incurred or aggravated in the LOD applies unless the disease or injury was noted at the time of entry into service. This presumption may only be overcome when clear and unmistakable evidence indicates:

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23 Aug 2018

(1) That the disease or injury existed prior to the qualifying period of military service and was not aggravated by the Service Member's qualifying period of military service; or

(2) That the disease or injury resulted from the member's gross negligence or misconduct.



DEFINITIONS

1. Aggravated. The worsening of a pre-existing medical, dental, or behavioral health condition over and above the natural progression of condition as a direct result of military duty.
2. BIA. The Service's agent for administering MEDHOLD, in-LOD Determination, and Incapacitation Pay programs.
3. CO/I&I. The CO/I&I are the first commissioned officers in the RC Service Member's chain of command who has Uniformed Code of Military Justice authority.
4. Disease. A pathological condition of a part, organ, or system by an organism resulting from various causes, such as infection, genetic defect, or environmental stress, and characterized by an identifiable group of signs or symptoms.
5. Earned income. Wages, salaries, tips, professional fees, other compensation received for personal services and employee compensation which are included in gross income, plus any net earnings from self-employment for the taxable years. Earned income includes taxable compensation received by Service Members of the Reserve Components (to include the National Guard) for the performance of Reserve duties. Employee pay is earned income if it is taxable. Non-taxable employee pay, such as certain dependent care benefits and adoption benefits, is not earned income. Earned income is shown in box 1 of an individual's Internal Revenue Service (IRS) Form W-2, Wage and Tax Statement, is reported on line 7 of IRS Form 1040, U.S. Individual Income Tax Return, on line 1 of IRS Form 1040EZ, U.S. Income Tax Return for Single and Joint Filers with No Dependents and box 7 of IRS Form 1099-MISC, Miscellaneous Income. Any of the four forms can be considered as sufficient evidence of gross income.
6. Fit for Duty. A finding by a military healthcare provider or by a MEB that a Service Member previously "Unfit for Duty" or "Temporarily not Medically Qualified" has adequately healed from the injury, illness, or disease that necessitated the Service Member's medically restricted duty status or receipt of LOD benefits per references (h) and (j).

7. Fit for Full Duty. A finding by a military healthcare provider or by a MEB that a Service Member previously "Unfit for Duty" or "Temporarily not Medically Qualified" has adequately healed from the injury, illness, or disease no longer requires medical treatment and is able to fully perform the naval duties to which he or she would normally be assigned per reference (h).

8. Fit for Continued Service. A PEB finding, which indicates that a Service Member is reasonably able to perform the duties of his or her office, grade, rank, or rating. The finding of Fit for Continued Service does not preclude subsequent temporary determinations of unsuitability for deployment, Physical Fitness Assessment participation, and disqualification from special duties or administrative actions resulting from such determinations per references (h) and (j).

9. Illness. The impairment of normal physiological and/or psychological function that affects all or part of an organism. For purposes of this instruction, illnesses are considered non-traumatic, medical impairments that are usually of a temporary nature.

10. Incapacitation. Physical disability due to an injury, illness, or disease incurred or aggravated by service that prevents the performance of military duties as determined by the SECNAV, or which prevents the Service Member from returning to the civilian occupation in which the Service Member was engaged at the time the injury, illness, or disease that was incurred or aggravated.

11. Incapacitation Pay. Pay and allowances made to certain RC Service Members who are physically disabled as the result of a covered condition or who are physically able to perform military duties but have demonstrated loss of earned income from nonmilitary employment or self-employment as a result of a covered condition per reference (e)".

12. Incurred. Came into being, regardless of when discovered or diagnosed. The date or time of onset, when an injury, illness, or disease is contracted.

