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DEPARTMENT OF DEFENSE
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HIHRO-M

22 NOV 2005

MEMORANDUM FOR ALL HAWAII NATIONAL GUARD CURRENT FEDERAL TECHNICIANS, FORMER FEDERAL TECHNICIANS, AND SURVIVORS OF DECEASED FEDERAL TECHNICIANS

SUBJECT: Claim for Retroactive Reimbursement for Federal Employees Health Benefits (FEHB) Premiums While on Active Duty in Support of a Contingency Operation

1. Reference: Memorandum, DFAS-DOP, 1 February 2005, subject as above.
2. In March 2001, the Deputy Secretary of Defense determined that the Department of Defense (DOD) would pay the full FEHB premium (employee and government shares) for any covered employee who was called to active duty in support of contingency operations in Kosovo, Bosnia, Iraq, and for those in support of Executive Order 13223 (911 Terrorist Attacks). Procedures to pay premiums *prospectively* for employees who were called to active duty in the future were issued by DOD on 17 May 2002 and continue to remain in effect.
3. This memorandum provides guidance on the eligibility and procedures for filing claims for FEHB premiums previously paid by DOD employees called to active duty in support of a contingency operation. The reimbursement of premiums is retroactive to 8 December 1995. ***These procedures apply to all current and former technicians as well as to survivors of deceased technicians. Request the widest dissemination of this information.***
4. In order to be eligible to be reimbursed for FEHB premiums previously paid, the technician or former technician must meet ALL of the following requirements in accordance with Section 519, National Defense Authorization Act (NDAA) for Fiscal Year 2002:
 - Been a civilian employee of the DOD at the time called to perform the active duty.
 - Been enrolled in the FEHB and paid the employee share of the premiums, either by payroll deduction after returning from active duty or by direct payment to the payroll office during the period of active duty.
 - Been a member of a Reserve component of the U. S. Armed Forces. The Reserve Components are: Army National Guard of the United States, the Army Reserve, the Naval Reserve, the Marine Corps Reserve, the Air National Guard of the United States, the Air Force Reserve, and the Coast Guard Reserve.
 - Been called or ordered to active duty (voluntarily or involuntarily) in support of a contingency operation as defined in Section 101(a)(13) of Title 10, USC. (See paragraph 6 below for list of contingency operations.) ***Periods of active duty ordered and performed under Title 32 are NOT eligible.***

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- Been placed in leave without pay (LWOP) or separated from Federal service to perform active duty for a period of time of more than **30** consecutive days for each period for which reimbursement is claimed.

5. The maximum period of eligibility for each period is 18 months. Periods in which the technician or former technician was in a paid leave status during the 18 months do not extend the eligibility period. The period for which reimbursement is claimed must have occurred after 7 December 1995.

6. Designated contingency operations include the following. Due to mission changes, this list may not be comprehensive over time.

<u>Contingency</u>	<u>Authority</u>	<u>Effective Date</u>	<u>Status</u>
<u>Bosnia</u> ●Operation Joint Endeavor ●Operation Joint Guard ●Operation Joint Forge	Executive Order 12982	December 8, 1995	Ongoing
<u>Southwest Asia (Iraqi Crisis)</u> ●Operation Southern Watch ●Operation Northern Watch ●Operation Desert Spring ●Operation Desert Thunder ●Operation Desert Fox ●Operation Desert Falcon ●Operation Desert Focus	Executive Order 13076	February 24, 1998	Ongoing
<u>Kosovo</u> ●Operation Allied Force ●Operation Joint Guardian	Executive Order 13120	April 27, 1999	Ongoing
<u>911 Terrorist Attacks</u> ●Operation Infinite Justice ●Operation Enduring Freedom ●Operation Iraqi Freedom ●Operation Noble Eagle	Executive Order 13223	September 14, 2001	Ongoing

7. Technicians are not eligible for reimbursement of premiums deducted while in a paid status. This includes situations where technicians used military, annual, compensatory time, a time-off award, and/or law enforcement leave (LEL) at the beginning of the active duty period prior to being placed on leave without pay (LWOP) or separating from service; or intermittently while on leave without pay.

