*BY ORDER OF THE*
*SECRETARY OF THE AIR FORCE*

*DEPARTMENT OF THE AIR FORCE*
*INSTRUCTION 36-2910*

*3 SEPTEMBER 2021*

***Personnel***

# *LINE OF DUTY (LOD) DETERMINATION, MEDICAL CONTINUATION (MEDCON), AND INCAPACITATION (INCAP) PAY*

**COMPLIANCE WITH THIS PUBLICATION IS MANDATORY**

---

**ACCESSIBILITY:** Publications and forms are available for downloading or ordering on the e-Publishing website at **http://www.e-publishing.af.mil/**.

**RELEASABILITY:** There are no releasability restrictions on this publication.

---

OPR: AF/A1P

Certified by: SAF/MR
(John A. Fedrigo, SES)

Supersedes: AFI36-2910, 8 October 2015

Pages: 99

---

This Department of the Air Force (AF) Instruction (AFI) implements Air Force Policy Directive (AFPD) 36-29, *Military Standards*, Department of Defense Instruction (DoDI) 1332.45, *Retention Determinations for Non-Deployable Service Members and* provides guidance on line of duty (LOD) determinations, as well as the procedures for retaining or ordering Air Reserve Component (ARC) members on active duty (AD) for Medical Continuation (MEDCON) and providing ARC members Incapacitation (INCAP) Pay. In collaboration with the Chief of Air Force Reserve (AF/RE) and the Director of the Air National Guard (NGB/CF), the Deputy Chief of Staff for Manpower, Personnel, and Services (AF/A1) develops personnel policy for the LOD determination, MEDCON and INCAP Pay policy. This publication applies to the United States Space Force (USSF), Regular Air Force (RegAF) the Air Force Reserve Component (AFRC), and the Air National Guard (ANG). AFRC/ANG members serving on active duty in Guard or Reserve status under the provisions of Titles 10 or 32 United States Code (USC) who die, incur or aggravate an illness, injury or disease while on published orders for any period of time or while on Inactive Duty for Training (IDT) or Annual Tour (AT). Only the LOD chapters (Chapters **1**, **2**, **3** and **4**) apply to United States Air Force Academy and Air Force Reserve Officer Training Corps (AFROTC) cadets who die, incur or aggravate an illness, injury or disease while performing military duty or training. This publication may be supplemented at any level, but all supplements that directly implement this publication must be routed to the Office of Primary Responsibility for coordination, and all major command (MAJCOM)-level supplements must be approved by the Human Resource Management Strategic Board prior to certification and approval. This instruction

requires the collection and or maintenance of information protected by the Privacy Act of 1974 authorized by Title 10 United States Code (USC) 9013, *Secretary of the Air Force*, 37 USC § 204, *Entitlement* and Executive Order 9397, as amended. The applicable System of Records Notices (SORN) F036 AF PC C, *Military Personnel Records System* are available at **https://dpcld.defense.gov/privacy/SORNS.aspx**. This Instruction requires the collection and or maintenance of information protected by Health Insurance Portability and Accountability Act, 45 Code of Federal Regulations (C.F.R.), Parts 160 & 164, and the Privacy Act (PA) of 1974, 5 United States Code (U.S.C.) Section 552a. The applicable SORN [F044 F SG E, Electronic Medical Records System] is available at: **http://dpclo.defense.gov/Privacy/SORNs.aspx**. Ensure all records generated as a result of processes prescribed in this publication adhere to Air Force Instruction 33-322, *Records Management and Information Governance Program*, and are disposed in accordance with the Air Force Records Disposition Schedule, which is located in the Air Force Records Information Management System. Refer recommended changes and questions about this publication to the Office of Primary Responsibility using AF Form 847, *Recommendation for Change of Publication*. Route AF Form 847 from the field through the appropriate functional chain of command. The authorities to waive wing-/unit-level requirements in this publication are identified with a Tier ("T-0, T-1, T-2, T-3") number following the compliance statement. See Department of the Air Force Instruction (DAFI) 33-360, *Publications and Forms Management*, for a description of the authorities associated with the Tier numbers. Submit requests for waivers through the chain of command to the appropriate Tier waiver approval authority, or alternately, to the requester's commander for non-tiered compliance items. Compliance with **Attachment 2 and Attachment 3** is mandatory. **Note:** All references to United States Air Force (USAF) terminology, units, and positions will also apply to the equivalent in the USSF, as appropriate. For example, references to Airmen will also apply to Guardians. References to MAJCOMs or NAFs will also apply to field commands. References to wings will also apply to deltas/garrisons. Air Staff roles and responsibilities (i.e., AF/A1) may also apply to the equivalent Office of the Chief of Space Operations (Space Staff) office (i.e., SF/S1), as appropriate.

***SUMMARY OF CHANGES***

This instruction has been substantially revised and must be completely reviewed. Significant modification has been made to the LOD determination verbiage. The criteria for MEDCON for members on orders greater than 30 active duty days has been updated. Members on Annual Tour and IDT periods combined (even if greater than 30 days) will not be considered to have been on active duty orders greater than 30 days. The timeline for authorization for benefits for in line of duty (ILOD) has been clarified, as well as roles and responsibilities for the LOD process. A member on orders for more than 30 days who is injured, becomes ill, or contracts a disease will continue on orders until the injury, disease, or illness has been resolved; or the member has met maximum medical improvement; the member is returned to duty, separated, or retired as a result of a Disability Evaluation System (DES) finding; or one year has passed from the initial diagnosis. For Pre-MEDCON, a request for an extension of 15 days has been updated. For ANG only: Only one Pre-MEDCON extension request may be considered. Funding and orders should be consistent with the original orders of when the original medical condition occurred. Members on Title 10 or Title 32 status should be continued on Title 10 or Title 32 orders for Pre- MEDCON or MEDCON and members on Reserve Personnel Appropriation (RPA) orders will remain on RPA orders for the duration of the Pre-MEDCON or MEDCON. * For the ARC only, the wing commander is the

appointing and final reviewing authority for informal LODs. * The wing commander may request a legal advisor review during the Informal LOD process only. Legal advisor remains a mandatory reviewer for the ARC Formal LOD as well as a mandatory step for all RegAF/USSF LOD determinations.

# Chapter 1

## PROGRAM ELEMENTS

**1.1. The Line of Duty (LOD) Determination and its Objective.** An illness, injury, disease or death sustained by a member while in a qualified duty status is presumed in the line of duty (ILOD). The burden of proof is with the Department of the Air Force to overcome the presumption. There are different standards of proof for the Department of the Air Force to overcome presumption based on order duration (see **paragraph 1.9** and **Table 1.1**). Members must provide timely medical documentation that the illness, injury, disease or death that occurred while in that duty status. Requested medical documentation should be limited to relevant information to reasonably identify the initial condition for which the LOD determination is being requested; this can include an initial diagnosis, treatment plan, or note from provider describing the condition. Note: if the diagnosis evolves, another LOD may be warranted for subsequent benefits. A member who dies or sustains an illness, injury or disease prior to service, while in an unauthorized absence, or due to a member's misconduct is not eligible for certain government benefits **(T-0).** A LOD determination is a finding made after an informal or formal investigation into the circumstances of a member's illness, injury, disease or death. The LOD finding determines: (1) whether or not the illness, injury or disease was incurred in a qualified duty status, EPTS, and if an EPTS condition was aggravated by military service; (2) whether or not the illness, injury, disease or death occurred while the member was in an unauthorized absence; and (3) whether or not the illness, injury, disease or death was due to the member's misconduct or willful negligence. A LOD determination protects the interests of both the member and the United States government.

1.1.1. ARC members must affirmatively be placed into official military status as a prerequisite to an LOD finding. **(T-1)**. Placement into status is accomplished by approved and finalized orders (e.g., AF Form 40A, AF Form 938, etc.). A member's failure to obtain finalized, approved orders shall result in a presumptive finding of Not In Line of Duty (NILOD). **(T-1)**. Administrative error in processing orders (e.g., electronic system error or approving authority neglect) may be corrected only if the member was intended to be placed on orders but for the error. ARC members shall not be placed into status for the sole purpose of engaging in physical fitness activities. **(T-2)**. ARC members whose injuries are attributable to physical fitness activities outside of an approved duty period shall be found NILOD. **(T-1)**.

**1.2. Personnel Who are Subject to LOD Determinations.**

1.2.1. Regular Air Force (RegAF) members.

1.2.2. ARC members who die, incur or aggravate an illness, injury or disease while in any duty status:

1.2.2.1. In a qualified duty status.

1.2.2.1.1. **(ARC only)** . Title 32 and Title 10 Active Guard and Reserve members are considered on active duty and entitled to all the same benefits as RegAF. Typically, these members do not require an AF Form 348, *Line of Duty Determination*, to be initiated for medical care or treatment. (ANG only) Certain circumstances may warrant an AF Form 348 to be initiated for an Active Guard Reserve member (AGR); the decision to initiate an AF Form 348 requires coordination with National Guard Bureau

Customer Support & Policy Branch office (NGB/A1PS) for further clarification and guidance before initiating an AF Form 348. **(T-2)**.

1.2.2.1.2. If an AGR member decides to voluntarily curtail their orders and still requires medical care and treatment, an AF Form 348 will need to be initiated (see **paragraph 1.2.2.1.1**).

1.2.2.2. Traveling directly to or from the place where the member performs active duty, immediately before the commencement of IDT or within the vicinity of the site of the IDT. This also includes when the member remains overnight and overnight between successive periods of IDT, the member is eligible for initiating an AF Form 348 for care or treatment.

1.2.3. United States Air Force Academy cadets.

1.2.4. Air Force Reserve Officer Training Corps (AFROTC) cadets who die, incur or aggravate an illness, injury, or disease while participating in AFROTC activities. Note: AFROTC cadets, who die, incur or aggravate an injury, illness or disease during official AFROTC activities, or while traveling to or from the location of official AFROTC activities may be entitled to disability benefits or compensation from the Department of Labor. See the Federal Employees Compensation Act or 5 USC § 8140, *Members of the Reserve Officers' Training Corps*, for information related to disability benefits external to the Air Force or Department of Defense (DoD).

**1.3. Use of the LOD Determination.**

1.3.1. Disability Retirement and Severance Pay. A member is not entitled to disability separation or retirement if the disability resulted from the member's misconduct or willful negligence, or was incurred during a period of unauthorized absence.(Reference: 10 USC § 1201, *Regulars and Members on Active Duty for More Than 30 Days: Retirement*; § 1202, *Regulars and Members on Active Duty for More Than 30 Days: Temporary Disability Retired List*; § 1203, *Regulars and Members on Active Duty for More Than 30 Days: Separation*; § 1204, *Members on Active Duty for 30 Days or Less or on Inactive-Duty Training: Retirement*; § 1206, *Members on Active Duty for 30 Days or Less or on Inactive-Duty Training: Separation* and § 1207, *Disability from Intentional Misconduct or Willful Neglect: Separation*). **(T-0)**.

1.3.2. Forfeiture of Pay. A member is not be entitled to pay if the member has an unauthorized absence for a continuous period of more than 24 hours because of disease that was directly caused by and immediately follows a member's intemperate use of drugs or alcohol (37 USC § 802, *Forfeiture of Pay During Absence from Duty Due to Disease from Intemperate Use of Alcohol or Drugs*). **(T-0)**.

1.3.3. Extension of Enlistment. An enlisted member's period of enlistment will be extended to make up for the period of time the member was unable to perform duties because of intemperate use of drugs or alcohol or because of disease or injury resulting from his misconduct (10 USC § 972, *Members: Effect of Time Lost*). **(T-0)**.

1.3.4. Veteran Benefits. The Department of Veterans Affairs (DVA) may use a member's official military records, including any LOD determinations, when determining eligibility for veteran benefits (38 USC § 1110,—*Basic Entitlement* and 38 USC § 1131, *Basic Entitlement*).

1.3.5. Survivor Benefit Plan. If a member dies in a qualified duty status and ILOD, the member's surviving dependents may be eligible for benefits under the Survivor Benefit Plan

(10 USC § 1448, *Application of Plan*). It is imperative that once the LOD determination has been completed that the member's death LOD determination package be sent immediately to the Air Force Personnel Center Casualty Affairs Office (AFPC/DPFC) for processing survivor benefits. **(T-3)**.

1.3.6. Basic Educational Assistance Death Benefit. The survivors of those members who were entitled to basic educational assistance and who died while on active duty or within one year after discharge or release from active duty may be entitled to death benefits. (38 USC § 3017, *Death Benefit*).

1.3.7. Emergency Healthcare Entitlement for ARC. Nothing in this instruction shall be construed to prevent emergency medical treatment at a military treatment facility (MTF) for an ARC member serving in a qualified duty status as provided in DoD Instruction (DoDI) 1215.06, *Uniform Reserve, Training, and Retirement Categories for the Reserve Components*. An ARC member who presents for emergency treatment and states that the emergent condition is related to an injury, illness or disease incurred or aggravated as a result of a period of duty shall be examined and provided necessary medical care in accordance with AF Manual (AFMAN) 41-210, *TRICARE Operations and Patient Administration*. **(T-0)**. The circumstances surrounding the emergency medical condition will be the subject of a LOD determination after the emergency has been stabilized. **(T-0)**.

1.3.8. Medical Benefits for ARC Members. LOD determinations are used to establish, manage, and authorize healthcare entitlements for members who incur or aggravate an injury, illness, or disease while in a qualified duty status. Members may be entitled to hospital benefits and medical pensions in certain circumstances (10 USC § 1074a, *Medical and Dental Care*: *Members on Duty Other Than Active Duty for a Period of More Than 30 Days;* 37 USC § 204). The LOD determination will be used to authorize appropriate medical and dental treatment for the covered condition for not longer than one year from diagnosis unless referred into the Disability Evaluation System (DES) IAW with DoDI 1241.01. **(T-0).** A service member will be referred to the DES when the criteria for referral are met in accordance with DoDI 1332.18, *Disability Evaluation System (DES*). **(T-0).**

1.3.9. The ARC member may receive continued care and treatment under the LOD beyond 12 months if: (1) identified for referral into the DES within one year from the initial diagnosis of the ILOD condition; and (2) the member has not yet received a final determination of fit for duty or been separated or retired by the DES. **Note:** Members already on active duty orders, when referred into the DES, may remain on active duty orders with their consent in accordance with DoDI 1332.18 and DoDI 1241.01, *Reserve Component (RC) Line of Duty Determination for Medical and Dental Treatments and Incapacitation Pay Entitlements*. Members who are in the DES may apply for MEDCON if they meet MEDCON criteria in accordance with this publication.

1.3.10. MEDCON Orders for ARC Members: Under certain circumstances, members may be entitled to be retained on active duty, with their consent, for the purpose of medical evaluation and/or treatment of their LOD condition. This status is referred to as MEDCON (see DoDI 1241.01). MEDCON does not apply to current AGR members according to AFI 36-2110, *Total Force Assignments* and ANGI 36-101, *The Active Guard/Reserve (AGR) Program*. (See **Chapter 6**).

1.3.11. Incapacitation (INCAP) Pay for ARC Members. ARC members may be entitled to INCAP benefits in certain circumstances (see **Chapter 7**).

**1.4. Limits on Use of a LOD Determination.** A LOD determination shall not be used for the following purpose: **(T-0)**

1.4.1. Disciplinary Action. A LOD determination shall not be used as a basis for disciplinary actions. **(T-0)**. The LOD process is separate and distinct from judicial processes and other disciplinary or administrative actions. Disciplinary and administrative actions, if warranted, shall be taken independent of a LOD investigation. **(T-0)**.

1.4.1.1. A LOD determination does not preclude a separate disciplinary or administrative action. A LOD determination is not determinative in:

1.4.1.1.1. Guilt or innocence in a disciplinary proceeding;

1.4.1.1.2. Pecuniary liability in a Report of Survey; or

1.4.1.1.3. Any other administrative proceeding.

1.4.2. Any formal investigation that determines that the disability was not the result of intentional misconduct and/or willful negligence.

1.4.3. Prior Service Condition (PSC). Either for medical separation or retirement is not a LOD determination. However, the ARC LOD Determination Board is responsible for identifying and referring to the Disability Evaluation System (DES) those conditions that occurred in a prior qualified duty status and were ILOD that have now become potentially unfitting and need to be referred into the DES. (See **paragraph 1.12.1**).

**1.5. Reimbursement of Medical Expenses.** Members will be financially responsible for medical expenses in accordance with DoDI 1241.01. **(T-0)**. For an ARC member whose condition is determined to be NILOD, only initial treatment for a diagnosis will be provided. **(T-0).** Any follow up care is the responsibility of the member. **(T-0).**

**1.6. When a LOD Determination is required.** A LOD determination must be initiated on an AF Form 348 when the following occurs:

1.6.1. Death of a member. An AF Form 348 must be completed in every case involving the death of any member in any duty status, to include travel to and from a duty location; **(T-0)**

1.6.2. Injury illness or disease, involving alcohol or other drugs; **(T-0)**

1.6.3. Self-inflicted injury; **(T-0)**

1.6.4. Illness, injury or disease possibly incurred during a period of unauthorized absence; **(T-0)**

1.6.5. Injury or illness, disease or death possibly incurred during a course of conduct for which charges have been preferred under the Uniform Code of Military Justice (UCMJ); or the state military code for ANG members; **(T-0)**

1.6.6. Injury, disease, or medical condition that may be due to the service member's intentional misconduct or willful negligence, such as a motor vehicle accident; **(T-0)**

1.6.7. Injury involving likelihood of a permanent disability; **(T-1)**

1.6.8. For ARC, in addition to the situations listed above, an LOD determination, which is valid for one year for medical purposes, must be made when:

1.6.8.1. The member incurs or aggravates an illness, injury or disease, or receives any medical treatment while serving in a qualified duty status. **(T-0).**

1.6.8.2. The member dies, incurs, or aggravates an illness, injury or disease while traveling directly to or from the place at which duty is performed; **(T-0)** or

1.6.8.3. The member dies, incurs, or aggravates an illness, injury or disease while remaining overnight immediately before and between successive periods of IDT, at or in the vicinity of the site of the IDT, if the site is outside reasonable commuting distance from the member's residence. **(T-0).**

1.6.8.4. Members have up to 180 days after completion of their current duty status to report their medical conditions for a LOD determination, absent special circumstances. **(T-0).** After 180 days have passed, the avenue for addressing previously unreported illness, injury, or disease is through the DVA. **Note:** Special circumstances include latent onset conditions such as post-traumatic stress disorder and other mental, behavioral, and neurodevelopmental conditions. **(T-0).**

1.6.8.5. Members should not be separated or retired while pending a final LOD determination. **(T-0).**

1.6.8.6. To enter the DES for a duty-related determination, the member must have an ILOD determination for a referred condition, or meet the eight year rule (see **paragraph 1.13**), or have a Prior Service Condition (PSC) that meets the criteria set forth in **paragraph 1.12** and DoDI 1332.18, Enclosure 3 to Appendix 3, paragraph 7.e. **(T-0)**.

1.6.8.7. Members with prior service in any branch or component of the Armed Forces who incur an illness, injury or disease originating during their service in that branch or component, where an LOD determination has been accomplished, do not require an additional LOD determination unless the illness, injury or disease is aggravated during performance of current military duties. Document with an Administrative LOD (see **paragraph 3.2.1**) those situations where no additional LOD determination is required. **(T-0).**

1.6.8.8. If a member is on continuous orders of greater than 30 days and the member elects to be released from AD before the resolution of the injury, illness, or disease, or requests MEDCON, an AF Form 348 will be required. An AF Form 348 will be completed with a LOD determination and will be initiated for continued authorization for health care for the period of up to one year from the date of the initial diagnosis of injury, illness and/or disease. Orders will not be issued or extended in cases of misconduct, or for taking leave or reconstitution time. **(T-1)**.