13. Injury. Damage or wound to the body, traumatic in origin.

14. IDES. The process, governed by the SECNAV per reference (h), which makes determinations regarding fitness for continued Naval service and entitlements to disability benefits.
15. In-LOD Program. The program authorizing medical and/or dental care and Incapacitation Pay for RC Service Members who incur or aggravate an injury, illness, or disease while in an authorized duty status per reference (h).
16. In-LOD Determination. An authorization of health care benefits provided by law and discussed by the BIA for any illness, injury, or disease incurred or aggravated while a Service Member was on active or inactive duty per references (h) and (j).
17. LODI. An investigation to document the official record of the circumstances surrounding an injury, illness, or disease incurred or aggravated on active or inactive duty which may require healthcare subject to an in-LOD Determination decision per reference (h).
18. MEB. A body of physicians (or others designated by CHBUMED) convened to evaluate Service Members whose physical and/or mental qualification to continue on full duty is in doubt or whose physical and/or mental limitations preclude their return to full duty within a reasonable period of time. MEBs are convened to evaluate and report on the diagnosis; prognosis for return to full duty; plan for further treatment, rehabilitation, or convalescence; estimate of the length of further disability; and medical recommendation for disposition of such Service Members. A case usually enters the DON IDES through the findings of a MEB per references (h) and (j).
19. MEDHOLD. A program to retain RC Service Members beyond the expiration of their authorized duty period to obtain medical treatment for an injury, illness, or disease incurred or aggravated in the line of duty.
20. Medical Status Reports. Reports provided by the Service Member to their CO/I&I concerning their current prognosis and treatment plan, and opportunity to provide necessary documentation of treatment results.
21. Military Duties. The duties of a Service Member by office and grade and not necessarily the specialty skill or special

qualification held by the member prior to incurring or aggravating an injury, illness, or disease in-LOD.

a. Unable to Perform Military Duty. Service Member may be unable to perform any military duty following significant medical treatment and/or a period of inpatient hospitalization; similar to convalescent leave, the Service Member is relieved of all military duties per reference (h).

b. Able to Perform Military Duty. Service Member reports to work space, but the Service Member is excused from the performance of certain aspects of military duties as determined by the CO/I&I based upon Service Member's medical condition; similar to light limited duty; allows for evaluation and/or recovery from the effects of an illness, injury, or disease process.

22. Permanent. A condition rendering the Service Member unable to continue naval service within a reasonable period of time (8-12 months or less).

23. PEB. A board initiated as part of the IDES process to determine if a Service Member is "Fit for Continued Service" per reference (h).

24. Service Member. Unless otherwise defined, a commissioned officer, Chief Warrant Officer, or an enlisted person who performs duty as part of the RC and is not a Service Member of the Active Component, Full-Time Support, or Active Reserve.

25. Unfit for Continued Service. Finding by the PEB indicating that the Service Member is unable to reasonably perform the duties of his or her office, grade, rank, or specialty per reference (h).

INCAPACITATION PAY EXTENSION CHECKLIST

1. Member's extension request letter includes:
  - Date(s) requesting eligibility.
  - Brief chronological history.
  - Explanation for delays, as applicable.
  - Medical documentation; provide at a minimum a treatment plan, prognosis, and medically directed limitations.
  - As applicable: Employer verification of member's employment status to include; duties and responsibilities, periods of work missed, and wages/ other compensation paid (Incapacitation Pay Request).
  - Statement of compliance with all required medical treatment and monthly updates.
  
2. Command endorsement of member's extension request that:
  - Verified Service Member compliance with program requirements, as listed above noting any non-compliance issues and corrective actions taken.
  - Confirmation of provided medical benefits brief (with date provided).
  - Certify Service Member has provided monthly status report and is in compliance with a treatment program, or statement from the chain of command waiving the requirement with an explanation.
  - Verified Service Member attended home-site Inactive Duty Training periods (in-LOD Driller).
  - Detailed explanation, with supporting documents, for all requests submitted by Service Members unable to perform military duty (in-LOD Non-Driller).
  - Status of MEB or PEB. If required and not initiated, explanation as to cause and corrective action taken.
  
3. CHBUMED/BIA Senior Medical Officer (SMO) endorsement for any second or subsequent request stating reason MEB or PEB has not been initiated.
  
4. BIA endorsement:
  - Verified that it is in the interest of fairness and equity to grant the Service Member's request.

- Documentation of IDES referral if the Service Member has remained in an in-LOD determination eligible status for one year after the initial benefit start date.
- Verification that request was forwarded to the ASN (M&RA) no later than 30 days prior to the end of the initial benefit period.