8. Technicians, former technicians, and survivors of deceased technicians must complete the enclosed claim form (Encl 1) for each period of active duty in which a refund is being requested for and attach the required supporting documentation. The documentation required to support the claim is as follows:

- Attach copies of all military orders pertaining to the service period being claimed. If the authority listed on the orders is either Section 12301(a), 12302, or 12304 of Title 10; or state that the duty

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is in support of one of the named contingency operations, then you have provided proof of qualifying service.

b. If you paid the health benefit premiums directly to the payroll office by check or money order during any period of active military service, attach copies of cancelled checks, money order receipts, or other supporting documentation.

c. If deductions were withheld from an incentive award you had received and not previously reimbursed for, include the ending date of the pay period the award was paid and attach a copy of the Leave and Earnings Statement (LES) for that pay period, if available.

d. For survivors, attach a completed Standard Form 1153 (Claim for Compensation of Deceased Civilian Employee) (Encl 2) and a certified copy of the death certificate. You must also include information for Electronic Funds Transfer (EFT) to a bank or other financial institution on your claim form.

9. The completed claim forms and supporting documentation must be forwarded to:

Departments of the Army and Air Force
National Guard of Hawaii
Office of the Adjutant General (ATTN: HRO-M)
3949 Diamond Head Road
Honolulu, HI 96816-4495

Upon receipt of the claim form and supporting documentation, HRO-M will review and certify that orders are in support of a contingency operation, verify the FEHB enrollment code, and forward the claim to the respective payroll office (DFAS Pensacola or DFAS Denver) for processing. The payroll office will process the claims as they are received and either issue the claimant a check or submit the refund to the banking institution on record.

10. Time Limit for Filing Claims. Based on the Statute of Limitations, a claim may be filed for a period of up to six years. Since Public Law 107-107, Section 519, which created the legal basis for the claim, became law on 28 December 2001, the six-year period for filing retroactive claims will continue until at the earliest **28 December 2007.** **Please do not delay if you are going to submit a claim. Request the widest dissemination of this important information.**

11. Enclosure 3 provides a list of Frequently Asked Questions regarding the reimbursement of the FEHB premiums. POC is Sandy Hashimoto at (808) 733-4116.

FOR THE ADJUTANT GENERAL:

- 3 Encls
- 1. CPMS Claim Form
- 2. SF 1153
- 3. Frequently Asked Questions


KEITH H. TANOUYE
LTC, AG, HIARNG
Human Resources Officer

CLAIM FOR COMPENSATION OF DECEASED CIVILIAN EMPLOYEE

Form Approved
OMB No. 3206-0234

GENERAL INFORMATION

- Complete this form and send it to the Federal Government agency that employed the deceased at the time of his/her death. Contact that agency if you need help to complete this form.
- All Government checks in your possession, drawn to the order of the deceased in payment of "unpaid compensation," should accompany this claim. All Government checks drawn to the order of the deceased for other purposes (such as veterans' benefits, social security benefits, or Federal tax refunds) should be returned to the agency that sent it.

PART A

1. Name of deceased	2. Social Security Number of deceased	5. Employing agency
3. Last address of deceased (if known)	4. Date of death	

INSTRUCTIONS

- If you are a designated beneficiary of the deceased, complete Parts B and G.
- If you are the widow or widower of the deceased, complete Parts B, C, and G.
- If you are **not** a designated beneficiary of the deceased but you are a relative or next of kin of the deceased, complete Parts D and G.
- If you are an executor or administrator of the deceased's estate, complete Parts E and G.
- If you do not meet the criteria in Items 1 through 4, complete Parts F and G.

PART B

1. Is a Designation of Beneficiary for Unpaid Compensation (SF 1152) on file with the agency?
 Yes No Don't know

Full name	Social Security Number	Age	Relationship to deceased	Address

PART C

1. Do you certify that (1) you were married to the deceased **and** (2) to the best of your knowledge and belief the marriage was not dissolved prior to his/her death? Yes No

PART D

1. List below the name, social security number, age, relationship, and address of:
- If no widow or widower survives, list each living child of the deceased and state whether natural, adopted, illegitimate or stepchild.
 - If no child survives, list each living descendant of the deceased children.
 - If no widow or widower, child or descendant of deceased children survive, list each surviving parent and state whether natural, step, foster, or adoptive parent.
 - If none of the above survives, list the next of kin who may be capable of inheriting from the deceased (brothers, sisters, descendants of deceased brothers and sisters).

Full name	Social Security Number	Age	Relationship to deceased	Address

PART E

1. If none of the individuals listed in Parts B and D survives and an executor or administrator of the deceased's estate has been appointed, the following statement should be completed.

I/we have been duly appointed _____ of the estate of the deceased, as
(Executor or Administrator)
evidenced by certificate of appointment herewith, administration having been taken out in the interest of

(Name, address, and relationship of interested relative or creditor)

and such appointment is still in full force and effect.