**1.7. Limits to care under an LOD Determination:**

1.7.1. A member who can perform military duties but requires medical care for a minor or chronic medical condition may be provided medical treatment for such condition through the DVA or TRICARE benefits. (T-0). Members do not have to be on MEDCON orders to receive medical care for an ILOD condition. Additional information can be obtained from the

member's commander, Reserve Medical Unit (RMU), Guard Medical Unit (GMU), MTF or the DVA. (T-0).

1.7.2. Medical treatment for the ILOD condition will be terminated if the member's condition cannot be definitively improved by further hospitalization or treatment, or the condition is satisfactorily resolved or returned to member's medical conditions baseline, or one year has transpired since date of initial diagnosis, which ever one is sooner in accordance with DoDI 1241.01. (T-0).

1.7.3. Medical treatment for the ILOD condition will be terminated if the ILOD determination is terminated pursuant to a LOD investigation finding of NILOD. (T-0).

1.7.4. Medical treatment for the ILOD condition will be terminated if the member is found fit for duty, or, separated or retired by the DES. (T-0).

**1.8. LOD Determinations Findings.** One of the following findings will be applied to the member's illness, injury, disease or death:

1.8.1. ILOD: The illness, injury, disease or death was incurred or aggravated while the member was in an authorized duty status and was not the result of the member's misconduct. **Note**: (ARC only). Unreported medical conditions that could have resulted in denial for entrance into a period of active duty should not be considered as having become unfitting merely because they are being reported while in status.

1.8.2. Existed Prior to Service-Service Aggravation (EPTS-SA). A condition is aggravated in a qualified duty status when there is a worsening of the condition over and above natural progression, caused by trauma or the nature of military service. Natural progression is the course an illness, injury or disease would take over time, regardless of military service.

1.8.3. NILOD, Not Due to Own Misconduct.

1.8.3.1. Unauthorized Absence. A determination of NILOD-Not Due to Member's Misconduct is made when a formal investigation determined the member's illness, injury, disease or death occurred during an unauthorized absence.

1.8.3.2. **(Total Force).** Existed prior to service-not service aggravated (EPTS-NSA). An informal LOD determination must be accomplished in every case where a NILOD-EPTS-NSA finding is made. This requirement applies to both RegAF/RegSF and ARC personnel. A NILOD-EPTS-NSA finding can only be made after a thorough review of the evidence determined that the member's illness, injury, or disease existed prior to the member's entry into military service with any branch or component of the Armed Forces or current periods of such service, and was not service aggravated. See **Table 1.1** for standards of proof.

1.8.3.2.1. Eight Year Rule. 10 USC § 1207a, *Members with Over Eight Years of Active Service: Eligibility for Disability Retirement for Pre-Existing Conditions*. An illness, injury or disease that is EPTS must be deemed to have occurred in a duty status for the purpose of determining disability separation or retirement by a Physical Evaluation Board (PEB). (See **paragraph 1.13**).

1.8.3.2.2. Whether medical separation or retirement for EPTS conditions is appropriate under the Eight Year Rule is a finding made in the DES. While the Eight Year Rule is not an LOD determination, LOD referring authorities are responsible for identifying and referring to the DES those EPTS cases to which the Eight Year Rule might apply

(see **paragraph 1.13**) (i.e., those with members meeting the criteria of this paragraph and having an EPTS condition that is potentially unfitting in terms of retention and/or mobility standards). This ensures that such cases are entered into the DES and appropriately assessed under the Eight Year Rule.

1.8.4. NILOD, Due to Own Misconduct. A formal investigation determined that the member's illness, injury, disease, or death was proximately caused (see the Terms section of **Attachment 1** for definition) by the member's own misconduct. If the member's illness, injury, disease, or death occurred both during a period of unauthorized absence and was proximately caused by the member's own misconduct, the case should be finalized as NILOD, Due to Own Misconduct.

**1.9. Standard of Proof for LOD Determinations.** Member's conditions are presumed to have been incurred in the line of duty for injuries, illnesses and/or diseases sustained while in a qualified duty status. The burden of proof is on the government to prove NILOD. **(T-0)**. For members on orders 30 days or less, the standard of proof the government must overcome to make a NILOD determination is Preponderance of the Evidence. The Air Force must determine whether the illness, injury, disease, or death is or is not in the line of duty based on medical evidence. **(T-0).** All members are responsible for providing accurate and timely documentation regardless of duty status. **(T-0)**. Requested medical documentation should be limited to relevant information to reasonably identify the initial condition for which the LOD determination is being requested; this can include an initial diagnosis, treatment plan, or note from provider describing the condition. Note: if the diagnosis evolves, another LOD may be warranted for subsequent benefits.

1.9.1. ARC members with conditions that became unfitting while ordered to active duty of 30 days or less, or while on Active Duty for Training (ADT) or IDT. **(T-0).** The standard of evidentiary proof used in making EPTS-NSA determinations is preponderance of the evidence.

1.9.2. RegAF and ARC members with conditions that became unfitting while ordered to active duty of more than 30 days (other than for ADT or IDT). The standard of evidentiary proof used in making EPTS-NSA determinations is clear and unmistakable evidence.

**Table 1.1. Standards of Proof.**

| Duration of Member's Orders | In Line of Duty | Not in Line of Duty– Not Due to Member's Misconduct-EPTS-Not Service Aggravated | Not in Line of Duty – Due to Member's Misconduct |
|---|---|---|---|
| 30 days or less | Preponderance of the Evidence | Preponderance of the Evidence | Clear and Convincing Evidence |
| Greater than 30 days | Preponderance of the Evidence | Clear and Unmistakable Evidence | Clear and Convincing Evidence |

**1.10. ILOD.**

1.10.1. The standard of evidentiary proof used in making an ILOD determination is preponderance of the evidence. **(T-0).** Preponderance of the evidence is defined as the greater weight of credible evidence. **(T-0).**

1.10.2. When assessing whether a determination is supported by a preponderance of the evidence, all available evidence must be considered, including:

1.10.2.1. Direct evidence based on actual knowledge or observation of witnesses; **(T-0)**

1.10.2.2. Indirect evidence, such as facts or statements from which reasonable inferences, deductions and conclusions may be drawn to establish an unobserved fact, knowledge or state of mind; **(T-0)** and/or

1.10.2.3. Accepted medical principles, based on fundamental deductions, consistent with medical facts that are as reasonable and logical as to create a reasonable certainty that they are correct. **(T-0).**

**1.11. NILOD.**

1.11.1. Not due to member's misconduct with conditions that became unfitting while ordered to active duty of more than 30 days. The standard of evidentiary proof used in making EPTS-NSA determinations is clear and unmistakable evidence.

1.11.1.1. Clear and unmistakable evidence means undebatable information that the condition existed prior to military service or if increased in service was not aggravated by military service. In other words, reasonable minds could only conclude that the condition existed prior to military service from a review of all of the evidence in the record. It is a standard of evidentiary proof that is higher than a preponderance of the evidence and clear and convincing evidence.

1.11.1.2. Where clear and unmistakable evidence is required to establish a condition is NILOD, it may be provided by accepted medical principles meeting the reasonable certainty requirement. Accepted medical principles may be discerned through reference to medical literature. Medical determinations relating to the origination and onset of a disease or condition may constitute clear and unmistakable evidence when supported by the weight of medical literature. This clear and unmistakable evidence shall be furnished to the member in conjunction with the finding to be used in any appeal efforts.

1.11.2. Not due to member's misconduct with conditions that became unfitting while ordered to AD of 30 days or less, or while on ADT or IDT. The standard of evidentiary proof used in making EPTS-NSA determinations is preponderance of the evidence.

1.11.3. Due to the member's misconduct. The standard of evidentiary proof used in making a NILOD due to member's misconduct and that misconduct was the proximate cause of the illness, injury, or disease determination is clear and convincing evidence. For a definition of "proximate cause," see **Attachment 1. (T-1).**

**1.12. Prior Service Condition (PSC).**

1.12.1. For the purpose of DES processing, a prior service condition is any medical condition incurred or aggravated during one period of active service or authorized training in any of the Military Services that recurs, is aggravated, or otherwise causes the member to be unfit, should be considered incurred in the LOD, provided the origin of such condition or its current state is not due to the service member's misconduct or willful negligence, or progressed to unfitness as the result of intervening events when the service member was not in a duty status. (See **DoDI 1332.18**). **Note**: Intervening events can be a car accident that worsened the existing condition, a civilian job that aggravates the condition, member's willful neglect or misconduct.

For example, if a member had an anterior cruciate ligament repair ten years during a period of active service or authorized training, and is now unfit because of the ACL failure, then that injury is considered PSC. If there was an anterior cruciate ligament repair ten years ago and the service member is now unfit because the meniscus is beyond repair that is not considered PSC. **Note**: Age is not an intervening event.

1.12.2. A PSC determination will be accomplished to ascertain eligibility for entrance into the applicable DES only. A PSC would entitle a member to have a Medical Evaluation Board (MEB) evaluation and be referred into the DES. If an illness, injury, or disease is not considered a PSC, then refer into non-duty DES. When there is a determination that an illness, injury, or disease is not PSC, the member may request referral to the non-duty DES. PSC determinations will go to the AFRC'S ARC LOD Determination Board or National Guard Bureau, Surgeon General (NGB/SG) for review.

1.12.3. When the appropriate authority for review is making a PSC determination, they may consider the following criteria:

1.12.3.1. The PSC should be of the same body part and same diagnosis that has caused the member to become unfit. **(T-1).**

1.12.3.2. PSC must be documented in the service treatment record with a medical diagnosis (not a symptom, i.e. back pain) of the original injury, disease or illness. Documentation may include an Administrative LOD, or via a LOD determination on an AF Form 348 or DD Form 261, *Report of Investigation Line of Duty and Misconduct Status,* or civilian documentation that correlates directly with the prior service specific condition. The medical provider renders their medical opinion of the injury, illness or disease. The medical provider makes the correlation of PSC supported by medical documentation and accepted medical practice and principles. Exceptions of documented diagnosis may be allowed when injury, illness or disease was discovered during the separation health exam and there was not sufficient time for diagnosis before member separated from current period of service. **(T-1).**

1.12.4. A PSC without service aggravation or recurrence will not be used for medical care and treatment, INCAP, or MEDCON and it will only allow for entrance into the applicable DES. AFRC's ARC LOD Board or NGB/SG is the approval authority for issuing the determination associated with a PSC condition. **(T-1).**

1.12.5. A LOD determination (AF Form 348 and/or DD Form 261) will be required if the PSC, injury, or disease recurs or is aggravated during performance in a qualified duty. **(T-1).**

1.12.6. PSC decisions by AFRC'S ARC LOD Determination Board and NGB/SG are final. Any errors or injustice for PSC decisions are addressed through the Air Force Board for Correction of Military Records (AFBCMR) process only. **(T-1).**

## 1.13. Eight Year Rule.

1.13.1. Per Title 10 USC § 1207a, *Members with Over Eight Years of Active Service: Eligibility for Disability Retirement for Pre-Existing Conditions,* An illness, injury or disease that is EPTS must be deemed to have occurred in a duty status for the purpose of determining disability separation or retirement by a Physical Evaluation Board if the member:

1.13.1.1. Has at least eight years of total active service at the anticipated time of separation. (10 USC § 1207a; DoDI 1332.18, A3 to E3, para. 7(c) (2) (c)). **(T-0)**.

1.13.1.2. Was on Title 10, U.S.C. active duty orders, or Title 32 orders, specifying a period of greater than 30 days at the time the condition became unfitting; **(T-0)** and

1.13.1.3. Was not released from active duty within 30 days commencing the period of active duty under Title 10 U.S.C. § 1206a, *Reserve Component Members Unable to Perform Duties when Ordered to Active Duty: Disability System Processing*, due to an EPTS condition not aggravated during the period of active duty. **(T-0).**

1.13.1.4. While the Eight Year Rule is not an LOD determination, LOD referring authorities are responsible for identifying and referring to the DES those EPTS cases to which the Eight Year Rule might apply.

## Chapter 2

## ROLES AND RESPONSIBILITIES

**2.1. Secretary of the Air Force (SecAF).** The Secretary of the Air Force, or his or her designee, may make changes to an LOD determination, after consideration by the SAF Personnel Council (Air Force Personnel Board). (T-0) (see Headquarters Air Force Mission Directive 1-24, Assistant Secretary of the Air Force (Manpower and Reserve Affairs) and SAF/MR Memorandum, Re-delegation of Authority for Individual Personnel Actions).

**2.2. Deputy Chief of Staff for Manpower, Personnel, and Services (AF/A1).** Develops personnel policy for the LOD determination, MEDCON policy, and INCAP Pay policy in collaboration with the Chief of Air Force Reserve (AF/RE) and the Director of the Air National Guard (NGB/CF), the Deputy Chief.

2.2.1. **Military Force Management Policy (AF/A1P).** Serves as the office of primary responsibility for the Line of Duty Determination Program activities. Provide direction, guidance and supervision over all matters pertaining to the formulation, review, approval, and execution of relevant plans, policies, and programs.

**2.3. Assistant Secretary of the Air Force, Manpower and Reserve Affairs (SAF/MR).**

2.3.1. Develops policy and procedures for the LOD, MEDCON, and INCAP Pay programs.

2.3.2. Authorizes medical and dental care for reserve component members who incur or aggravate an injury, illness, or disease, in the line of duty, and providing pay and allowances to those members while being treated or recovering from a service-connected injury, illness, or disease as delegated to the Secretary of the Air Force pursuant to the Department of Defense Instruction 1241.01, Reserve Component (RC) Line of Duty Determination for Medical and Dental Treatments and Incapacitation Pay Entitlements.

2.3.3. Reviews MEDCON extensions exceeding 270 days for approval/disapproval.

2.3.4. Serves as the appellate authority for denied MEDCON requests at the validation, approval, and certification or allocation level.

2.3.5. Serves as appellate authority for INCAP Pay appeal requests where AF/RE or ANGRC/CC recommend denying the appeal.

**2.4. Director, Air National Guard (NGB/CF).** Assists in developing personnel policy for the LOD determination, MEDCON policy, and INCAP Pay policy in collaboration with AF/A1 and AF/RE.

**2.5. Chief of Air Force Reserve (AF/RE).** Assists in developing personnel policy for the LOD determination, MEDCON policy, and INCAP Pay policy in collaboration with AF/A1 and NGB/CF.

**2.6. Commander, Air National Guard Readiness Center (ANGRC/CC).**

2.6.1. Reviews quarterly quality assurance reviews from ARC LOD Determination Board.

2.6.2. Serves as appellate authority in ARC LOD determinations.

2.6.3. Approves or disapproves INCAP Pay Extension requests and provides semi-annual report to SAF/MR including summary statistics.

2.6.4. Approves initial INCAP Pay in the appeals process or recommends disapproval to SAF/MR.

**2.7. Deputy Commander, Air Force Reserve Command (AFRC/CD).** Reviews quarterly quality assurance reviews from ARC LOD Determination Board. Acts as appellate authority in ARC Informal LOD determinations and CAT A, CAT B, and CAT E cases.

**2.8. Air Force Personnel Center, Judge Advocate (AFPC/JA).** Reviews formal LOD reports for completeness and accuracy and provides further recommendations or finalization of the case. Files the completed cases in the member's record.

**2.9. Air Force Board for Correction of Military Records (AFBCMR).** Acts on behalf of the Secretary of the Air Force to correct military records when it determines a member is the victim of an error or injustice. Reviews errors or injustices in PSC decisions.

**2.10. Physical Evaluation Board (PEB) Serves as reviewer in DES process.** Returns cases for review from approving authority and final determination when presented with evidence leading to a determination contrary to the initial LOD determination.

**2.11. ARC LOD Determination Board:** is made up of a representative from AFRC/A1, AFRC/SGO, and AFRC/JA (for AFRC) and NGG/A1, NGB/SGP, and NGB/JA (for NGB).

2.11.1. Conducts quarterly quality assurance reviews for ARC LOD determinations for accuracy, consistency, and timeliness, and provides a written report to SAF/MR, ANGRC/CC, and AFRC/CD.

2.11.2. Audits ARC Informal LOD determinations quarterly for accuracy and timeliness.

2.11.3. Serves as a subject matter expert in the ARC Informal LOD determination process.

2.11.4. Acts as a reviewing authority in the ARC Formal LOD determination process.

**2.12. Air Force Reserve Command, Manpower, Personnel, and Services (AFRC/A1).**

2.12.1. Serves on the ARC LOD Determination Board and serves as restricted reporting review authority.

2.12.2. Reviews annual program status reports on timeliness of finalized LOD determinations.

2.12.3. Serves as Formal LOD approving authority in CAT A, CAT B, and CAT E cases. (see **Table 3.2**)

**2.13. National Guard Bureau, Manpower, Personnel, and Services (NGB/A1).**

2.13.1. Serves on the ARC LOD Determination Board.

2.13.2. Serves as approving authority for ARC Formal LOD determinations.

2.13.3. Serves as review authority for restricted reporting.

2.13.4. Approves or denies pre-MEDCON extension requests and recommends approval or disapproval for INCAP Pay extension requests to ANGRC/CC.

2.13.5. Allocates MEDCON days for ANG.

**2.14. Air Force Reserve Command, Surgeon General (AFRC/SG).**

2.14.1. Serves on the ARC LOD Determination Board.

2.14.2. Approves convalescent leave for members on leave greater than 90 days for AFRC.

2.14.3. Review member's medical records and recommend approval or disapproval of all INCAP Pay extension requests for AFRC.

2.14.4. May direct pre-Integrated Disability Evaluation System (IDES) screening when reviewing INCAP Pay extensions for AFRC.

2.14.5. Provides guidance and assistance to RMU on medical program responsibilities and obtaining evaluations and medical documents from Active Component MTFs for AFRC.

2.14.6. Resolves issues between RMU and active component MTF that cannot be resolved at wing level for AFRC.

**2.15. National Guard Bureau, Surgeon General (NGB/SG).**

2.15.1. Serves on the ARC LOD Determination Board.

2.15.2. Approves convalescent leave for members on leave greater than 90 days for ANG.

2.15.3. Review member's medical records and recommend approval or disapproval of all INCAP Pay extension requests for ANG.

2.15.4. May direct pre-IDES screening when reviewing INCAP Pay extensions for ANG.

2.15.5. Provides guidance and assistance to GMU on medical program responsibilities and obtaining evaluations and medical documents from Active Component MTFs for ANG.

2.15.6. Resolves issues between GMU and active component MTF that cannot be resolved at wing level for ANG.

**2.16. Air Force Reserve Command, Judge Advocate (AFRC/JA).** Serves on the ARC LOD Determination Board.

**2.17. National Guard Bureau, Judge Advocate (NGB/JA).** Serves on the ARC LOD Determination Board.

**2.18. Air Force Reserve Medical Directorate (AF/REM).** Reviews ARC CMD's 5-year program cost estimate for MEDCON program.

**2.19. Air Force Directorate of Manpower, Organization and Resources, End Strength Division (AF/A1MT).** Reviews ARC CMD's 5-year program cost estimate for MEDCON program and allocates MEDCON man-days.

**2.20. National Guard Bureau, Customer Support and Policy Branch (NGB/A1PS).**

2.20.1. Clarifies and provides guidance on the purpose and use of the initiation of an AF Form 348 for ANG.

2.20.2. Reviews and signs AF Form 348-R in ANG restricted reporting LOD determination cases.

2.20.3. Serves as MAJCOM approving authority for pre-MEDCON for ANG.

**2.21. Air Reserve Component, Case Management Division (ARC CMD).**

2.21.1. Serves as the central point of contact for all MEDCON related issues, medical and non-medical, and aids in case management, tracking, and accounting for members on orders.

2.21.2. Determines and approves MEDCON eligibility and is responsible for educating all AFRC and ANG wing personnel associated with the MEDCON program.

2.21.3. Collects, analyzes, and applies performance evaluation measures and reports those measures quarterly to SAF/MR and a 5-year program cost estimate to SAF/MR, AF/A1MT, AF/REM, and ARC SGs.