**By initialing, the BIA verifies the item as completed and accurate. All items must be initialed prior to forwarding request package to ASN (M&RA) for consideration of the request.**

\_\_\_\_\_  
Member

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Commanding Officer

\_\_\_\_\_  
Signature

\_\_\_\_\_  
BIA Representative

\_\_\_\_\_  
Signature

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INCAPACITATION PAY EXTENSION REQUEST

Command Letterhead

1770  
DD MMM YYYY

From: Benefits Issuing Authority  
To: Deputy Assistant Secretary of the Navy (Reserve  
Affairs and Total Force Integration)

Subj: INCAPACITATION PAY EXTENSION REQUEST ICO YNC I. M. YU

Ref: (a) SECNAVINST 1770.5

Encl: (1) YNC I. M. YU Incapacitation Pay Extension Request  
(2) First Endorsement of YNC Yu request dtd 1 Jan 2014  
(3) Incapacitation Pay Extension Checklist  
(4) Chief, Bureau of Medicine and Surgery Endorsement

1. A six-month extension of Incapacitation Pay eligibility is requested for the period of DD MMM YYY to DD MMM YYY as provided per reference (a). I enthusiastically endorse YNC Yu's request because I believe that is in the interest of fairness and equity to do so. YNC Yu has fully and diligently satisfied the program requirements, and the extension of Incapacitation Pay eligibility will facilitate his full recovery and return to full duty.

2. Enclosures (1) through (4) are provided to document compliance with all program requirements. All associated treatment delays were not the fault of YNC Yu and all impediments to treatment have been favorably resolved. YNC Yu is able to perform some military duties, is drilling with his unit, and has returned to his prior civilian employment. As provided for by YNC Yu's healthcare provider, Dr. C. M. Qwack, barring an unforeseen complication, YNC Yu's medical restrictions will be lifted within six months, allowing him to return to full duty. Incapacitation Pay eligibility is necessary to facilitate compensating YNC Yu for lost wages incurred while attending required medical appointments. Chief, Bureau of Medicine and Surgery/Benefits Issuing Authority Senior Medical Officer provided an endorsement stating both the Medical Evaluation Board and Physical Evaluation Board are not necessary because the condition is not expected to be permanent

Enclosure (5)

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and the current course of treatment is expected to yield a full recovery.

3. My point of contact for this matter is SSgt J. S. Ragman.

M. S. BARNETT



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BENEFITS ISSUING AUTHORITY RECONSIDERATION LETTER

Command Letterhead

1770  
DD MMM YYYY

From: Benefits Issuing Authority  
To: Office of the Judge Advocate General (Code 13)

Subj: APPEAL OF DENIAL OF LINE OF DUTY (LOD)/MEDICAL HOLD  
(MEDHOLD) BENEFITS ICO PETTY OFFICER JOSEPH FINNEY, USNR

Ref: (a) SECNAVINST 1770.5

Encl: (1) PO Joseph Finney original request for in-LOD benefits  
of DD MMM YYYY w/enclosures  
(2) BIA termination/denial of request for in-LOD benefits  
of DD MMM YYYY w/enclosures  
(3) PO Joseph Finney appeal of termination/ denial of in-  
LOD benefits of DD MMM YYYY w/enclosures  
(4) Senior Medical Officer Recommendation of DD MMM YYYY  
(5) PO Joseph Finney Rebuttal Letter (if required, see  
paragraph 2 below)

1. The Benefits Issuing Authority (BIA) shall fully explain why denial of the Service Member's appeal is still warranted on reconsideration per reference (a). The Service Member's original request for in-LOD benefits; the BIA's original denial/termination of request for in-LOD benefits; and the member's appeal of a termination, suspension, or denial of in-LOD benefits; along with all original enclosures, shall be submitted as enclosures to the BIA's reconsideration letter. Any additional supporting documentation, including Senior Medical Officer (SMO) or other expert medical opinion(s), should be submitted as subsequent enclosure(s). The SMO letter must be included if the BIA's rationale is not clearly articulated in the initial denial/termination letter or reconsideration decision. In addition, if the BIA provides Office of the Judge Advocate General (OJAG) with the SMO letter, the BIA must provide the Service Member with a copy of the SMO letter.

2. Per reference (a), the BIA may not deny the appeal of benefits in this reconsideration letter for reasons not stated in the initial denial or termination letter without permitting

Enclosure (6)

the Service Member an opportunity to rebut the additional grounds. Any such rebuttal shall be included as an additional enclosure to this letter.

3. Include the name of a point of contact with e-mail address and phone number who can respond to questions and requests for additional information by OJAG.

C. S. JAYCOX

Copy to:  
PO Finney  
Unit Commander