NOTE: If making claim as the executor or administrator of the estate of the deceased, no witnesses are required, but a court certificate evidencing your appointment must be submitted.

2. If no administrator or executor of the deceased's estate has been appointed, will one be appointed? Yes No

PART F

1. Have funeral expenses of the deceased been paid? Yes No Don't know
(If paid, receipted bill of the funeral director must be attached.)

Whose money was used to pay the funeral expenses? _____

PART G

Fines, Penalties and Forfeitures are imposed by law for making false or fraudulent claims against the United States or making false statements in connection therewith.

Signature of claimant	Date	Signature of claimant	Date
Street address		Street address	
City, State, and Zip Code		City, State, and Zip Code	

Two Witnesses are Required

Signature of witness	Date	Signature of witness	Date
Street address		Street address	
City, State, and Zip Code		City, State, and Zip Code	

Privacy Act and Public Burden Statement

Solicitation of this information is authorized by the Code of Federal Regulations, Part 178, Subpart B. The information you furnish will be used to determine the amount, validity, and the person(s) entitled to the unpaid compensation of a deceased Federal employee. The information may be shared and is subject to verification, via paper, electronic media, or through the use of computer matching programs to obtain information necessary for determination of entitlement under this program or to report income for tax purposes. It may also be shared and verified, as noted above, with law enforcement agencies when they are investigating a violation or potential violation of the civil or criminal law. Public Law 104-134 (April 26, 1996) requires that any person doing business with the Federal government furnish a Social Security Number or tax identification number. This is an amendment to title 31, Section 7701. Failure to furnish the requested information may delay or make it impossible for us to determine your eligibility to receive payments.

We think this form takes an average of 15 minutes per response to complete, including the time for reviewing instructions, getting the needed data, and reviewing the completed form. Send comments regarding our estimate or any other aspect of SF 1153, including suggestions for reducing completion time, to the Office of Personnel Management (OPM), Reports and Forms Officer, Paperwork Reduction (3206-0234), Washington, D.C. 20415-7900. The OMB number 3206-0234 is currently valid. OPM may not collect this information, and you are not required to respond, unless this number is displayed.

Frequently Asked Questions & Answers Regarding Reimbursement for FEHB While on Active Duty in Support of a Contingency Operation (Section 519, PL 107-107)

Q1. When does the 18-month period begin?

A1. The 18-month period begins with the first day the employee serves on active military duty.

Q2. What if the employee is absent performing military service for a period of more than 18 months?

A2. Health benefits coverage will be terminated by the human resources office at the end of 18 months.

Q3. Will employees be reimbursed for premiums they paid between the time they were released from active duty in support of a contingency operation and the time they exercised their restoration rights?

A3. Yes.

Q4. What are the tax consequences of this benefit?

A4. Section 106 of the Internal Revenue Code provides for exclusion from income of employer provided health benefits, to include premiums. If the premiums were paid with pre-tax dollars under the Federal Employees Health Benefits-Premium Conversion (FEHB-PC) then the employee received the Section 106 tax benefit in that year and any reimbursement now of the premium would be taxable income to the employee.

If the employee paid the premium with after-tax dollars, then any reimbursement now would be tax-free and the Section 106 tax benefit is realized in the year reimbursed.

Neither situation would require any correction to a previous W-2. If the reimbursed premiums are taxable income, they will be reflected in the W-2 for the tax year in which the reimbursement is received.

Q5. What if the employee paid the premiums with after-tax dollars and included the FEHB premiums in the medical expenses as an itemized deduction when filing a tax return for a prior tax year?

A5. The employee should consult a tax advisor for specific guidance on how to handle such situations, but generally, such reimbursed itemized deductions are included as income in the tax year in which they are received.

Q6. Is there a time limit for filing retroactive claims?

A6. Based on the Statute of Limitations, a claim may be filed for a period of up to six years. Since Public Law 107-107, Section 519, which created the legal basis of the claim, became law on December 28, 2001, the six-year period for filing retroactive claims will continue until, at the earliest, December 28, 2007.

Q7. Does the Soldiers and Sailors Civil Relief Act have any affect on the six-year period?

A7. Under a provision of the Soldiers and Sailors Civil Relief Act, the time the employee is on active duty will not count in determining when the six-year period ends.

Q8. What recourse will be available if a claim is denied?

A8. All claims must comply with the requirements set forth in these procedures and must be supported by sufficient documentation. If the payroll office denies payment, the claimant will be advised then regarding available recourse.