2.21.4. Facilitates the appeals of denied MEDCON requests.

2.21.5. Recommends to RMU/GMU that member should be submitted for pre-IDES screening when reviewing MEDCON order applications, extensions, and appeals requests.

**2.22. Wing Commander.**

2.22.1. Ensures all base level agencies comply with this instruction.

2.22.2. Appoints a LOD Program Manager.

2.22.3. Acts as appointing authority in Formal LOD determinations.

2.22.4. Directs cases of suspected misconduct, questionable cases, re-investigations and formal investigations for Formal LOD determinations.

2.22.5. Acts as the review and approving authority for ARC Informal LOD determinations.

2.22.6. Provides program guidance for INCAP Pay allowances and extensions.

2.22.7. Approves or disapproves Initial INCAP Pay on AF Form 1971 and makes recommendations on INCAP Pay extension or appeal requests to ARC/A1.

**2.23. Immediate Commander.**

2.23.1. Gathers information available on the circumstances of the LOD and reviews LOD determination case inputs.

2.23.2. Recommends LOD determinations based upon available evidence.

2.23.3. Makes Interim LOD determinations on the AF Form 348 for ARC Informal LOD cases.

2.23.4. Briefs members of their LOD determination outcome for ARC Informal LOD cases.

2.23.5. Recommends approval or disapproval of Pre-MEDCON orders for all EPTS, PSC or other duty status and misconduct cases for ARC.

2.23.6. Terminate member’s Initial INCAP Pay benefits in instances where members fail to provide medical or financial documentation or do not report for or perform military duties.

**2.24. Servicing Legal Office or Legal Advisor.**

2.24.1. Reviews all Formal LOD cases for legal sufficiency

2.24.2. Reviews ARC Informal LOD cases at the discretion of the Wing Commander for legal sufficiency.

2.24.3. Makes a suggested determination or supports/opposes previous LOD determination recommendations.

2.24.4. Serves as a legal advisor to the investigating officer.

**2.25. Military Medical Provider (MMP).**

2.25.1. Serves within a Military Treatment Facility (MTF), Reserve Medical Unit (RMU), or Guard Medical Unit (GMU) and provides care to service members, annotating all care within a SF 600.

2.25.2. **(ARC only)** Initiates Informal LOD cases at the request of the service member and completes the corresponding and appropriate information within the AF Form 348, if needed.

2.25.3. Provides an opinion regarding whether the medical evidence supports the illness, injury or disease, and determines if the condition is EPTS or was service aggravated on the AF Form 348, *Line of Duty Determination*.

**2.26. LOD Program Manager (PM).**

2.26.1. Manages and monitors LOD coordination and suspense.

2.26.2. Acts as a router of LOD cases in frequent situations.

2.26.3. Provides the Wing Commander quarterly and annual program status reports, and monthly reports on LOD determinations exceeding suspense times.

2.26.4. Provides quarterly and annual program status reports on timeliness of finalized LOD determinations for ARC.

2.26.5. Works with command to ensure members are not separated while pending a LOD determination.

2.26.6. Conducts a 10% audit of all LOD determinations annually for accuracy, timeliness, and consistency.

2.26.7. Directs LOD determinations to the appropriate review and approval authorities, monitors suspense dates and the disposition of the final LOD documentation to the member.

2.26.8. Manages Unit Effectiveness Inspections.

2.26.9. Forwards the Interim LOD determination to the ARC medical unit.

2.26.10. Distributes LOD packages to members on behalf of the immediate commander after an LOD determination has been made.

2.26.11. **(ARC only)** . Notifies the ARC LOD Determination Board of a pending Death LOD.

2.26.12. **(RegAF only)** . Notifies the approving authority of a pending Death LOD.

2.26.13. **(NGB only)** . Informs the Casualty Office of a Death LOD determination being made.

2.26.14. **(RegAF only)** . Forwards the original AF Form 348 to AFPC/JA for informal and formal cases.

2.26.15. **(ARC only)** . Forwards the original AF Form 348, DD Form 261, and supporting documents to ARPC.

2.26.16. **(RegAF only)** . For Final LOD appeal, forwards to the officer who exercises GCMSA.

2.26.17. **(ARC only)** . Forwards the appeal to HQ AFRC/CD (AFRC) or ANGRC/CC (NGB).

2.26.18. Notifies the member of the outcome of their LOD appeal.

**2.27. The LOD-Medical Focal Point (LOD-MFP).**

2.27.1. Routes the LOD determination to the LOD PM in RegAF Informal and Formal LOD cases.

2.27.2. Routes cases to the Military Medical Provider with supporting documents in ARC Informal LOD cases.

2.27.3. Files AF Form 348 and DD Form 261 in the member's medical record.

**2.28. Investigating Officer.** Is determined by the appointing authority. Conducts a formal investigation of the circumstances surrounding the illness, injury, disease or death for which the member is requesting a LOD determination.

**2.29. Reviewing Authority.** Reviews the complete investigation file and subsequently directs the case accordingly or makes a determination (if the reviewing authority is concurrently the approving authority). Reviews the case in instances of re-investigation and determines whether a re-investigation is warranted.

**2.30. Appointing Authority.**

2.30.1. Reviews the immediate commander and Legal Advisor recommendations to determine the proper course of action in Formal LOD cases.

2.30.2. Conducts a re-evaluation and makes a LOD determination if the case is sent back for re-evaluation.

2.30.3. Selects investigating officer.

**2.31. Approving Authority.** Makes a final determination in LOD cases. Grants or denies re-investigation requests.

**2.32. Appellate Authority.** Is responsible for ruling on the appeal of LOD cases. Approves, disapproves, or returns the appeal.

**2.33. INCAP Pay PM.**

2.33.1. Serves as the focal point for administering, educating, referring, and documenting INCAP Pay.

2.33.2. Briefs the member on entitlements and responsibilities during periods of INCAP Pay entitlement and extensions.

2.33.3. Obtains and processes appropriate documentation.

2.33.4. Notifies and coordinates all approval or disapproval of INCAP Pay requests with member, unit commander, RMU or GMU, and Reserve Pay Officer/Wing Finance Manager.

2.33.5. Provides monthly program status report on all members receiving INCAP Pay.

**2.34. INCAP Pay Focal Point.**

2.34.1. Briefs medical entitlements to members and provides member with a signed copy.

2.34.2. Advises members that they must report to RMU/GMU every 30 days with supporting documentation on mobility restrictions

2.34.3. Ensuring medical treatment for an injury, illness, or disease incurred or aggravated In-LOD is not delayed because of administrative requirements.

**2.35. Reserve Pay Office or ANG Wing Finance.**

2.35.1. Provides financial briefing to members on pay and allowance entitlements per Chapter 2 of DoD FMR 7000.14-R, Volume 7A.

2.35.2. Determines and verifies member's eligibility every 30 days by evaluating demonstrated loss of earned income due to the In-LOD condition.

2.35.3. Ensures full, accurate, and timely financial compensation and delivery for the appropriate and applicable period of service.

2.35.4. Serves as liaison between the member and administrative procedure for payment.

**2.36. Sexual Assault Response Coordinator (SARC).**

2.36.1. Verifies member's duty status and initiates AF Form 348-R in the electronic LOD system.

2.36.2. Determines if a member has elected restricted or unrestricted reporting.

2.36.3. Briefs designated individuals on restricted reporting policies.

2.36.4. Serves as a liaison between the member and HQ AF SARCs.

2.36.5. Briefs the member on next steps after the report has been filed.

## Chapter 3

## LINE OF DUTY DETERMINATION PROCESS

**3.1. Administering the LOD Determination Process.** This chapter governs the processing of LOD determinations for all Air Force components.

3.1.1. RegAF, AFRC, NGB and USSF units will accomplish LOD determinations via their own automated LOD system.

3.1.2. Responsibilities. Military medical providers and commanders who learn of a member's illness, injury, disease or death that occurred under circumstances that may warrant a LOD determination shall take an active role by advising the member on how to submit the required documentation within required timeframes and ensuring timely processing of the LOD determination, as outlined in **Table 3.1**. **(T-1)**. Members may consult with an Area Defense Counsel during any LOD determination for further advice on content, timelines, and submission of documentation. **Note**: A legal review is required for all RegAF LOD determinations. For ARC, during the informal LOD determination, the Legal Advisor review is recommended, but optional.

3.1.3. The wing or group LOD PM that serves the commander is responsible for directing the LOD determination to the required review and approval authorities, monitoring suspense dates between approval steps, and disposition of final LOD determination documentation to the member. **(T-1)**.

3.1.4. The LOD determination must be processed in accordance with processing timelines in **Table 3.1** **(T-1)**.

3.1.5. Compliance. Processing will be included as part of the Unit Effectiveness Inspections managed by the LOD PM. **(T-1)**.

**3.2. Types and Processing of LOD Determinations.**

3.2.1. Administrative LOD. An Administrative LOD may be used to provide a link to an illness; injury, or disease that is service aggravated.

3.2.1.1. When the military medical provider sees a member under any of the circumstances outlined in **paragraph 1.6**, the military medical provider annotates the injury, illness or disease on a SF 600, or electronic medical record.

3.2.1.2. The medical provider makes an administrative statement that the member's condition(s) were incurred in a qualified duty status under the following circumstances:

3.2.1.2.1. **(RegAF only)** as a hostile casualty (other than death);

3.2.1.2.2. **(RegAF only)** as a passenger in a common carrier or military aircraft;

3.2.1.2.3. The injury, illness or disease clearly did not involve misconduct, abuse of drugs or alcohol or self-injurious behavior; or

3.2.1.2.4. The injury or illness is simple, such as a sprain, contusion or minor fracture, and is not likely to result in permanent disability.

3.2.1.2.5. **(ARC only)** . The medical provider may make an administrative decision to document a minor condition as ILOD if there is no hospitalization or requirement

for continuing medical treatment. **Note**: Visits to the Emergency Room or minor outpatient procedures alone do not constitute hospitalization.

3.2.1.2.5.1. **(ARC only)** . Administrative LOD determinations are considered a covered condition and can be used to complete an AF Form 348 for a member who has been on continuous orders of greater than 30 days if the member elects to come off orders but still requires medical care. The LOD will be dated when the initial diagnosis was made and not from the time the member requests the LOD or:

3.2.1.2.5.2. **(ARC only)** . An administrative LOD determination may be used as a basis for completing an AF Form 348 in the event the member becomes unfit and needs to be referred to the DES. **NOTE:** Active Guard Reserve (AGR) members can be referred into the DES with an administrative LOD (see **paragraph 1.2.2.1.1**).

3.2.2. Informal LODs. When administrative processing is not appropriate, an informal LOD determination is initiated on an AF Form 348. See **Attachment 2** for additional LOD determination situations.

3.2.2.1. For ARC members serving in any duty status, an informal LOD is used for the following circumstances:

3.2.2.1.1. When the medical condition involves a disqualifying disease process in accordance with DAFMAN 48-123; or

3.2.2.1.2. The member requires continuing medical care or treatment beyond the period of duty during which the condition was incurred or aggravated and/or the member requests MEDCON orders or INCAP pay; or

3.2.2.1.3. The member requires hospitalization; (**Note**: Visits to the Emergency Room or minor outpatient procedures alone do not constitute hospitalization) or

3.2.2.1.4. The member dies, incurs, or aggravates an illness, injury or disease while traveling directly to or from the place at which duty is performed; or

3.2.2.1.5. The member dies, incurs, or aggravates an illness, injury or disease while remaining overnight immediately (including members in direct travel status and local residents) before and between successive periods of IDT, at or in the vicinity of the site of the IDT, if the site is outside reasonable commuting distance from the member's residence; or

3.2.2.1.6. Serving on funeral honors duty pursuant to 10 USC § 12503, *Ready Reserve: Funeral Honors Duty* or 32 USC § 115, *Funeral Honors Duty Performed as a Federal Function,* while the service member was traveling to or from the place at which the service member was to serve; or while the service member remained overnight at or in the vicinity of that place immediately before serving; or

3.2.2.1.7. Injury involving likelihood of a permanent disability; or

3.2.2.1.8. For ARC members on orders for greater than 30 consecutive AD days who elect to be released from AD before resolution of their medical condition, an AF Form 348 will be initiated with a LOD determination, and dated with their initial diagnosis prior to member ending their AD full time National Guard orders; or

3.2.2.1.9. For members in deployed locations, and only if an AF 348 is not available, the deployed provider will write an administrative note or document on a SF 600 if electronic medical record system is not available, on the medical condition, and the RMU or GMU will be notified of the medical condition. **(T-1).** The RMU or GMU will review the documentation as well as upload all documentation into electronic medical record system and make the decision to ascertain what type of LOD is required post deployment and complete the AF 348 if required. **(T-1).** Members should request a copy of their documentation to bring it to their RMU or GMU when they arrive back at home station.

3.2.2.2. Member. When a member incurs or aggravates an injury, illness or disease while serving in any duty status, the medical condition must be promptly reported within 72 hours to the member's supervisor or commander and servicing medical facility and unit. **(T-1)**.

3.2.2.2.1. Failure to report the injury, illness or disease in a timely manner will not impact a member's ability to request and obtain a Line of Duty determination, but will require a written explanation to the commander and servicing medical facility/unit providing rationale for the delayed reporting. **(T-1)**.

3.2.2.2.2. For ARC, members who fail to provide the initial medical documentation that supports the illness, injury, or disease occurred or was aggravated during a period of qualified duty, within five working days of notification of the initial injury, illness or disease process, or who do not sign a release of information form, DD Form 2870, *Authorization for Disclosure of Medical or Dental Information* for the military medical provider, GMU, RMU, or MTF, may have their cases routed for formal LOD processing or found NILOD. **(T-1)**. Requested medical documentation should be limited to relevant information to reasonably identify the initial condition for which the LOD determination is being requested; this can include an initial diagnosis, treatment plan, or note from provider describing the condition. Note: if the diagnosis evolves, another LOD may be warranted for subsequent care. A member who fails to provide the relevant medical documentation may be found unfit for continued service and administratively separated in accordance with AFI 36-3212, Section 4E-ARC Non-Duty Related Conditions, and AFI 36-3209, *Separation and Retirement Procedures for Air National Guard and Air Force Reserve Members*, paragraphs 2.5.2.2 and 3.2.2.2.. **(T-1).**

3.2.2.2.3. For ARC members redeploying to home station, they should obtain hard-copy medical documentation from the medical provider, MTF or civilian facility. Requested medical documentation should be limited to relevant information to reasonably identify the initial condition for which the LOD determination is being requested; this can include an initial diagnosis, treatment plan, or note from a provider describing the condition. Note: if the diagnosis evolves, another LOD may be warranted for subsequent care.

3.2.2.3. Military Medical Provider. Full-time military medical providers shall review and sign the AF Form 348 within five working days. **(T-1)**. If there are no full-time providers, the AF Form 348 should be signed by the military medical provider at the next IDT or within 30 calendar days, whichever is sooner. If the member was seen by a civilian provider, the military medical provider who is assigned to the MTF closest to the civilian

facility where initial treatment was provided, or the military medical provider at the member's servicing GMU or RMU, will be the signatory for the AF Form 348. **(T-1)**. The military medical provider reviews and documents findings from relevant medical documentation and provides an opinion whether the existing medical evidence supports the illness, injury or disease, and determines if the condition is EPTS or was service aggravated on the AF Form 348. **(T-1)**. Requested medical documentation should be limited to relevant information to reasonably identify the initial condition for which the LOD determination is being requested; this can include an initial diagnosis, treatment plan, or note from provider describing the condition. Note: if the diagnosis evolves, another LOD may be warranted for subsequent care. The military medical providers are responsible for completing the military medical provider portion of AF Form 348 and forwarding it to the immediate commander. **(T-1)**. The medical providers provide a narrative description of the member's medical condition and signs the form, but does not make a LOD determination. Medical providers should pay specific attention to the acute versus underlying chronic conditions when identifying the diagnosis and providing the narrative description. Include whether an acute exacerbation or service aggravation has occurred for a chronic condition. Oftentimes two LOD determinations may be required. The medical providers must:

3.2.2.3.1. Be credentialed and privileged in accordance with AFI 44-119, *Medical Quality Operations* and DHA PM 6025.13 *Clinical Quality Management in the Military Health System Volume 5: Accreditation and Compliance*. **(T-1)**.

3.2.2.3.2. Either create an administrative entry in the member's medical record, document on an SF 600, or complete an AF Form 348. **(T-1**). **Note**: ARC medical units will document Administrative LOD (see **paragraph 3.2.1**) decisions or initiate the LOD determination process if necessary.

3.2.2.3.3. When possible, identify a specific diagnosis (International Classification of Diseases code). The medical provider should, when possible, identify if the condition is an acute exacerbation of a chronic condition or if service aggravation has occurred.

3.2.2.3.4. Advise the unit commander and wing commander on the findings of the medical condition. **(T-1)**.

3.2.2.4. Line of Duty-Medical Focal Point (LOD-MFP). The LOD-MFP is a medical entity/medical technician and appointed in writing by the RegAF medical commander, RMU or GMU Commander, or Headquarters Readiness and Integration Organization Commander. **(T-1)**. The LOD-MFP is responsible for routing the LOD determination to the next coordinator in accordance with **Table 3.1**. **(T-2)**. The LOD-MFP notifies the LOD PM. The LOD MFP will:

3.2.2.4.1. Place a copy of the LOD determination in the member's medical record. **(T-1)**.

3.2.2.4.2. Brief medical entitlements to the member. **(T-1)**.

3.2.2.4.3. Ensure in cases involving the death of a service member, weekly communication with the offices (immediate commander, medical provider and wing CC) responsible for completing their action on the AF Form 348 to expedite the survivor benefits payment process. **(T-1)**.

3.2.2.5. LOD Program Manager (LOD PM). The LOD PM is appointed by the Wing Commander and may be from the Force Support Squadron (FSS), RMU or GMU. The LOD PM will:

3.2.2.5.1. Manages and monitors LOD coordination and suspense. **(T-2)**.

3.2.2.5.2. At a minimum, provides the Wing Commander quarterly and annual program status reports, and monthly reports on LOD determinations exceeding suspense times. **(T-2)**.

3.2.2.5.3. **(ARC only)** . Provides quarterly and annual program status reports on timeliness of finalized LOD determinations to AFRC, Manpower, Personnel, and Services (AFRC/A1). **(T-1)**. AFRC Surgeon General Medical Operations Division (AFRC/SGP) and NGB/SG will conduct quarterly quality assurance reviews on 10% of all ARC LOD determinations for accuracy, consistency and timeliness, and provide a written report to AFRC Deputy Commander (AFRC/CD) and ANGRC/CC.

3.2.2.5.4. Ensures all finalized LOD determinations are distributed in accordance with **paragraph 5.7.4** for RegAF and **paragraph 5.7.3** for ARC. **(T-2).**

3.2.2.5.5. Works with command to ensure members are not separated or retired while pending a LOD determination. **(T-1)**.

3.2.2.5.6. Works with MTF to ensure medical treatment is not delayed because of administrative requirements. **(T-1)**.

3.2.2.5.7. The LOD PM will audit 10% of all LOD determinations on an annual basis for accuracy, timeliness and consistency, and provide a written report to commanders within 30 days following the fiscal year-end. **(T-1)**.

3.2.2.6. Immediate Commander. The immediate commander gathers available information on the circumstances of the member's illness, injury, disease or death. The commander is responsible for completing the Immediate Commander portion of AF Form 348 and shall forward it to the Legal Advisor for review for legal sufficiency. *Exception: For ARC Informal LOD determination only, the immediate CC forwards the AF 348 to the wing CC. **(T-1)**. (**Note**: To determine the immediate commander, see **Table 3.2**).

3.2.2.6.1. The immediate commander determines if the member's illness, injury, disease or death:

3.2.2.6.1.1. Occurred during a period of unauthorized absence (**T-1).**

3.2.2.6.1.2. Is due to the member's misconduct; **(T-1**) or

3.2.2.6.1.3. EPTS and, if so, whether or not the medical condition was service aggravated (based on the military medical provider's input). **(T-1)**.

3.2.2.6.2. As a result of the determination, the immediate commander recommends one of the following on AF Form 348: **(T-1)**

3.2.2.6.2.1. ILOD (see **paragraph 1.10**);

3.2.2.6.2.2. NILOD (only if EPTS-not service aggravated with no indication of misconduct) (see **paragraph 1.11**) or recommends a formal investigation (see **Chapter 5**).

3.2.2.6.2.3. NILOD-Due to Member's Misconduct; requires a formal investigation. (see **Chapter 5**).

3.2.2.6.2.4. Recommends a formal investigation (see **Chapter 5**).

3.2.2.6.3. Interim LOD (ARC Only). The immediate commander may issue an Interim LOD determination to establish initial care and treatment pending a final LOD determination.

3.2.2.6.3.1. An Interim LOD determination should not be made if there is clear and unmistakable evidence showing a EPTS condition or clear and convincing evidence that misconduct was the proximate cause of the illness, injury or disease.

3.2.2.6.3.2. The Interim LOD determination is comprised of the completed medical portion of the AF Form 348, which must contain a description of the member's illness, injury or disease, and the date it occurred, as well as the completed immediate commander's portion of AF Form 348, which must contain a preliminary finding of the member's status (Title 10 USC, Title 32 USC, AD, or civilian) at the time the medical condition occurred.

3.2.2.6.3.3. An Interim LOD determination is valid for 55 days and is replaced upon completion of the finalized LOD determination.

3.2.2.6.3.4. The LOD PM forwards a copy of the approved Interim LOD determination to the ARC medical unit for filing in the member's medical record and to ensure no disruption in the member's medical care.

3.2.2.7. Legal Advisor. (RegAF/Space Force). The legal advisor reviews the immediate commander's LOD determination recommendation for legal sufficiency. **Exception:** For ARC in the informal LOD determination process only, the Legal Advisor step is recommended, but optional and at the wing commander's discretion.

3.2.2.8. Approval/Appointing Authority.

3.2.2.8.1. Wing Commander or civilian equivalent commander director, (ANG, limited to Wing Commander). Reviews and approves informal LODs, and is the appointing authority for formal LOD determinations within his or her command. For authorities for superior and other Air Force units, see **Table 3.2**.

3.2.2.8.2. Obtains medical input, weighs any additional evidence available (legal, medical, bystander statements, etc.) and apply the standards of evidence before making a LOD determination. For ARC only, the Wing Commander may request input from the wing Legal Advisor or the ARC LOD Determination Board before making a final decision. Note: Legal Advisor review is mandatory for a formal LOD.

3.2.2.8.3. Is the final authority for informal LOD determination.(for review authorities see **Table 3.2**). For ARC only, the wing commander may request input from the ARC LOD Determination Board before the final decision is made. If the member disagrees with the Wing Commander's determination, the member may appeal the determination to AFRC/CD, or ANGRC/CC or for Active Duty Members, the officer who exercises general court-martial jurisdiction over the AD member within 30 days. (For appeal requirements, see **Table 3.2**). There may be cases that are determined by higher authorities (i.e.: Physical Evaluation Board (PEB), ARC LOD Board), during the DES

or audit processing. Makes one of the following LOD determinations on AF Form 348: **(T-1)**

3.2.2.8.3.1. ILOD (see **paragraph 1.10**);

3.2.2.8.3.2. NILOD (only if EPTS-not service aggravated with no indication of misconduct) (see **paragraph 1.11**) or recommends a formal investigation (see **Chapter 5**).

3.2.2.8.3.3. NILOD-Due to Member's Misconduct; requires a formal investigation (see Chapter 5).

3.2.2.8.3.4. Recommends a formal investigation (see **Chapter 5**).

3.2.2.8.4. If a case is sent back to the Appointing Authority for a re-evaluation of the evidence and LOD determination, the Appointing Authority must conduct a re-evaluation of the LOD determination. However, the Appointing Authority is an independent authority and should make a LOD determination based on the evidence presented and after consulting with medical and legal representatives to ensure the appropriate standards are applied.

3.2.2.9. ARC LOD Determination Board. The ARC LOD Board is a reviewing authority for LODs in the case of questionable circumstances, formal investigations. The board consists of AFRC Surgeon General Office (AFRC/SGO) or NGB Surgeon General Office (NGB/SGP), AFRC/NGB Judge Advocate (AFRC/JA, NGB/JA) and AFRC/A1 and ANG, Manpower, Personnel and Services (ANG/A1).

3.2.2.9.1. Questionable circumstances that may render a formal LOD determination may include, but are not limited to:

3.2.2.9.1.1. Those involving misconduct, alcohol or drugs, sexual assault, suicide attempts, and/or gestures, death, and/or self-mutilation; or

3.2.2.9.1.2. All formal investigations, re-investigations and any questionable case the Wing Commander wishes to be reviewed.

3.2.2.9.1.3. In the case of death, if toxicology reports are required, LOD determinations are not final until the receipt of any toxicology reports.

3.2.2.9.2. The ARC LOD Board will conduct quarterly quality assurance reviews of 10% of LOD determinations for accuracy, consistency and timeliness, and provide a written report to the AFRC/CD and ANG Readiness Center Commander (ANGRC/CC) as well as to SAF/MR. **(T-0).**

3.2.2.9.3. During the audit process, if the ARC LOD Board has evidence to believe the final LOD determination was contrary to the evidence obtained and presented, the ARC LOD Board will present the evidence-based rationale and will note its findings in the quarterly written audit report to AFRC/CD or ANGRC/CC, and Assistant Secretary of the Air Force for Manpower and Reserve Affairs (SAF/MR).

3.2.3. Formal LODs. A formal LOD determination is made by higher authorities based upon a thorough investigation conducted by a specially appointed investigating officer. (See **Chapter 5**).

3.2.3.1. Appointing Authority. The appointing authority reviews the immediate commander and Legal Advisor recommendations to determine the proper LOD determination or action to be taken. **(T-1). Note:** To determine the appointing authority, see **Table 3.2**. **Note:** In certain situations, the appointing, reviewing and approving authority may be one person.

3.2.4. Death LOD. Death LOD Determinations shall be expedited upon death of a service member. All others shall be expedited on a case-by-case basis.

3.2.4.1. For ARC, the LOD PM will notify the ARC LOD Board of a pending LOD for expedited processing once the LOD has been submitted to the ARC LOD Board.

3.2.4.2. For RegAF, the LOD PM will notify the approving authority and follow normal processing timelines (see **Table 3.1**). **(T-1)**.

3.2.4.3. **(ARC Only)** . The pending death LOD determination will be move to the front of the queue. **(T-1).**

3.2.4.4. **(ARC Only)** . The LOD determination will be processed within 30 days, pending any investigations, toxicology or autopsy results. **(T-1).**

3.2.4.5. **(AFRC)** . The ARC LOD Board will inform the Casualty Office of the determination as soon as it has been made. **(T-1).** (NGB). The LOD PM will inform the Casualty Office of the determination as soon as it has been made. **(T-1).**

3.2.4.6. For cases involving death of a member. The determination is sent to the immediate commander who notifies the member's next of kin of the LOD determination and provides a copy of the report (excluding legal reviews). The notification will explain how to request re-investigation or appeal and provide an address where requests can be sent. **Note**: See **Attachment 5**, Sample Format of Member Notification of NILOD Determination or **Attachment 6**, Sample Format of Notification of NILOD Determination in Death Cases.

3.2.4.7. **(ARC only)** . Informal LODs for death will be adjudicated by the wing commander. **(T-1).** Formal LODs will be submitted to the ARC LOD Board for processing. **(T-1).**

3.2.4.8. Military Medical Provider. The military medical provider is responsible for completing the Military Medical Provider portion of AF Form 348 and forwarding it to the immediate commander. **(T-1)**. The medical provider provides a narrative description of the member's medical condition and signs the form but does not make an LOD determination.

3.2.4.9. Investigating Officer. (Formal Death LOD ONLY) Conducts a formal investigation of the circumstances surrounding the member's illness, injury, disease or death. This case will be processed as a Formal LOD determination. (See **Chapter 5**).

3.2.4.10. LOD-MFP. Facilitates forwarding of the AF Form 348 to the immediate commander and notifies the LOD PM. **(T-2)**.

3.2.4.11. Immediate Commander. The immediate commander gathers available information on the circumstances of the member's illness, injury, disease or death. The commander is responsible for completing the immediate commander portion of AF Form 348 and forwarding it to the Legal Advisor. **Note**: For the ARC informal LOD

determination, the immediate commander forwards it to the wing commander who uses their discretion to request Legal Advisor review. **Note**: To determine the immediate commander, see **Table 3.1**.

3.2.4.11.1. The immediate commander determines if the member's illness, injury: **(T-1)**

3.2.4.11.2. Occurred while the member was absent without authority. **(T-1)**.

3.2.4.11.3. Is due to the member's misconduct. **(T-1)**.

3.2.4.11.4. EPTS and, if so, whether the medical condition was service aggravated (based on the military medical provider's input). **(T-1)**.

3.2.4.11.5. As a result of the investigation, the immediate commander recommends one of the following on AF Form 348. **(T-1)**.

3.2.4.11.5.1. ILOD.

3.2.4.11.5.2. NILOD-Not Due to Member's Misconduct (only if EPTS-NSA with no indication of misconduct).

3.2.4.11.5.3. A formal LOD Determination.

3.2.4.12. Legal Advisor. The Legal Advisor reviews the immediate commander's LOD determination recommendation for legal sufficiency and indicates such on AF Form 348 and forwards it to the appointing authority. **(T-1).**

3.2.4.13. Appointing Authority. The appointing authority reviews the immediate commander and Legal Advisor recommendations to determine the proper LOD determination or action to be taken. **(T-1)**. **Note:** To determine the appointing authority, see **Table 3.2**.

3.2.4.13.1. If the appointing authority finds the member's illness, injury, disease, or death to be ILOD, he or she indicates such on AF Form 348.

3.2.4.13.2. If the appointing authority finds the member's illness, injury, disease, or death to be NILOD (only if EPTS-NSA with no indication of misconduct), he or she indicates such on AF Form 348.

3.2.4.13.3. If the appointing authority believes the determination should be NILOD (other than EPTS-NSA with no indication of misconduct), he or she indicates such on AF Form 348 and appoints an Investigating Officer (IO) to conduct a formal investigation of the circumstances surrounding the member's illness, injury, disease or death. This case will be processed as a Formal LOD determination (see **Chapter 5**).

3.2.4.13.4. Cases are then finalized and forwarded to the LOD PM for disposition.

3.2.4.14. ARC LOD Determination Board. The ARC Board is a "reviewing authority" for both Informal LOD "questionable circumstance" cases and Formal LODs. The Board consists of AFRC or NGB SG, JA and A1. In cases involving death or questionable circumstances, LOD determinations are not considered finalized until the approving authority makes a determination.

3.2.4.15. **(RegAF only)** . Informal LOD Determination. LOD PM forwards the original AF Form 348 and supporting documents to AFPC, Airman Support Branch), 550 C Street West Suite 21, Joint Base San Antonio-Randolph, TX 78150-4723 or electronically for inclusion in the member's personnel record.

3.2.4.16. **(RegAF only)** . Formal LOD Determinations. The LOD PM will route the original report to the FSS for distribution as follows for formal LODs. Forward the original AF Form 348, original DD Form 261, original investigating officer report with supporting attachments and original legal review(s) to HQ AFPC/JA, 550 C Street West, Joint Base San Antonio-Randolph, TX 78150-4723.

3.2.5. **Appeal of the Final LOD Determination .**

3.2.5.1. Overview. A final LOD determination may be appealed once by the member or next of kin (if the member is deceased or incapacitated) if the following requirements are met:

3.2.5.2. The appellant must:

3.2.5.2.1. Provide the appeal in writing for any reason to the LOD PM. **(T-1)**.

3.2.5.2.2. Submit the written appeal within 30 days of receipt of the LOD determination (exception for death and next of kin can be made to the timeline); and **(T-1)**.

3.2.5.2.3. If there is new and compelling evidence (see glossary for definition) that was not previously considered, but is now present and indicates new information relevant to the appeal, attach the LOD report that is being appealed. **(T-1)**. The member's statement alone or disagreement with the determination does not constitute new evidence. New information relevant to the appeal may include, but is not limited to:

3.2.5.2.3.1. The member alleges a mistake of law or policy.

3.2.5.2.3.2. The member includes evidence to substantiate allegations of fraud, misrepresentation or abuse of discretion during the LOD process.

3.2.5.3. Processing of Final LOD Appeal.

3.2.5.3.1. For RegAF, the LOD PM forwards the appeal to the officer who exercises general court-martial jurisdiction over the member, who acts as the appellate authority.

3.2.5.3.2. For ARC, the LOD PM forwards the appeal to HQ AFRC/CD or ANGRC/CC who acts as the appellate authority.

3.2.5.4. Appellate Authority Actions.

3.2.5.4.1. The individual responsible for ruling on the appeal may (via memorandum):

3.2.5.4.1.1. Approve the appeal and grant a determination of ILOD; or

3.2.5.4.1.2. Disapprove the appeal.

3.2.5.4.1.3. Return the appeal if it is determined that no new and relevant evidence has been submitted.

3.2.5.5. The appeal is routed in accordance with **paragraph 3.3** and **Table 3.1**.

3.2.5.6. The LOD PM notifies the appellant in writing of the result.

3.2.5.7. Air Force Board for Correction of Military Records (AFBCMR). The AFBCMR acts on behalf of the Secretary of the Air Force to correct military records when it determines a member is the victim of an error or injustice. A member who disagrees with a final LOD determination (after appeal)), or a determination by AFRC or NGB that their non-duty related disqualifying medical condition is not in the line of duty, may seek relief through an application to the AFBCMR. The burden of proof of an error or injustice rests with the applicant, who should provide copies of pertinent documentation related to the contested decision, as well as evidence in support of their assertion that the decision is erroneous or constitutes an injustice. See AFI 36-2603, *Air Force Board for Correction of Military Records (AFBCMR).*

3.2.5.8. Physical Evaluation Board. When the Physical Evaluation Board **(**PEB) has evidence to believe a LOD determination appears to be contrary to the evidence, the PEB shall be suspended and return the case for review from approving authority to render a recommendation for final determination. **(T-0).** If the determination of the LOD is not changed, the case will continue for DES processing. **(T-1)**.

**Table 3.1. Processing Timelines for LOD Determinations.**

| **Member is:** | **Agency** | **Action Completed Within** |
|---|---|---|
| RegAF/USSF (see **Note 1**) | **LOD Determination (Informal and Formal)** | |
| | Military Medical Provider | 4 Workdays |
| | LOD-Medical Focal Point (LOD-MFP) | 1 Workday |
| | LOD PM | 1 Workday |
| | Immediate Commander | 4 Workdays |
| | Legal Advisor | 4 Workdays |
| | Appointing Authority | 4 Workdays |
| | Investigating Officer | 15 Workdays |
| | Legal Advisor | 4 Workdays |
| | Appointing Authority | 4 Workdays |
| | Reviewing Authority | 4 Workdays |
| | Approving Authority | 4 Workdays |
| | Immediate Commander | 4 Workdays |
| | LOD PM | 1 Workday |
| | Member’s written appeal of final determination | 30 Workdays |
| ARC | **Informal LOD Determination** | |

| | | |
|---|---|---|
| (see **Notes 2 and 6**) | ARC Member | Report injury, illness or disease within 72 hours and provide supporting medical documentation or sign for release of information within 5 Workdays of reporting (see **Note 3**) |
| | LOD-MFP | 5 workdays and supporting documents submitted to RMU or GMU. (see **Note 3**) |
| | Military Medical Provider | Initiate LOD determination within 30 workdays or by Next IDT |
| | Immediate CC - if not full time the First Full-Time Commander in Chain of Command | 10 Workdays |
| | (Recommended, but optional) Legal Advisor | 5 Workdays (see **Notes 6** and **7**) |
| | Review and Approving Authority (Wing CC) | 10 Workdays (see **Note 7**) |

| | | |
|---|---|---|
| | LOD PM | 1 Workday (see **Note 3**) |
| | Member's written appeal of final determination by | 30 Workdays |
| **Member is:** | **Agency** | **Action Completed Within** |
| ARC (see **Note 2**) | **Formal LOD Process (see Note 4)** | |
| | Unit commander | 4 Workdays (See **Note 3** and **Note 4**) |
| | ANG: State Air Surgeon | 7 Workdays |
| | Investigating Officer | 30 Workdays |
| | Wing Legal Advisor | 30 Workdays |
| | Appointing Authority | 10 Workdays |
| | ARC LOD Determination Board and Approving Authority | 20 Workdays (see **Note 2**) |
| | LOD PM | 1 Workday (see **Note 3**) |
| | Immediate Commander | 4 Workdays |
| | LOD PM | 1 Workday |
| | If member appeals- a written appeal request | 30 Workdays |
| **RegAF/USSF/ARC** | **Informal Death LOD** | **Action Completed Within** |
| | Military Medical Provider | 2 Workdays |
| | Immediate Commander | 5 Workdays |
| | Legal Advisor | 7 Workdays |
| | Appointing Authority | 3 Workdays |

| | | |
|---|---|---|
| | LOD PM | 1 Workday |
| | Next of Kin: If next of kin appeals, a written appeal request | 30 Workdays |
| **RegAF/USSF/ARC** | **Formal Death LOD** | **Action Completed Within** |
| | Military Medical Provider | 2 Workdays (See **Note 5**) |
| | Investigating Officer | 30 Workdays |
| | Immediate Commander | 5 Workdays |
| | Legal Advisor | 7 Workdays |
| | Appointing Authority | 3 Workdays |
| | ARC LOD Determination Board and Approving Authority | 20 Workdays |
| | LOD PM | 1 Workday |
| | Next of Kin: If next of kin appeals, a written appeal required requestion is requires | 30 days |
| | Written appeal by next of kin | 45 Workdays |

**Note**:
1. Total LOD processing time for RegAF is 54 workdays.
2. Once an informal LOD determination is initiated following a request by the member, wings have 60 workdays to finalize the LOD determination. Wings have 140 workdays to process formal LOD with an additional 20 workdays for the ARC LOD Determination Board; total processing time is 160 workdays.
3. For LOD determination notification only; not included in processing timeline.
4. If a LOD determination results in initiation of a formal investigation, the formal investigation processing timeline will have another 90 days (starting with the investigating officer through the ARC LOD Determination Board) to complete the formal investigation.
5. If toxicology reports are required and relevant to the LOD (e.g., the conveying medico-legal death investigation authority), the LOD timeline begins when the Military Medical Provider is in receipt of any toxicology reports that are relevant to the LOD.
6. Once the military medical provider provides the medical input and the immediate commander provides the LOD recommendation, the Review and Approval Authority (wing commander) finalizes the informal LOD determination who uses their discretion to include Legal Advisor in their review if they desire
7. Workdays are considered Monday – Friday (to include holidays)

**Table 3.2. Authorities for LOD Processing.**

| Member is: | Immediate Commander | Appointing/ Reviewing Approving Authority | Formal LODs Reviewing Authority | Formal LOD Approving Authority | Appellate Authority |
|---|---|---|---|---|---|
| RegAF/USSF<br><br>United States Air Force Academy cadets | Commander at lowest level unit in which member is assigned | Wing CC or equivalent | Next immediate commander in the chain of command over the appointing authority (see **Note 1**) | Officer who exercises general court-martial jurisdiction over the member (see **Note 1**) | GCMCA |
| ANG Title 10/32 AD and IDT | Commander at lowest level ANG unit in which member is assigned | Wing CC or equivalent | NGB LOD Determination Board (see **Note 3**) | NGB/A1 | ANGRC/CC |
| AFRC assigned to or training with AFRC units (CAT A) | AFRC unit commander or senior AFRC commander present (see **Note 2**) | Wing CC or equivalent | AFRC LOD Determinatio n Board (see **Note 3**) | HQ AFRC/A1 | HQ AFRC/CD |
| Individual Mobilization Augmentee and Participating Individual Ready Reservist (CAT B and CAT E) | Detachment LOD PM in coordination with AD supervisor or CC (see **Note 2**) | HQ Individual Reservist Readiness Integration Organization Commander (RIO/CC) | AFRC LOD Determination Board (see **Note 3**) | HQ AFRC/A1 | HQ AFRC/CD |
| AFROTC Cadets | AFROTC Detachment Commander | AFROTC Regional Commander | AFROTC Commander | AFROTC Commander | AFROTC Commander |

**Note**:
1. In certain situations, the appointing authority, reviewing authority and approving authority may be one person (e.g., immediate commander reports directly to the officer exercising general court-martial jurisdiction over the member).
2. The appointing authority may act as the immediate commander for ARC members.
The LOD Determination Board consists of AFRC/SG or NGB/SG, JA and A1.

## Chapter 4

## LOD DETERMINATION PROCESSING, MEDCON AND INCAP PAY FOR SEXUAL ASSAULT CASES

**4.1. Purpose.** This chapter outlines program elements and procedures for processing LOD determinations, MEDCON and INCAP Pay cases involving sexual assault. See AFI 90-6001, *Sexual Assault Prevention and Response (SAPR) Program*, for program management and alignment with the processes outlined in this chapter.

4.1.1. Whether the member files an unrestricted report (see **paragraph 4.2.1.1**) or restricted report (see **paragraph 4.2.1.2**), members shall have access to medical treatment and counseling for injuries and illness incurred as a result of a sexual assault when performing active service or IDT. **(T-0)**.

4.1.2. Regardless of the member's duty status at the time the sexual assault incident occurred, or at the time the member is seeking Sexual Assault Prevention and Response (SAPR) services, members can elect either the restricted or unrestricted reporting option and have access to the services of a Sexual Assault Response Coordinator (SARC) and a SAPR victim advocate.

4.1.3. If a member elects to transition from restricted to unrestricted reporting, a new DD Form 2910, *Victim Reporting Preference Statement,* and an AF Form 348 are needed to initiate an unrestricted LOD determination.

4.1.4. In addition to the above, the following applies for ARC:

4.1.4.1. Continued medical entitlements beyond initial treatment remain dependent on a LOD determination as to whether or not the sexual assault incident occurred in an active service or IDT status.

4.1.4.2. If medical or mental healthcare is required beyond initial treatment and follow-up, a licensed medical or mental health provider must recommend a continued treatment plan. **(T-0)**.

4.1.4.3. In accordance with DoDI 6495.02, *Sexual Assault Prevention and Response (SAPR) Program Procedures, Vol 1,* the modification of the LOD process for restricted reporting does not extend to pay and allowances or travel and transportation incident to the healthcare entitlement (i.e., MEDCON or INCAP Pay). However, at any time, the member may request unrestricted reporting and a subsequent unrestricted LOD determination to be completed in order to determine eligibly of entitlements authorized in accordance with DoDI 1241.01, to include MEDCON and INCAP Pay as outlined in this AFI.

**4.2. LOD Determination Processing for Sexual Assault Cases.** A member who has incurred an injury, illness or disease as a result of sexual assault while performing AD, service or IDT must have the member's LOD processed in accordance with DoDI 6495.02. The LOD determination process will vary depending on what type of reporting the member elects.

4.2.1. LOD Determination Processing for Unrestricted and Restricted Reporting.

4.2.1.1. LOD Determination for Unrestricted Reporting. The wing SARC (for NGB- the GMU medical technician) will collaborate and ensure the LOD determination is initiated and processed. **(T-1)**. The wing SARC initiates the LOD determination by completing the Member Information portion of AF Form 348. **(T-2)**.

4.2.1.2. LOD Determination for Restricted Reporting. The primary purpose of the restricted LOD determination is to allow the member to confidentially disclose the assault to specified individuals (i.e., SARC, SAPR Victims Advocate or healthcare personnel) and receive medical treatment, including emergency care, counseling and assignment of a SARC and SAPR Victims Advocate, without triggering an official investigation. **Note**: For RegAF, the AF Form 348-R, *Line of Duty Determination for Restricted Report of Sexual Assault* is NOT required. **Note**: LOD determinations under restricted reporting may be made without releasing to law enforcement or command the identity of the member or details of the assault and without identifying injuries from the sexual assault as the cause. See DoDI 6495.02, Enclosure 5, paragraph 5 for additional information on disclosure rules.

4.2.2. The wing SARC has the primary responsibility for ensuring the LOD determination is initiated and processed in accordance with **Table 4.1**. **(T-1)**. The wing SARC initiates the AF Form 348-R by completing blocks 1-7. **(T-1)**.

**Table 4.1. LOD Determination Processing Responsibilities for Restricted Reporting (ARC).**

| **Process** | **AFRC** | **ANG** | **Timeline** |
|---|---|---|---|
| Initiate LOD Determination (AF Form 348-R) | Wing SARC (See **Note 1**) | Wing SARC | Within 24 hours of member signing DD Form 2910 |
| Complete SARC block | Wing SARC (See **Note 1**) | Wing SARC (See **Note 2**) | |
| SAPR Regional Program Manager | | SAPR Regional Program Manager | 1 Workday |
| Sign Restricted Reporting Review Authority block | AFRC/A1 Restricted Reporting Review Authority | NGB/A1 Restricted Reporting Review Authority | 1 Workday |
| Provide a copy of the finalized AF Form 348-R to the Defense Health Agency - Great Lakes with a request for healthcare preauthorization | Wing SARC | Wing SARC | 1 Workday |
| **Notes**:<br>1. The wing SARC may request assistance with completing the AF Form 348-R through the Reserve SARC Liaison (typically assigned to the RMU).<br>2. For ANG: The wing SARC may request assistance with completing the AF Form 348-R in ECT through the SARC Regional Program Manager. | | | |

4.2.3. Responsibilities for LOD Determination Processing under Restricted Reporting.

4.2.3.1. Wing SARC.

4.2.3.1.1. Determines if the member has elected restricted or unrestricted reporting (DD Form 2910). **(T-1)**. Completing a DD Form 2910 does not validate the member's LOD determination or establish eligibility for an ILOD determination.

4.2.3.1.2. Briefs designated individuals (SAPR Victims Advocate or healthcare personnel) on restricted reporting policies, exceptions to restricted reporting and the limitations of disclosure of confidential communications. **(T-1)**. **Note**: The SARC and the designated individuals may consult with their servicing legal office or Legal Advisor for assistance, in the same manner as other recipients of privileged information, exercising due care to protect confidential communications by disclosing only non-identifying information. Unauthorized or improper disclosure of restricted reporting information may result in disciplinary action pursuant to the UCMJ or other adverse personnel or administrative actions.

4.2.3.1.3. May provide documentation to the designated official to substantiate the victim's duty status as well as the filing of the restricted report (see **Table 4.1**).

4.2.3.1.4. Serves as a liaison between the member and Headquarters Air Force SARC(s). **(T-1)**.

4.2.3.1.5. Ensures a LOD determination is initiated and processed in accordance with **paragraph 4.2**. **(T-1)**.

4.2.3.1.5.1. **(AFRC)** . The Wing SARC will complete AF Form 348-R and the Reserve SAPRO Liaison will input it into the Electronic Case Tracking (ECT) along with any other relevant diagnostic and medical notes as a restricted report in ECT to the AFRC/A1. **(T-1)**. After the finalized LOD is returned, the Reserve SAPRO Liaison will submit it to the Defense Health Agency, Great Lakes, formerly the Reserve and Service Member Support Office along with a request for healthcare preauthorization. **(T-1)**. If the SARC is an AD SARC, they will contact the RMU or GMU medical POC for uploading into ECT. **(T-1)**.

4.2.3.1.5.2. HQ AFRC/A1 provides the finalized LOD back to the Reserve SAPRO Liaison.

4.2.3.1.5.3. **(ANG)** . The Wing SARC will verify member's duty status and initiate AF Form 348-R into an electronic LOD system. The GMU medical technicians and providers will upload any relevant diagnostic and medical notes. **(T-0)**. The Wing SARC or GMU POC forwards the case as a restricted report in the electronic LOD system to NGB SAPR Regional Program Manager who verifies the information and forwards it to NGB/A1 Restricted LOD Determination Review Authority in the electronic LOD system. **(T-1)**. After the finalized LOD is returned, Wing SARC will forward it to the GMU Medical Technician. The GMU Medical Technician will submit it to the Defense Health Agency, Great Lakes, along with a request for healthcare preauthorization. **(T-1)**. If the SARC is an AD SARC, they will contact the GMU medical POC for uploading into an electronic LOD system.

4.2.3.2. **(ANG Only)** .

4.2.3.2.1. Wing SARC verifies member's duty status.

4.2.3.2.2. Wing SARC signs AF Form 348-R, and then forwards it to SARC administrator (contact ANG SAPR PM for point of contact) for finalization.

4.2.3.2.3. NGB/A1 forwards the finalized AF Form 348-R to the wing SARC once received from NGB/A1 point of contact.

4.2.3.3. NGB/A1 Restricted LOD Determination Review Authority (SAPR Regional Lead).

4.2.3.3.1. NGB/A1PS reviews and signs AF Form 348-R.

4.2.3.3.2. NGB/A1PS provides a finalized copy of the AF Form 348-R to the Wing SARC to initiate the process for a request for healthcare preauthorization

**Table 4.2. Restricted Reporting LOD Review Authority (ARC).**

| Component | Restricted LOD Determination Review Authority |
|---|---|
| AFRC | AFRC/A1 |
| ANG | NGB/A1 |

4.2.4. Defense Health Agency, Great Lakes is responsible for the authorization of civilian medical care for AFRC and ANG members who are NOT in the catchment area of an MTF. The website for the Defense Heal6th Agency, Great Lakes is **https://health.mil/About-MHS/OASDHA/Defense-Health-Agency/TRICARE-Health-Plan/Defense-Health-Agency-Great-Lakes**. The required forms are available on the website.

## 4.3. MEDCON and INCAP Pay Processing for Sexual Assault Cases.

4.3.1. For sexual assault cases, as soon as practicable after the sexual assault report has been filed, the SARC and/or SAPR Victims Advocate will advise the member who is an alleged victim of sexual assault that they may request continuation on AD or request to be recalled to AD. **(T-1)**. The request submitted by a member must be decided within 30 days from the date of the request. **(T-0).**

4.3.2. MEDCON and INCAP Pay eligibility criteria and processing will be in accordance with **Chapter 6** (MEDCON) and **Chapter 7** (INCAP Pay) **(T-0).**

4.3.3. If a member elects to go from a restricted report to an unrestricted report and requests a LOD determination, the effective date of the LOD will be the same as the restricted report. **(T-0).** Exceptions may be made for latent onset conditions. The unrestricted LOD package will include the Restricted AF Form 348-R for reference. **(T-0).**

4.3.4. MEDCON and INCAP Pay eligibility criteria and processing will be in accordance with paragraphs **6.7** and **7.2**. **(T-0).** If the member's request for continuation on AD orders or recall to AD is denied, the member may appeal the denied request to the first General Officer (O-7 and above) in the member's chain of command. The decision on the appeal must be made within 15 days from the date that the member submitted the appeal. **(T-0).** MEDCON Appeal Exception (10 USC § 12323, *Active Duty Pending Line of Duty Determination Required for Response to Sexual Assault*).

## Chapter 5

## FORMAL LODS AND RE-INVESTIGATION OF THE FORMAL LOD

**5.1. Formal LOD.** A formal LOD determination is required to support a determination of NILOD due to member's misconduct or NILOD-not due to own misconduct by reason of unauthorized absence. A DD Form 261 is used to supplement AF Form 348. For ARC, see **paragraph 3.2.2** for Informal LOD process which leads into formal LOD Processing from the approval/appointing authority. For ARC, all formal LOD determinations require review by the ARC LOD Determination Board. The immediate commander may also recommend a formal LOD determination when the member's illness, injury, disease or death occurred:

5.1.1. Under strange or doubtful circumstances; or

5.1.2. Under circumstances the commander believes should be fully investigated.

**5.2. Appointing authority actions.**

5.2.1. The appointing authority appoints an investigating officer that is a disinterested officer in the grade of O3 or above and senior to the member being investigated. **(T-1)**. **Note:** To determine the appointing authority, see **Table 3.2**.

5.2.2. The investigating officer must be appointed in writing. **(T-1).** The appointment letter shall:

5.2.2.1. Cite this instruction as authority; **(T-1)**

5.2.2.2. State the reason for the appointment; **(T-1)**

5.2.2.3. Designate a suspense date for submission of the report; **(T-1)** and

5.2.2.4. Justify any deviations from the investigating officer criteria outlined in **paragraph 5.3.1**. **(T-1).**

5.2.3. When an incident occurs at a location remote from the appointing authority, coordinate with the commander of the installation nearest to where the incident occurred to appoint an investigating officer.

5.2.4. The appointing authority reviews the complete investigation file. **(T-1)**. The appointing authority may:

5.2.4.1. Return the file to the investigating officer for further investigation; or

5.2.4.2. Complete DD Form 261, block 13, and if applicable, block 19.

5.2.5. The appointing authority forwards the file to the reviewing authority. **Note:** To determine the reviewing authority, see **Table 3.2**.

**5.3. Investigating Officer Actions.** The investigating officer is responsible for examining the circumstances surrounding the member's illness, injury, disease or death. The investigating officer must:

5.3.1. Conduct the investigation in accordance with the guidance provided in **Attachment 3,** Guide for Investigating Officers; **(T-1)**.

5.3.2. Complete DD Form 261 (blocks 1-12); **(T-1);** and

5.3.3. Obtain a written legal review from the Legal Advisor and then forward the investigation report and all supporting attachments to the appointing authority. **(T-1)**.

**5.4. Staff Judge Advocate (SJA) or Unit Legal Advisor.** The SJA or unit Legal Advisor serves as a legal advisor to the investigating officer. The SJA or Legal Advisor will review the investigating officer's findings and recommendations for legal sufficiency and provide a written legal review. **(T-1)**

**5.5. (ANG only) State Air Surgeon.** The State Air Surgeon will review the formal LOD package for medical sufficiency and provide feedback to include any recommended changes to the appointing authority.

**5.6. Formal reviewing Authority or ARC LOD Board.** The reviewing authority reviews the complete investigation file. **(T-1)**. The reviewing authority may:

5.6.1. Return the file to the investigating officer for further investigation; or

5.6.2. Complete DD Form 261, block 14, and if applicable, block 20.

5.6.3. The reviewing authority forwards the file to the approving authority.

5.6.4. If the reviewing authority is also the approving authority, note this in DD Form 261, block 15. **Note**: To determine the reviewing authority, see **Table 3.2**.

**5.7. Approving Authority actions.** The approving authority reviews the complete investigation file. **(T-1).** The approving authority may:

5.7.1. Return the file to the investigating officer for further investigation; or

5.7.2. Approve a final determination on the AF Form 348 or DD Form 261, block 15, and if applicable, block 21.

5.7.3. **(ARC only)** . Route the original report to the immediate commander and LOD PM for distribution. At this point, the entire LOD package (excluding the legal review, if applicable) should be sent to the member or the member's next of kin. The LOD PM must send this package on behalf of the immediate commander and alert the member to their ability to appeal the determination within 30 days, or request reinvestigation within 30 days, also informing the member that the timelines for these two options run concurrently. **(T-1). Note**: To determine the approving authority, see **Table 3.2**.

5.7.4. **(RegAF only)** . The LOD PM will route the original report to the FSS for distribution as follows for formal LODs. Forward the original AF Form 348, original DD Form 261, original investigating officer report with supporting attachments and original legal review(s) to HQ AFPC/JA, 550 C Street West, Joint Base San Antonio-Randolph, TX 78150-4723.

5.7.5. HQ AFPC/JA reviews formal LOD reports on RegAF members for completeness and accuracy and may:

5.7.5.1. Return the package for further investigation;

5.7.5.2. Request a re-investigation; or

5.7.5.3. Initial and date the original DD Form 261 and forward to AFPC, Records Management Branch for placement in the member's personnel record.

5.7.5.4. Forward a copy of the DD Form 261 and AF Form 348 to the LOD-MFP for inclusion in the member's medical record.

**5.8. (ARC only) LOD PM:**

5.8.1. Forwards the original AF Form 348, original DD Form 261 and supporting documents to Air Reserve Personnel Center (ARPC) to be filed in the member's Master Personnel Record Group. **(T-2)**.

5.8.2. Forwards a copy of the AF Form 348 and DD Form 261 to the LOD-MFP for inclusion in the member's medical record. **(T-2)**.

**5.9. Basis for re-investigation of the formal LOD determination.** A formal LOD determination may be opened for re-investigation only if new and significant evidence (see glossary for definition) indicates likelihood of error. The member's statement alone or disagreement with the determination does not constitute new evidence. The re-investigation is limited to addressing only those issues raised by new evidence.

**5.10. Initiating Re-investigation.**

5.10.1. The appointing authority, or AFPC/JA, may direct a re-investigation of a formal LOD determination.

5.10.2. The member or the member's next of kin may request re-investigation of a formal LOD determination. To do so, the member or the member's next of kin must:

5.10.2.1. Within 45 days of receipt of a copy of the final formal LOD determination, make a written request to the appointing authority that directed the original investigation. **(T-2**).

5.10.2.2. Attach new and significant evidence to the member's copy of the final formal LOD determination; **(T-2);** and

5.10.2.3. Send the package to the LOD PM that processed the original LOD determination.

**5.11. Processing a Request for Re-investigation.**

5.11.1. Only the approving authority may deny a request for re-investigation.

5.11.2. The Wing Legal Advisor will review the package to determine if new and significant evidence was submitted. **(T-2)**. If new and significant evidence was not submitted, the wing Legal Advisor will advise the LOD PM, who will return the package to the requestor without action and with a specific explanation why it was returned. **(T-2)**. If new and significant evidence was submitted, the LOD PM will forward the package to the appointing authority. **(T-2)**.

5.11.3. The appointing authority may either:

5.11.3.1. Grant the request and direct re-investigation; or

5.11.3.2. Forward the case to the reviewing authority recommending the request be denied.

5.11.4. The reviewing authority may either:

5.11.4.1. Grant the request and direct the appointing authority to reinvestigate the case; or

5.11.4.2. Forward the case to the approving authority recommending the request be denied.

5.11.5. The approving authority may either:

5.11.5.1. Grant the request and direct the appointing authority to reinvestigate the case; or

5.11.5.2. Deny the request and forward the package back to the LOD PM.

**5.12. Conducting the Re-investigation.**

5.12.1. If re-investigation has been directed, the appointing authority will direct the investigating officer to reinvestigate the case and complete the re-investigation in accordance with the timeline specified in **Table 3.1**. **(T-1)**. The appointing authority may appoint a new investigating officer if necessary or desired.

5.12.2. The investigating officer ensures the investigating officer has the complete file of the original investigation and the request package with new evidence.

5.12.3. The re-investigation is conducted under the same procedures used for the original formal LOD investigation. It is documented on a second DD Form 261. The investigating officer will prepare an addendum to the original investigating officer summary. **(T-2)**. The addendum shall address the new evidence and its impact on the case. **(T-2)**. The investigating officer may recommend a new LOD determination if necessary. A legal review is required if a new LOD determination is recommended. **(T-2)**.

5.12.4. The approving authority takes final action on the re-investigation on the second DD Form 261.

**5.13. Distribution of Re-investigation.**

5.13.1. The re-investigation is routed in accordance with **paragraph 5.10** and **Table 3.1**.

5.13.2. The LOD PM must notify the member or the member's next of kin in writing of the result. **(T-2)**.

## Chapter 6

## MEDCON FOR ARC MEMBERS

**6.1. Purpose.** The primary purpose of MEDCON is to facilitate the authorization for access to medical and dental care for members who incur or aggravate an injury, illness or disease while in a qualified duty status and to return members to duty as expeditiously as possible Members who are referred into DES while on AD may be retained on AD while processing through the DES IAW DoDI 1332.18. However, members without an active treatment plan will not be maintained on MEDCON solely for the purpose of entry in DES. If the member requires further treatment and has a restorative care plan, they may reapply for MEDCON while processing through the DES.

**6.2. Eligibility.** MEDCON eligibility requires an LOD determination and a finding by a credentialed military medical provider that the member has an unresolved health condition requiring treatment that renders the member unable to meet retention or mobility standards in accordance with DAFMAN 48-123. Members who meet eligibility criteria for MEDCON may with their consent be retained or recalled to duty under 10 USC § 12301, *Reserve Components Generally*, 10 USC § 12322, *Active Duty for Health Care*. **(T-0).**

6.2.1. Members will be maintained on MEDCON with their consent until:

6.2.1.1. The ILOD injury, illness or disease is satisfactorily resolved or the resulting disability cannot be improved by further treatment or hospitalization; **(T-0)**

6.2.1.2. The Reserve Component service member is identified for referral to the DES (using the Initial Review in lieu of (IRILO) as the referral into DES), within one year of the initial diagnosis of the condition for which the member received an ILOD finding and the member receives a final determination of fit for duty, separated, or retired; **(T-0)**

6.2.1.3. One year has transpired since the date of the initial diagnosis and neither actions in paragraph **6.2.1.1** or **6.2.1.2** have occurred; **(T-0)** or

6.2.1.4. The interim ILOD determination results in a final determination of NILOD Due to Member's Misconduct or NILOD-EPTS-NSA. **(T-0).**

6.2.1.4.1. Should the LOD Approving or Appointing Authority find the injury, illness or disease was not incurred or aggravated in an authorized qualified duty status or was the result of the member's misconduct, action will be taken immediately to terminate healthcare and pay and allowances. **(T-0)**.

6.2.1.4.2. Members shall be notified through the *Medical Continuation Airman Responsibilities and Consent Form* (see myPers MEDCON website) that pay and allowances paid to which the member was not entitled are subject to recoupment by the base comptroller through established debt collection procedures. If the member is on MEDCON orders, those orders will be terminated. **(T-1)**.

6.2.2. Members who decline or are found ineligible for MEDCON orders may be eligible for and elect INCAP Pay in accordance with **paragraph 6.12**..

6.2.3. Members with a ILOD have the choice to apply for MEDCON or INCAP Pay. Commanders shall not direct either avenue. **(T-1)**.

6.2.4. Members with an interim LOD and a finding by a credentialed military medical provider that the member has a health condition requiring medical evaluation and treatment that renders the member unable to meet retention or mobility standards in accordance with DAFMAN 48-123, DoDI 6490.07, *Deployment-Limiting Medical Conditions for Service Members and DoD Civilian Employees*, and DoDI 1332.45, may apply for MEDCON.

6.2.5. Interim LOD may be used for initial MEDCON requests only. If a MEDCON extension is required, a final LOD will be needed.

6.2.6. Members on orders greater than 30 days who have an unresolved injury, illness, disease that may render them unfit for duty or unable to meet retention and mobility standards in accordance with DAFMAN 48-123; the member; with their consent, will be retained on AD /Full Time National Guard Duty and upon approval for Pre-MEDCON/MEDCON converted to status under 10 USC §12301(h) or Title 32, respectively.

6.2.7. If a member has an injury, illness and/or a disease; received care for 365 days and is not in the DES, a new LOD will not be initiated. If the member requires care after a year, the member may receive their care through the DVA.

6.2.8. A member who can perform military duties but requires medical care for a minor or chronic medical condition may be provided medical treatment for such condition through the DVA or TRICARE (Health Care Program) benefits. A member does not have to be on MEDCON orders to receive medical care for an ILOD condition.

6.2.9. For members requiring continued care greater than a year, but do not require DES processing, the avenue for continued care is through the DVA. The member will need to initiate and file a claim for benefits and care with the DVA.

6.2.10. A member with multiple LOD conditions, delayed onset conditions or sequential MEDCON orders may be referred by the ARC CMD for a comprehensive health evaluation at a MTF specialty platform (e.g., Wilford Hall), or other capable government medical facility. The results from this health evaluation will form the basis for determining initial or continuing MEDCON eligibility by ARC CMD and potential referral to the DES. **(T-1)**.

6.2.11. Unless the member is entered into the DES, in accordance with AFMAN 41-210, the cumulative total number of MEDCON days to include Pre-MEDCON (for both military personnel appropriation (MPA), Title 32 and RPA orders) may not exceed 270 days without review by the SAF/MR for potential termination pursuant to **paragraph 6.10**. **(T-1)**.

6.2.12. The application for extension beyond a 270-day period should be made 30 days before its expiration date to avoid a break in orders or loss of entitlements. **(T-2)**. Applications to extend shall be facilitated by the ARC CMD and coordinated with the member's RMU and GMU.

6.2.13. SAF/MR will review MEDCON extensions that will exceed 270 days for continued approval/disapproval. Continued MEDCON extensions will require a plan of care for the member, an IRILO initiated and determination/prognosis of the member's likelihood of returning to duty or if the member needs referral into DES. If these items are not included in the MEDCON extension package, the extension may not be approved.

6.2.14. MEDCON authorization for non-emergent surgery may be considered in accordance with AFMAN 41-210 and AFI 44-102, *Medical Care Management*, if the member is unable to

perform duties and the surgery is necessary to resolve the ILOD condition or if complications from the non-emergent surgery render the member unable to perform military duties. The LOD must be a final LOD determination for elective or non-emergent surgery to be performed**. (T-2).** If the member is within 30 days from the end of their MEDCON orders, approval for non-emergent/elective surgery is in conjunction with AFMAN 41-210. Non-emergent surgery should not be accomplished during the DES process nor should it be accomplished if it causes a delay in being referred into the DES. If the question of non-emergent surgery arises during the DES process, it should be coordinated with the PEB and ARC SGs. Members may be released from MEDCON in order to receive non-emergent surgery or treatment for a non-LOD condition.

**6.3. Extension of Active Duty Military Personnel Appropriation (MPA) Order.**

6.3.1. If the member's medical condition cannot be diagnosed or resolved prior to completion of an AD order, the member's RegAF commander or home unit ARC commander may request an extension of the active duty order for up to 45 additional days through the FSS or, if deployed, through the Personnel Support for Contingency Operations function and operational chain of command.

6.3.2. All active duty MPAs order extension requests must be entered into the Man-Day Management System, and routed through the appropriate MAJCOM functional area manager, MAJCOM MPAs management office. (T-1). The ARC unit will accomplish a new MPAs tour request in Man-Day Management System, without a break in order. (T-1). This is accomplished by referencing the original Man-Day Management System number in the new Man-Day Management System request. The tour type for mobilizations will change to unit Air and Space Expeditionary Force Tasking, while all others tour types, along with the Man-day Expenditure Allocation Number code, will remain the same as the original. MPAs man-day allocation authority for orders extension remains with the MAJCOM Management Office. If approved with no break in order, the orders clerk shall extend the current order by submitting a modification to orders. (T-1).

6.3.3. **(AFRC only)** . Extension of Reserve Personnel Appropriation (RPA) Funded Title 10. The member's unit may initiate RPA (AFRC) orders for up to 15 additional days for the purposes outlined in **paragraph 6.5.1.2**. **(T-1)**.

6.3.4. Members on IDT or Annual Training Status. The member's unit may initiate RPA orders for up to 15 additional days for the purposes outlined in **paragraph 6.5.1.2** **(T-1)**.

**6.4. Program Responsibilities.**

6.4.1. Member.

6.4.1.1. Will provide current and sufficient medical documentation, at minimum every 30 days, while on MEDCON and respond to official correspondence from the servicing medical unit and/or ARC Case Management Division regarding the member's medical status within two duty days of the request. **(T-2)**. If the member is not responding to correspondence or supporting documentation is not provided, the service member may be processed for discretionary termination (see **paragraph 6.6.2**). Requested medical documentation should be limited to relevant information to reasonably identify the initial condition for which the LOD determination is being requested; this can include an initial

diagnosis, treatment plan, or note from provider describing the condition. Note: if the diagnosis evolves, another LOD may be warranted for subsequent care.

6.4.1.2. Members on MEDCON orders will report to their unit of assignment or alternate duty location to perform assigned duties consistent with their diagnosis or physical limitations unless approved for leave in accordance with AFI 36-3003 *Military Leave Program.* **(T-2)**. Members not compliant with reporting duty at the unit or an alternate duty location may have their MEDCON terminated and may apply for INCAP Pay.

6.4.1.3. Fully participate with medical provider prescribed treatment plans. **(T-2)**.

6.4.1.4. Members who require convalescent leave must have an AF Form 988, *Leave Request/Authorization* completed for duration of convalescent leave and copy submitted to Air Reserve Component Case Management Division (ARC CMD). **(T-1).**

6.4.1.4.1. **(NGB only)** . Members who require greater than 90 days of convalescent leave must have their convalescent leave approved by NGB/SG. **(T-2)**.

6.4.1.4.2. **(AFRC only)** . Members requiring convalescent leave for greater than 90 days will need medical re-evaluation as well as approval from AFRC/SG and a copy of the completed AF Form 988 will be submitted to the ARC CMD. **(T-1).**

6.4.2. Unit Commander.

6.4.2.1. Ensure members on MEDCON orders that report for duty are appropriately utilized and available for all medical appointments. (T-2).

6.4.2.2. Member's unit commander or equivalent may designate an alternate duty location and/or telework, for members to perform duties consistent with their LOD diagnosis and/or AF Form 469, *Duty Limiting Condition Report*. Both the member's commander and alternate duty location commander must concur by written agreement. (T-2).

6.4.2.3. Ensure resolving the medical condition takes precedence over leave or reconstitution time. (T-2).

6.4.2.4. Approves all leave (regular, emergency or convalescent) in accordance with AFI 36-3003. Coordinates out of the local area leave requests with ARC CMD. Regular leave should not interfere with the members' care and treatment plan. Use the authorized automated system (once available) to request, enter and track leave while on MEDCON days. (T-2).

6.4.2.5. Publish approved MEDCON orders as soon as they are allocated. (T-2).

6.4.2.6. Review all off-base employment requests. (T-2). Note: Off-base employment is not authorized while on MEDCON orders. If a member requests off base employment, an exception to policy will be required and the approval authority is SAF/MR. (T-1).

6.4.3. Medical Unit.

6.4.3.1. The servicing GMU or RMU medical unit will initiate LOD determinations, track the related treatment, update the AF Form 469 as necessary (see AFI 48-133, *Duty Limiting Conditions*), send all current and related LOD clinical documentation along with MEDCON request to the ARC CMD (see **paragraph 6.8.1**). (T-2).

6.4.3.2. The Airman Medical Readiness Optimization (AMRO) shall review MEDCON cases on a quarterly basis (if possible on a monthly basis, in accordance with AFI 48-133, for DES consideration and collaborate with the ARC CMD on subsequent referrals to the DES. See MyPers MEDCON website for template. (T-2).

6.4.3.3. The RMU or GMU medical POC will ensure the member's commander or equivalent is informed of the member's MEDCON status. (T-2).

6.4.3.4. Provide MEDCON briefing and obtain a signed letter of acknowledgement (see myPers MEDCON website) from the member. **(T-2)**.

6.4.3.5. The ARC CMD serves as the central point of contact for all MEDCON related issues, medical and non-medical, to ensure standardization, efficiency and accountability.

6.4.3.6. Utilize the MEDCON Processing Guide (see myPers MEDCON website) to assist on all matters related to processing MEDCON requests.

6.4.4. MEDCON Case Management. Provides optimized and consistent clinical management in accordance with DoDI 6025.20, *Medical Management (MM) Programs in the Direct Care System (DCS) and Remote Areas*, AFI 44-173, *Population Health*, and appropriate follow up will facilitate the member regaining ability to perform military duties or processing through the DES. The member, the member's unit, medical unit and ARC CMD all have responsibilities in this process. Members on MEDCON orders will be assigned to a Medical Case Manager and/or Medical Care Coordinator.

6.4.4.1. Training for ARC CMD staff will include hands-on training on information technology systems used for case management, tracking and accounting for members on MEDCON orders. (T-3). This includes, but is not limited to, Manpower Military Personnel Appropriations (Man-Day Management System), Armed Forces Health Longitudinal Technology, Electronic Case Tracking, Aeromedical Services Information Management System and Joint View Legacy. Those agencies responsible for applicable information technology systems and tools will make available user access and appropriate training and guidance to ARC CMD staff. (T-2). ARC CMD Medical Case Managers will obtain and maintain certification pursuant to the Defense Health Agency standards as published in the current Medical Management Guide. (T-2). Specifically, Medical Case Managers shall have or obtain certification from certification by a nationally recognized case management organization within two years of occupying a position. (T-2). Defense Health Agency provides additional requirements in the current Medical Management Guide for Medical Case Managers to complete relevant on-line training modules. Required training modules are specified in DoDI 6025.20, the Medical Management Guide and AFI 44-173. (T-0).

6.4.4.2. The ARC CMD will be responsible for educating and informing all AFRC and ANG wing personnel associated with the MEDCON program. (T-3). At a minimum, this training is to include on-site visits, webinars and/or webcasts to explain new processes, clarify pertinent Medical Point of Contact Guide (Memorandums), Standard Operating Procedures, AFIs, policies and instructions on how to access relevant information technology systems. (T-3). ARC CMD staff may also attend functional conferences to address concerns, issues and best practices for case management and obtain required continuing education.

6.4.4.3. Performance Measures. Performance measures will be used in fact-based decision making for setting and aligning organizational directions and resource use. The ARC CMD will collect, analyze, and apply performance measures to aid with daily operations and achieve overall performance goals. (T-1). The ARC CMD will report performance measures (see **Attachment 7**, Sample ARC CMD Performance Measures Framework) quarterly to the SAF/MR. (T-1).

6.4.4.3.1. At a minimum, the following performance measures framework shall be used and reported:

6.4.4.3.1.1. Provide report level of detail in accordance with **Attachment 7** by respective component, wing and member's status of orders. (T-1).

6.4.4.3.1.2. Track MEDCON cases based on LOD quantity and type, duration of MEDCON orders, referral to the DES and processing cycle times, as well as resolution/disposition of illnesses/injuries. (T-1).

6.4.4.3.1.3. Track amount of MEDCON dollars obligated by order status. (T-1).

6.4.4.3.1.4. Track Medical Case Manager and Medical Care Coordinator workload by case acuity in accordance with DoDI 6025.20 and AFI 44-173, and number of contacts. (T-0).

6.4.4.3.2. Based on performance measures, the ARC CMD will provide a 5-year program cost estimate by February of each year to SAF/MR, AF/Directorate of Manpower, Organization and Resources, End Strength Division (AF/A1MT), Air Force Reserve Medical Directorate (AF/REM), and respective ARC SGs.

## 6.5. Pre-MEDCON.

6.5.1. Purpose: The purpose of Pre-MEDCON orders of up to 30 days is to allow additional time for ARC members on and, the MTF, RMU or GMU to: 1) ascertain whether the medical condition renders the member unable to perform military duties or unable to meet retention and mobility standards in accordance with DAFMAN 48-123; and 2) provide medical documentation to support a request for MEDCON orders with approval from the member, members' commander (either current commander or reporting commander), the using MAJCOM (who is funding the requirement) and the orders issuing authority. Pre-MEDCON orders cannot be backdated. **(T-1)**.

6.5.1.1. Pre-MEDCON will be activated upon expiration of members' existing tour. **(T-1).** AF Manpower office (A1M) will consider up to 15 days extension to the initial 30 days, with a documented timeline of events, and immediate commanders' letter that attest conscious effort was put forth to avoid issues/delays. **(T-1).**

6.5.1.2. ARC members with 31 days or greater remaining on an existing AD operational support order, who are unable to perform military duties due to an injury, illness or condition incurred or aggravated ILOD should submit documentation (LOD, diagnosis, treatment plan) to ARCCMD for immediate MEDCON and not Pre-MEDCON, activation.

6.5.2. Program Responsibilities.

6.5.2.1. Member.

6.5.2.1.1. Notifies the GMU or RMU of injury, illness or disease.

6.5.2.1.2. Submits copies of all medical treatment received, current orders, and signed DD Form 2870 to the RMU or GMU.

6.5.2.1.3. Submits Pre-MEDCON request to the GMU or RMU at least two weeks before the orders end date. (ANG only). Requests are routed through the State Managers via the org box at **ngb.a1.a1ps.org@us.af.mil**

6.5.2.1.4. Acknowledges no travel or per diem reimbursement while in Pre-MEDCON.

6.5.2.2. Immediate Commander.

6.5.2.2.1. Signs and submits approval letter to RMU or GMU.

6.5.2.2.2. Recommends approval or disapproval of Pre-MEDCON orders for all conditions that EPTS, PSC, or any clear and unmistakable evidence that the injury, illness or disease was not incurred or aggravated in a duty status, or clear and convincing evidence shows the illness, injury or disease was due to misconduct.

6.5.2.2.3. Coordinates alternate duty location with other ARC Commander(s) if medical issues prevent travel and another unit is closer to the member's residence.

6.5.2.2.4. Completes interim LOD in electronic system for initial MEDCON request.

6.5.2.3. Pre-MEDCON PM (GMU, RMU or FSS point of contact).

6.5.2.3.1. Briefs the member on the member's entitlements and responsibilities while on MEDCON orders. **(T-3)**.

6.5.2.3.2. Coordinate with members for documentation and send request package to MAJCOM approving authority (NGB/A1PS).

6.5.2.3.3. Coordinates Pre-MEDCON request within 2 weeks before the original orders end date to allow eligibility and approval from the MAJCOM Functional Area Manager.

6.5.2.3.4. Coordinates completion of LOD in the electronic system for any MEDCON extension with NGB while using secondary benefits.

6.5.2.3.5. Coordinates codes required by tour types for all Pre-MEDCON/MEDCON requests, Man-day Expenditure Allocation Number, Emergency and Special Program codes will change from original order. MPA man-day allocation authority for orders continuation remains with AF A1M. If approved with no break in order, the unit orders clerk shall extend the current order by submitting a modification to orders. **(T-1)**.

6.5.3. Requests can be made to extend Pre-MEDCON orders up to 15 days on a case-by-case basis. **(T-2).**

6.5.4. **(ANG Only)** . Members on contingency orders, if an extension is required, for medical care, will be extended on the same order with no break in service, ( i.e., on Title 10 MPA, the order should be extended on Title 10 by the Title 10 Commander) **Note:** The unit should be proactive in requesting Pre-MEDCON prior to the member's order expiring.

6.5.5. Pre-MEDCON orders can be extended up to 15 days with immediate commander, or designee, approval via the Pre-MEDCON extension process on a case-by-case basis. ANG:

approval by NGB/A1 and AFRC: AFRC/A1. Pre-MEDCON extensions should not exceed 30 days and will cease once MEDCON has been approved, or the member is found fit for and returned to duty, or found to be medically disqualified for continued military service. ANG only: Only one 15-day extension may be considered on a case-by-case basis.

**6.6. Termination of Pre-MEDCON Orders.**

6.6.1. Mandatory Termination. The member's Pre-MEDCON orders shall be terminated on the earliest date when one of the following actions occurs:

6.6.1.1. The member declines to continue on Pre-MEDCON orders or; **(T-1)**.

6.6.1.2. The member is able to perform military duties, as determined by ARC/SG; **(T-1)**.

6.6.2. Discretionary Termination. Pre-MEDCON orders may be terminated at the discretion of the MAJCOM Functional Area Manager, for the following reasons:

6.6.2.1. The member’s failure to fully participate in their prescribed treatment or provide current and sufficient information.

6.6.2.2. The member’s refusal, when not on approved convalescent or ordinary leave, to report for and perform duty consistent with the member’s diagnosis and/or physical limitations.

**6.7. MEDCON Overview.** The primary purpose of MEDCON is to facilitate the authorization for access to medical and dental care for members who incur or aggravate an injury, illness or disease while in a qualified duty status and to return members to duty as expeditiously as possible.

6.7.1. Entitlement to MEDCON will precede Transition Assistance Management Program health benefits (see AFMAN 41-210). **(T-0)**.

6.7.2. The ARC CMD, a division aligned under the AFPC Airman and Family Care Directorate, provides comprehensive case management to expedite MEDCON orders processing and medical evaluation and treatment of members until they either regain the ability to perform military duties or enter the DES, within one year from diagnosis.

**6.8. Requesting MEDCON Orders.**

6.8.1. If the member’s medical condition is not resolved prior to completion of the order or Pre-MEDCON order extension, MEDCON may be requested through the ARC CMD. Requests for MEDCON shall be electronically forwarded, with all supporting documentation from the servicing reserve or GMU or from the member’s Individual Reservist Readiness Integration Organization/Individual Reserve Medical Office for AFRC Individual Mobilization Augmentee to the ARC CMD for validation and approval of the request and certification of the MEDCON days. **(T-1)**. **Note**: All email containing personally identifiable information must be encrypted and organizational email box must be able to accept encrypted emails and encryption/signature certificates.

6.8.2. Follow on MEDCON. For specific MEDCON application process instructions, required documents, and follow on application instructions, refer to the myPers MEDCON webpage.

6.8.3. The AFBCMR, Secretary of the Air Force, or other authority may order correction of a separated member’s records to provide for retroactive MEDCON orders. Such corrections

may occur years after the member belonged to a particular unit and, moreover, the member's unit may no longer exist. In these cases, AFRC and AF/A1 shall work expediently to approve MEDCON orders pursuant to any AFBCMR direction to do so. An AFBCMR corrective order may substitute for the requirement for a Manpower MPA Man-day Management System (M4S) number where no M4S is available.

**6.9. Validation, Approval and Certification of MEDCON Requests.** The ARC CMD validates, approves and certifies MEDCON prior to Reserve Personnel Appropriation (RPA) /Title 32 days/ MPA man-day allocation and orders issuance. "Validation" is the medical determination that the member does not meet the standards for retention or mobility as stated in DAFMAN 48-123. "Approval" is the subsequent administrative determination that the member is unable to perform military duties. "Certification" is the determination of the number of MEDCON days to be allocated.

6.9.1. MEDCON Validation.

6.9.1.1. To validate the MEDCON request, the ARC CMD will refer to DAFMAN 48-123, and DoDI 6490.07 to determine if the member does or does not meet retention and/or mobility standards. **(T-0).**

6.9.1.2. The ARC CMD Medical Branch Chief or designee is responsible for validating MEDCON order requests.

6.9.1.3. The medical validator will be responsible for validating the recommended anticipated tour length required for resolution of the condition. **(T-2).** The validator should consider occupational medicine guidelines, peer-reviewed recovery timelines, military demographic recovery timelines, and/or coordinate directly with the member's treatment team in order to estimate the duration of impairment before the member is likely to be able to meet retention and mobility standards in accordance with DAFMAN 48-123.

6.9.1.4. The validated MEDCON request shall be forwarded to the ARC CMD Division Chief. **(T-2).**

6.9.2. MEDCON Approval.

6.9.2.1. The ARC CMD Division Chief has the authority to approve validated requests (i.e., determine that the member is unable to perform military duties and certify the number of MEDCON days to be allocated). This authority may be delegated jointly to the Medical Branch Chief and the Resource Advisor. Should the Medical Branch Chief and the Resource Advisor not reach consensus on approval, the MEDCON request will be sent to the Division Chief for final determination.

6.9.2.2. In making the discretionary determination as to whether a member is unable to perform military duties, the ARC CMD Chief (SAF/MR on appeal) shall be guided by the retention and mobility standards in accordance with DAFMAN 48-123.

6.9.3. MEDCON Certification.

6.9.3.1. The number of MEDCON days to be certified by the ARC CMD Chief shall be based on the validated individual medical treatment plan and cross-referenced with peer reviewed recovery guidelines.

6.9.3.2. Once the MEDCON request has been reviewed and approved and the number of days certified, a start date will be established for the MEDCON order. If the member is currently on a Pre-MEDCON order, that Pre-MEDCON order will end the day prior to the start of the MEDCON order; this is to prevent a break in orders. If the member is not currently on an order of any kind, the MEDCON order will still start the day the member was approved for MEDCON coverage.

6.9.3.3. Medical Hold. If the member requires MEDCON orders beyond the member's expiration of term of service or established date of separation, the member's unit, with the member's consent, shall request through the FSS that the member be placed on "Medical Hold" and the expiration of term of service or date of separation date extended so there is no loss in benefits. **(T-1)**. Medical Hold is requested by a military medical provider caring for the member in accordance with AFMAN 41-210.

6.9.3.4. When a request for MEDCON orders has been validated, approved and certified, a MEDCON Certification Form will be generated to support allocation of MEDCON days.

6.9.4. Incomplete and Denied MEDCON Requests.

6.9.4.1. The ARC CMD Medical Case Manager or appointed authority will collaborate with the requesting agency, make every attempt to find incomplete information via electronic databases used in case management and provide specific requests for missing or inadequate supporting documentation needed for resubmission.

6.9.4.2. If the ARC CMD determines that a completed MEDCON request cannot be validated, the request will be denied and returned to the requesting agency. The member may appeal this decision in accordance with **paragraph 6.11**.

6.9.4.3. Allocation and Issuance of MEDCON Orders. When the MEDCON request has been validated, approved and certified by the ARC CMD, the MEDCON days will be allocated as follows:

6.9.4.4. Allocation of Title 10 MPA MEDCON Days. The MEDCON Certification Form will be forwarded to the ARC CMD Resource Advisor who will request in Man-Day Management System the number of MPA man-days indicated on the MEDCON Certification Form, which in turn will allow the MEDCON request to flow to the MEDCON PM and AF/A1MT for allocation.

6.9.4.4.1. The ARC CMD Resource Advisor will:

6.9.4.4.1.1. Ensure due diligence in requesting MPA man-days.

6.9.4.4.1.2. Be the point of contact for any required audit actions pertaining to MEDCON MPA funding certification.

6.9.4.4.2. The MEDCON PM will:

6.9.4.4.2.1. Allocate the requested MPA resources using Man-Day Management System.

6.9.4.4.2.2. Account for MPA man-days as part of the MPA account.

6.9.4.4.2.3. The member's unit will issue the MEDCON continuation order without delay and make appropriate updates and/or inputs into Man-Day

Management System. **(T-1)**. Orders must be published no less than two weeks from the end of the current orders so members do not incur an administrative break in service. **(T-1)**.

6.9.4.4.2.4. Orders notification will be routed through Budget Recording System.

6.9.5. Allocation of Title 10 RPA MEDCON Days. The AF Form 1971, *Certification for Incapacitation Pay*, will be forwarded to the ARC CMD Resource Advisor who will request the number of RPA days indicated on the Certification Form from the member's wing.

6.9.5.1. The member's wing will allocate the RPA days in accordance with wing and/or AFRC guidance. **(T-1)**.

6.9.5.2. The member's unit will issue the order with the appropriate updates and inputs into the Air Reserve Orders Writing System – Reserve. **(T-1)**.

6.9.5.3. In the event the member's wing does not have sufficient funds to support the allocation of MEDCON days, the wing will request the necessary funding from Air Force Reserve Command Financial Management Division, **(T-1)**. See MEDCON myPers website for additional information.

6.9.5.4. Allocation of NGB-funded Title 32 and Title 10 Non-MPA. The Certification Form will be forwarded to the ARC CMD Resource Advisor who will request the number of days indicated on the certification form from NGB/A1.

6.9.5.5. NGB/A1 will allocate the days in accordance with DoDI 1215.06; Title 32 and Title 10 are allocated as applicable to the original order.

6.9.5.6. The member's unit will issue the order with the appropriate updates/inputs into Air Reserve Orders Writing System. **(T-1)**.

6.9.5.7. MEDCON orders with no break in service will be extended through a modification to orders to ensure pay and entitlements continuity. **(T-1)**.

6.9.5.8. MEDCON orders cannot be backdated. **(T-1)**. In extenuating circumstance when a formal NILOD determination is investigated by the AFRC MAJCOM and/or the NGB and the determination is found to be ILOD, MEDCON orders may be reinstated with their approval and criteria for MEDCON is met. The MAJCOM/NGB commander will determine the date of when benefits begin. **(T-1)**.

6.9.5.9. Any claims for past entitlements for MEDCON orders must be addressed in accordance with AFI 36-2603. **(T-1)**.

6.9.5.10. All MEDCON days required to support MEDCON orders will be requested, validated, approved, certified, allocated, tracked, managed and reported through an electronic database.

6.9.5.11. The member's unit shall use Man-Day Management System to enter and track all Title 10 MPA requests for MEDCON days. **(T-1)**. Title 10 RPA, to include all non-contingency orders, and ANG Title 32 requests for MEDCON days will be tracked electronically using an automated application. **(T-1)**.

6.9.5.12. Temporary Duty orders that are not directly associated with the member's medical condition are not allowed while the member is on MEDCON orders. (T-1).

Exceptions to policy must be requested through the member's unit commander and ARC CMD. (T-2).

6.9.5.13. Before initial MEDCON orders are issued, an "ARC CMD MEDCON Responsibilities & Expectations - Letter of Acknowledgement" (see myPers MEDCON website) will be signed and filed with the ARC CMD. **(T-1)**. If service member is incapacitated, the form is to be signed by the commander.

**6.10. Termination of MEDCON Orders.**

6.10.1. Mandatory Termination. The member's MEDCON orders shall be terminated on the earliest date when one of the following actions occurs: **(T-1)**.

6.10.1.1. The member declines to continue on MEDCON orders;

6.10.1.2. The member is able to perform military duties, as determined by the ARC CMD Division Chief (or delegated authority, see **paragraph 6.9.2.1**); or

6.10.1.3. The member is separated or retired as a result of a DES determination.

6.10.2. Discretionary Termination. MEDCON orders may be terminated at the discretion of the ARC CMD Division Chief, or SAF/MR on extension, for the following:

6.10.2.1. The member's failure to engage in their prescribed treatment plan in accordance with their providers care plan or to provide current and sufficient information as required by the MEDCON validation process.

6.10.2.2. The member's refusal to reply to official requests or correspondence regarding the member's medical status from either the ARC CMD or their GMU/RMU within 30 days; or

6.10.2.3. The member's refusal, when not on approved convalescent or ordinary leave, to report for and perform duty consistent with the member's diagnosis and/or physical limitations.

6.10.2.4. If the member's treatment plan requires less than two health care appointments per week.

6.10.2.5. 365 days has passed from the initial diagnosis and an IRILO has not been completed

6.10.2.6. The condition has become chronic, and the member may continue their care through the DVA.

6.10.2.7. If the member requires intermittent treatment (ex: infusion every eight weeks for one day or occupational therapy one day every other week) they may be brought on orders for the duration of the single intermittent treatment.

6.10.3. Termination Coordination. Termination of MEDCON orders will be coordinated through the ARC CMD and then communicated to the MEDCON, AF/A1MT, respective AFRC wings or ANGRC.

6.10.4. Notification of termination of MEDCON orders. The ARC CMD will proactively maintain visibility of the DES and medical review board rulings that may result in unanticipated curtailment of MEDCON orders. ARC CMD Medical Case Management Teams

shall keep members, their unit and servicing medical unit advised on potential or impending curtailment of MEDCON orders.

6.10.4.1. When MEDCON orders are terminated or denied for any reason, ARC CMD will provide a written notice as to why the member was denied.

6.10.4.2. Members may reapply for MEDCON if denied an extension or have their MEDCON orders terminated or curtailed. The member may request a review to see if they currently meet MEDCON eligibility criteria. ARC CMD will review the package and if the member meets the eligible criteria will process as normal. They may also appeal curtailments, extension denials and terminations to the AFBCMR. (See **paragraph 6.11**).

**6.11. Appealing Denied MEDCON Requests.** Members who are denied MEDCON orders should first resubmit an application for a current review (**see paragraph 6.10.4.2**) to ARC CMD before submitting an appeal. Then members may submit an appeal through the ARC CMD. Appeals must be made within 45 days of receipt of a MEDCON request denial.

6.11.1. Appeal Authority. SAF/MR is the appeal authority for denied MEDCON requests at the validation, approval, and certification or allocation level and can grant or deny the member MEDCON Appeal. If relief is granted, the MEDCON orders will be dated from that day forward. **Note**: For MEDCON orders to be backdated, the member must request through the AFBCMR. **(T-1)**.

6.11.2. All appeals shall be submitted by the servicing medical unit or for AFRC Individual Mobilization Augmentees, the member's Individual Reservist Readiness Integration Organization/Individual RIO/IRM, to the ARC CMD. **(T-1)**.

6.11.3. The appeal package will then be forwarded to the Air Force Medical Readiness Agency (AFMRA) Commander or a delegated appropriate clinical director within AFMRA to conduct an independent review and make a recommendation to SAF/MR for final disposition of the case.

6.11.4. After AFMRA has reviewed the case, ARC CMD will forward the case to SAF/MR for final decision.

6.11.5. The appeal process timeline is 60 days from the time the member submits an appeal until the time SAF/MR renders a decision.

6.11.6. All appeals must include the following documentation: (**T-1**):

6.11.6.1. Official letter, signed by the member, documenting what is being appealed and why it is being appealed; (T-1);

6.11.6.2. Complete documentation of the LOD medical condition; (T-1);

6.11.6.3. Latest or most current AF Form 469; and (T-1);

6.11.6.4. All documents originally submitted in support of the MEDCON request. (T-1).

6.11.6.5. Filing an appeal does not extend an existing MEDCON order or affect the member's status (Title 10 USC, Title 32 USC, state AD or civilian).

**6.12. INCAP Pay Option.** In accordance with DoDI 1241.01, a member with a LOD condition may qualify for INCAP Pay under the following circumstances:

6.12.1. The eligible member declines MEDCON; or

6.12.2. The member is able to meet retention and mobility standards and therefore not eligible for MEDCON but cannot perform the member's civilian job duties and experiences a loss of earned income, to include wages lost due to accessing treatments. See **Table 7.1** for INCAP Pay guidelines and processing.

**6.13. Referral to the Disability Evaluation System (DES).**

6.13.1. Members on MEDCON orders with a medical condition that may affect continued military service or is potentially disqualifying will be referred to the DES within one year of the diagnosis. **(T-0).** The DES referral will be made earlier than the one-year limit if the condition is not expected to improve or remains disqualifying (see AFMAN 41-210). **(T-0).** ARC members on MEDCON orders for more than one year after the diagnosis will be referred to the DES by the ARC LOD Board **(T-1).**

6.13.1.1. Subject to **paragraphs 6.2** (Eligibility), **6.10.1** (Mandatory Termination) and **6.10.2** (Discretionary Termination), members already on MEDCON orders shall be entitled to remain on those orders for the duration of DES processing.

6.13.1.1.1. In instances where the member appeals an informal Physical Evaluation Board ruling, the member's servicing MTF makes temporary duty arrangements necessary for the purposes of the Formal Physical Evaluation Board appeal in accordance with AFI 36-3212, *Physical Evaluation for Retention, Retirement, and Separation*.

6.13.1.1.2. If the member has a treatment plan, the Physical Evaluation Board Liaison Officer will coordinate with ARC CMD on all temporary duty to ensure the TDY does not interfere with or delay treatment for the MEDCON condition.

6.13.1.2. Members who are not on MEDCON orders at the time of referral into the DES may apply for MEDCON, subject to **paragraph 6.2** (Eligibility), while processing through DES.

6.13.2. For members on MEDCON orders being serviced by a MTF that has limited organic or network medical specialty services, the ARC CMD may review potential cases for referral to the 59 MDW, Lackland AFB, based on the established criteria below.

6.13.2.1. The servicing MTF is not a specialty hospital or joint specialty platform;

6.13.2.2. Member has a Code 37 on AF Form 469;

6.13.2.3. Member has a finalized LOD Determination; and

6.13.2.4. Member's condition is stable or has a relatively predictable result. **Note**: Medical points of contacts, the medical POC will continue to coordinate administrative handling of the member's medical documentation with the ARC CMD to include providing a copy of the member's medical records. Requested medical documentation should be limited to relevant information to reasonably identify the initial condition for which the LOD determination is being requested; this can include an initial diagnosis, treatment plan, or note from provider describing the condition. Note: if the diagnosis evolves, another LOD may be warranted for subsequent care.

# Chapter 7

# INCAP PAY FOR ARC MEMBERS

## 7.1. Purpose.

7.1.1. The purpose of INCAP Pay is to authorize pay and allowances to those members who are not able to perform military duties to include light duties not associated with their Air Force specialty code, because of an injury, illness or disease incurred in the LOD; or to provide pay and allowances to those members who are able to perform military duties but experience a loss of earned income as a result of an injury, illness or disease incurred in the LOD (37 USC § 204). **(T-0)**.

7.1.2. Receipt of INCAP Pay is not a qualified duty status. A member is not considered to be in a qualified duty status while receiving INCAP Pay, unless the member is performing IDT while receiving INCAP Pay for loss of earned civilian income.

**7.2. Eligibility and Qualification Determination.** The initial request for INCAP Pay eligibility requires at a minimum an interim LOD for the initial request for up to 6 months. **(T-0).** An extension beyond 6 months requires a final LOD determination of ILOD. **(T-1)**. In addition, a treatment plan by a credentialed military medical provider that annotates the member is unable to perform their military duties, or if member is able to perform military duties, member must demonstrate a loss of civilian earned income **(T-1).** For ARC cases, when there is evidence to believe the LOD determination appears to be contrary to the evidence, the information will be shared with the wing commander for consideration. When appropriate, the wing commander should change the determination. When a determination is changed from ILOD to NILOD, INCAP Pay requests shall be suspended or denied. **(T-0).**

7.2.1. Unable to Perform Military Duties. A member, who is unable to perform military duties including light duties outside the member's Air Force Specialty Code, as determined by a military medical authority and the member's immediate commander, due to an injury, illness or disease incurred or aggravated ILOD, is eligible for full pay and allowances (including incentives and special pays to which entitled, if otherwise eligible) in accordance with **paragraph 7.2**, and less any civilian earned income the member has, regardless of type of duty status. **(T-0).** If there is no civilian income, there is no offset of monies and member is entitled to full INCAP Pay. **(T-0).** Reference DoD 7 Financial Management Regulation (FMR) 7000.14-R, *Military Pay Policy –Active Duty and Reserve Pay, Volume 7A, Chapter 57, Table 57-3*. **Note**: Voluntary leave of absence or voluntary termination of employment from civilian employment does not constitute a loss of civilian earned income that qualifies under this program.

7.2.2. In order for the member to attend IDT periods while receiving INCAP Pay, the member will request an exception to policy from the commander.

7.2.3. Retirement Point Exception. The member may earn retirement points in order to satisfy the requirements for a qualifying year of service by completing approved correspondence courses as determined by the Extension Course Institute.

7.2.3.1. Able to Perform Military Duties. A member who is able to perform military duties (see **paragraph 7.1**), as validated by the military medical authority and determined by the immediate commander, but demonstrates a loss of civilian earned income as a result of an

injury, illness or disease incurred or aggravated in the LOD, is entitled to pay and allowance, including incentive and special pay, but not to exceed the amount of the demonstrated loss of civilian earned income or the maximum pay entitlement (see **paragraph 7.2.3.2**), whichever is less. **(T-0).** If a member does not have any civilian income, then the member is not entitled to INCAP Pay. **(T-0).** Reference DoD FMR 7000.14-R, Volume 7A, Chapter 57, Table 57-3. **Note**: Voluntary leave of absence or voluntary/involuntary termination of employment from civilian employment does not constitute a loss of civilian earned income that qualifies under this program.

7.2.3.2. Maximum Pay Entitlement. A member is entitled to compensation (but not retirement point credit) at the rate of 1/30 of the monthly basic pay for each scheduled IDT period the member is unable to attend because of the disability; however, there is no entitlement if, while traveling to or from the training or at the duty site, the member was disabled because of the member's willful negligence or misconduct. **(T-0).** The total amount of pay and allowances and compensation for a member who is entitled to such pay shall not exceed the amount of pay and allowances provided by law or regulation for a RegAF member of corresponding grade and length of service for that period. **(T-0)**.

7.2.4. Duration of Entitlements. INCAP Pay will not exceed six months. **(T-1)**. If resolution of the injury, illness or disease has not been reached by the end of six months, an evaluation for a potential extension may be conducted by ARC LOD Board. A Final LOD determination will be needed to request an extension **(T-1)**. An extension may be granted for an additional period of time, but not to exceed one year. **(T-0).** After one year, the member will either be returned to duty, separated or referred to the DES. **(T-0).**

7.2.5. Pay and allowances under this instruction shall be paid only during the period a member remains unable to perform military duties or is able to perform military duty but demonstrates a loss of civilian earned income as a result of an injury, illness or disease incurred or aggravated in the LOD. **(T-0)**. Payment in any particular case may not be made for more than a 6-month period (90 days for ANG for Initial INCAP requests only) without review of the case by SAF/MR or delegated authority in accordance with **Table 7.1** to ensure that continuation of military pay and allowances is warranted under this instruction and to determine whether the member should be referred to the DES. **(T-0)**. Such a review shall be made before every subsequent extension, not to exceed 90 days. **(T-1)**.

7.2.6. If a member is not medically qualified for separation, an extension of enlistment may be warranted. See guidance in AFMAN 41-210, AFI 36-3212 and AFI 36-2606, *Reenlistment and Extension of Enlistment in the United States Air Force*.

## 7.3. Program Responsibilities.

7.3.1. **Member.**

7.3.1.1. Will provide the INCAP Pay PM with all required documentation every 30 days while applying/receiving INCAP Pay. **(T-1)**.

7.3.1.1.1. Submits medical treatment plan. **(T-1)**.

7.3.1.1.2. Submits copies of all medical treatment received to GMU/RMU. **(T-1).**

7.3.1.1.3. Submits monthly official payroll (or tax returns) documentation from the civilian employer if claiming loss of civilian earned income to the wing finance office or reserve pay office. **(T-1).**

7.3.1.1.4. Submits employer or self-employment information. **(T-1).**

7.3.1.1.5. Reports all changes in medical and/or financial status immediately to the unit commander and INCAP Pay PM to prevent possible recoupment of overpayment. **(T-1).**

7.3.1.1.6. Member will initiate the AF Form 1971 within 30 calendar days of the requested INCAP period. Member will acknowledge personnel, financial entitlements, and medical briefings. **(T-1).**

7.3.1.2. Must comply with Wing RMU or GMU requests for medical information and documentation. **(T-1)**.

7.3.1.2.1. A member not in compliance with requests for medical information/evaluation is considered medically disqualified for continued military duty and is referred to the member's immediate commander for separation processing in accordance with AFI 36-3203.

7.3.1.2.2. Any request for INCAP Pay that is not initiated within 30 days of when the injury, illness or disease was incurred or aggravated will require the member to submit a written explanation, endorsed by the immediate commander, for the untimely reporting.

7.3.1.3. Initiates INCAP Pay Extension request if eligible at least 60 days prior to expiration of any approved INCAP Pay period to avoid delays or interruption of pay and allowances.

7.3.1.4. Must report to all future scheduled medical appointments, which includes reporting to the RMU or GMU on a monthly basis. **(T-1)**.

7.3.2. Immediate/ARC Unit Commander.

7.3.2.1. Notifies member of final LOD disposition and possible entitlements to INCAP Pay and refers member to INCAP Pay PM. **(T-2)**.

7.3.2.2. Recommends approval or disapproval (AF Form 1971) to the ARC Wing Commander on all requests for Initial INCAP Pay or Extensions**. (T-2)**. When the unit commander is not readily available, the next command level may act on INCAP Pay requests.

7.3.2.3. Ensures member is advised to submit INCAP Pay Extension requests within 60 days before termination of current entitlement. **(T-2)**.

7.3.2.4. Provides assistance for a member who is incapacitated and cannot physically report in person to the RMU or GMU or designates a unit member to assist a member who is physically unable to comply with requirements in this instruction to ensure benefit of all entitlements. **(T-2)**.

7.3.2.5. Ensures the member provides the required financial and medical documentation through collaboration with INCAP Pay PM. **(T-2)**.

7.3.2.6. Receives AF Form 469 from the RMU or GMU and completes the commander's endorsement in accordance with AFI 48-133. **(T-2)**.

7.3.2.7. Determines whether or not the member will be allowed to perform any military duty within the duty or mobility restrictions prescribed on AF Form 469, including duty outside of the member's Air Force Specialty Code. **(T-1)**.

7.3.2.8. If not allowing member to perform military duty, provides a written notification to the member and INCAP Pay PM stating specific reasons why the member is not allowed to perform any military duties. **(T-2)**.

7.3.2.9. Coordinates with FSS and Finance Office or Reserve Pay Office to ensure: **(T-1)**.

7.3.2.9.1. Benefits and entitlements may be subject to the recoupment provisions of Chapter 2 of DoD 7000.14-R, Volume 7A.

7.3.2.9.2. INCAP Pay termination is processed in accordance with **paragraph 7.5**.

7.3.2.10. Monitors/tracks unit assigned members who are incapacitated.

7.3.2.11. Must notify the member in the event INCAP benefit or entitlement is terminated. **(T-1)**.

7.3.3. Force Support Squadron (FSS).

7.3.3.1. FSS/CC will appoint an INCAP Pay PM (who may also be the LOD PM) who will be the focal point for administering, educating, referring and documenting INCAP Pay. **(T-2)**.

7.3.3.2. INCAP Pay PM is responsible for:

7.3.3.2.1. Briefing the member on the member's entitlements and responsibilities during periods of entitlement to INCAP Pay and Extensions. **(T-2)**.

7.3.3.2.2. Obtaining and processing all appropriate documentation, Initial INCAP Pay and Extensions, using INCAP Pay processing as outlined in **6.4**. **(T-2)**.

7.3.3.2.3. Reviewing each INCAP Pay request for completeness and processing the request. **(T-2)**.

7.3.3.2.4. Notifying and coordinating all approval or disapproval of INCAP Pay requests with member, unit commander, RMU or GMU and Reserve Pay Officer/wing Finance Manager. **(T-2)**.

7.3.3.2.5. Providing a monthly program status report on all members receiving INCAP Pay to the wing commander, ARC/A1 and ARC/SG, ARPC, State Air Surgeon, and The Adjutant General (TAG), as appropriate. **(T-2)**.

7.3.3.2.6. For ANG, coordinate Initial INCAP Pay and Extension packages with State Human Resources Office, Office of Worker Compensation Program only if the member is a federal technician employee. **(T-2)**.

7.3.4. RMU (AFRC) or GMU (ANG).

7.3.4.1. RMU Commander or GMU Commander appoints an INCAP Pay Focal Point who will be responsible for:

7.3.4.1.1. Briefing medical entitlements (see myPers website) to members and providing the member a signed copy. **(T-2)**.

7.3.4.1.2. Advising members that they must report to the RMU or GMU every 30 days with supporting medical documentation to initiate or update AF Form 469 with appropriate duty and/or mobility restrictions based on supporting documentation directly related to the LOD condition. **(T-2)**.

7.3.4.1.3. Ensuring medical treatment for an injury, illness or disease incurred or aggravated in the LOD is not delayed because of administrative requirements. **(T-2)**.

7.3.4.2. Identify cases requiring pre-DES processing via the Deployment Availability Working Group (DAWG) prior to submittal of extension request when INCAP extends beyond initial 6-month period. **(T-2)**.

7.3.4.3. For cases that require referral into the DES, follow the procedures outlined in AFMAN 41-210 and ensure processing through the closest MTF. **(T-2)**.

7.3.4.4. Notify members and unit commander using AF Form 469 on all medical updates every 30 days. **(T-2)**.

7.3.4.5. Provide INCAP Pay PM with an update of medical information and a copy of the AF Form 469 when updated, to certify the member is still eligible for INCAP Pay.

7.3.4.6. Ensure the member's case remains active in the DAWG until returned to duty, discharged/retired or medically separated or retired as a result of a DES determination.

7.3.4.7. Update the INCAP Pay PM when the member no longer has duty or mobility restriction(s) as determined by the military medical authority and immediate commander. **(T-2)**.

7.3.4.8. Complete Military Medical Provider section of AF Form 1971 and forward to the immediate commander. **(T-2)**.

7.3.4.9. Completes the diagnosis and mobility restrictions on the AF Form 1971 on all requests for Initial INCAP Pay or Extensions. **(T-2)**.

7.3.4.10. Initial Review in lieu of (IRILO) must be submitted to NGB/SG prior to INCAP Pay consideration for further extensions beyond 12 months. **(T-1)**.

7.3.5. Military Treatment Facility (MTF).

7.3.5.1. Ensure MTF Commanders assign and train personnel on how to process ARC members healthcare, not on AD but have an ILOD condition and require healthcare at that facility. Even if not in the Defense Enrollment Eligibility Reporting System (DEERS), if a member has a valid and current ILOD AF Form 348, the MTF will provide the entitled care for the member's ILOD condition. **(T-0)**.

7.3.6. Reserve Pay Office or ANG Wing Finance.

7.3.6.1. Will provide financial briefing to members on pay and allowance entitlements in accordance with Chapter 2 of DoD FMR 7000.14-R, Volume 7A. **(T-0)**.

7.3.6.2. Must determine and verify member's eligibility (every 30 days) through demonstrated loss of earned income as a result of the LOD condition. **(T-1)**.

7.3.6.3. Will receive INCAP Pay request package, obtain any additional military or civilian pay documentation required to support payment of full pay and allowances, compute the entitlement, and process the payment. **(T-2)**.

7.3.6.4. Will provide pay and allowances, to the extent permitted by law. **(T-1)**.

7.3.6.5. Must ensure the total amount of pay does not exceed the amount of pay and allowances a RegAF member of the same grade and length of service would receive for the authorized period. **(T-0)**.

7.3.6.6. Must ensure pay and allowances under this instruction are paid only for the period of AD or IDT, in which a member is unable to perform military duties, and demonstrates a loss of military and or civilian earned income to include self-employment income. **(T-0)**.

7.3.6.7. Must ensure pay and allowances are in place for timely payment and start no later than 30 days after the illness, injury or disease was incurred or aggravated, and continue without interruption until terminated. **(T-0)**.

7.3.6.8. Will establish procedures to ensure that pay and allowances are not terminated due to administrative oversight. **(T-0)**.

7.3.6.9. Must obtain approval by an Approving Authority for any payment authorized beyond 6 months (90 days for ANG). **(T-0)**.

7.3.6.10. Will provide calculations on loss of military and/or civilian income on the AF Form 1971, on all requests for Initial INCAP Pay or Extensions. **(T-2)**.

7.3.6.11. Terminates entitlement to pay and allowances when appropriate.

7.3.7. Legal Advisor or State Headquarters Legal Advisor. Legal Advisor provides guidance to the Wing Commander/Approving Authority, and reviews and signs AF Form 1971. **(T-2)**.

7.3.8. ARC Wing Commander or civilian equivalent.

7.3.8.1. Ensures all base level agencies comply with this instruction. **(T-1)**.

7.3.8.2. Provides program guidance to ensure INCAP Pay allowances are not terminated due to administrative neglect and/or the period of INCAP is not extended because of unwarranted delays in medical treatment. **(T-1)**.

7.3.8.3. Approves or disapproves Initial INCAP Pay on AF Form 1971. **(T-2)**.

7.3.8.4. Endorses the unit commander's late submission letter if there is a delay in submitting an INCAP Pay extension. **(T-2)**.

7.3.8.5. Makes recommendations on AF Form 1971 for INCAP Pay extension or appeal requests to ARC, Manpower, Personnel and Services (ARC/A1). **(T-2)**.

7.3.8.6. Submits request with justification for payment of pay and allowances that will exceed 12 months from the Initial INCAP date of approval to ARC/A1 no later than 90 days prior to the 12-month date. **(T-0)**.

7.3.9. AFRC/SG and NGB/SG.

7.3.9.1. For AFRC, when requested by the wing commander on an as needed basis, review member's medical records and recommend approval or disapproval of all INCAP Pay

requests to ARPC. For ANG, NGB/SG will review member's medical records and recommend approval or disapproval of all INCAP Pay extension requests to NGB/A1.

7.3.9.2. May direct pre-IDES screening when reviewing INCAP Pay extensions.

7.3.9.3. Provides guidance to RMU or GMU on medical program responsibilities.

7.3.9.4. Provides assistance to RMU or GMU to obtain necessary medical evaluations and administrative documents from Active Component MTF regardless of military branch.

7.3.9.5. Resolves issues between RMU or GMU and Active Component MTF that cannot be resolved at wing level.

7.3.10. ARPC and NGB/A1.

7.3.10.1. Receives INCAP Pay extension requests and recommends approval or disapproval to AF/RE or Air National Guard Readiness Center Commander **(**ANGRC/CC).

7.3.10.2. Receives INCAP Pay appeal requests, coordinates and recommends approval or disapproval to AF/RE or ANGRC/CC.

7.3.10.3. If a member is able to perform military duty and demonstrates loss of civilian earned income, provides justification of approval for payment of pay and allowances that will exceed 24 months from the Initial INCAP date of approval to SAF/MR no later than 60 days prior to the 24 month date.

7.3.11. AF/RE and ANGRC/CC.

7.3.11.1. Approve/disapprove INCAP Pay Extensions.

7.3.11.2. When considering an INCAP Pay appeal, may approve INCAP Pay requests without additional coordination with SAF/MR.

7.3.11.3. When considering an INCAP Pay appeal request and recommending SAF/MR disapproval, forward to SAF/MR for final appeal disposition.

7.3.11.4. Provide semi-annual report to SAF/MR denoting number of requests reviewed, categorized by final determination, number of referrals made to the DES, number of days required to process, trends and include any suggestions for broader policy changes that would benefit the AF and/or members. **(T-1).** Reports shall be submitted on 30 July (January-June) and 30 January (July-December). **(T-1).**

**7.4. Requesting INCAP Pay.** The member may request INCAP Pay through the servicing FSS by completing and submitting the required application documentation below. The INCAP Pay PM will route the INCAP Pay request in accordance with **Table 7.1** for approval. (T-2). Note: Continue using current processes until Total Force automated system becomes available.

7.4.1. Initial INCAP Pay and Extension Requests, submit the following required documentation: **(T-2)**

7.4.1.1. AF Form 1768, *Staff Summary Sheet* requesting Initial INCAP Pay signed by the immediate commander or INCAP Pay Extension signed by the wing commander; **(T-2)**

7.4.1.2. A copy of the member's order or documentation indicating the member's duty status covering the period during which the injury, illness or disease was incurred or aggravated; **(T-2)**

7.4.1.2.1. For AFRC, use AF Form 40A, *Record of Individual Inactive Duty Training* (General Officer only) for IDT duty status or IDT participation system; **(T-2)**

7.4.1.2.2. For ANG, use ANG Form 105S, *Individual Inactive Duty Training Authorization/Certification,* or IDT participation system;

7.4.1.3. Final AF Form 348 and DD Form 261; **(T-2)**

7.4.1.4. A completed AF Form 469;

7.4.1.5. A medical evaluation conducted by a credentialed military medical provider within the last 30 days that substantiates an unresolved health condition and details occupational limitations associated with it; **(T-2)**

7.4.1.6. Updated medical information; **(T-2)**

7.4.1.7. An individual medical treatment plan approved by a credentialed military medical provider based on occupational medicine guidelines and peer-reviewed recovery timelines that includes the expected duration of the impairment; **(T-2)**

7.4.1.8. Signed DD 2870*;* **(T-2)**

7.4.1.9. Completed and member-signed AF Form 1971; **(T-2)**

7.4.1.10. Personnel briefing; **(T-2)**

7.4.1.11. Medical entitlements briefing; **(T-2)**

7.4.1.12. Financial entitlements briefing; **(T-2)**

7.4.1.13. If applicable, immediate commander's (for Initial INCAP Pay) or wing commander's (for INCAP Pay Extension) explanation of delayed INCAP Pay request; **(T-2)** and

7.4.1.14. If the member is claiming loss of earned income: **(T-2)**

7.4.1.14.1. Employer/employee release statement and Statement from Civilian Employer (on Company Letterhead). **(T-2)**.

7.4.1.14.2. If employed, pay statement (i.e., pay stub, pay statement or civilian leave and earning statement) from civilian employer. **(T-2)**.

7.4.1.14.3. If self-employed, self-employed/unemployment statement, and income protection statement. **(T-2)**.

7.4.1.15. If applicable, member's memorandum endorsed by the immediate commander, for the untimely reporting. **(T-2)**.

7.4.1.16. For ANG, if the member is a federal technician, the State Human Resources Office/Office of Worker Compensation Program must complete and submit a temporary light duty recommendation/memorandum. **(T-2).**

7.4.2. The wing commander will review Initial INCAP Pay requests or appeals and process the requests within 3 days from the date of submission. **(T-2).**

7.4.3. ARPC or NGB/A1 will review INCAP Pay Extension requests and appeals and process the requests within 10 days from the date of submission. **(T-2).**

7.4.4. Approved or disapproved INCAP Pay Extension and appeal requests from AF/RE or ANGRC/CC will be returned to ARPC or NGB/A1 to forward to the INCAP Pay PM. **(T-2).**

7.4.4.1. Approved INCAP Pay Extension. The INCAP Pay PM will forward approved INCAP Pay Extension packages for action and notify the respective workflow points of contact in accordance with **Table 7.1**. **(T-2)**.

7.4.4.2. Disapproved INCAP Pay Extension. The INCAP Pay PM will forward disapproved INCAP Pay Extension packages to the respective workflow points of contact in accordance with **Table 7.1** for final disposition processing, possible resubmission or appeal. **(T-2)**.

**Table 7.1. INCAP Pay Coordination, Approval and Appeal Authorities.**

| **Coordination, Approval and Appeal Authorities** | | **Role** | **Processing Timeline (see note 3)** |
|---|---|---|---|
| **AFRC** | **ANG** | | |
| Member | Member | Request INCAP Pay (Initial/Extension) | (See **Note 1**) |
| INCAP Pay PM | INCAP Pay PM | Review/process INCAP Pay requests | 3 Workdays |
| RMU | GMU | Coordinate/recommend | 5 Workdays |
| Immediate/ARC Unit Commander | Immediate/ARC Unit Commander | Coordinate/recommend | 5 Workdays |
| Wing Finance Office (Reserve Pay Office) | Wing Finance Office | Coordinate/certify | 5 Workdays |
| Legal Advisors | Legal Advisor (Wing Commanders' discretion) | Coordinate/recommend | 9 Workdays |
| Wing Commander | Wing Commander or equivalent | **Initial INCAP Pay**<br>• Approve/Disapprove Initial INCAP Pay<br>**INCAP Pay Extensions**<br>• Coordinate/recommend INCAP Pay Extensions<br>**Appeals**<br>• Coordinate/recommend all INCAP Pay appeals | 3 Workdays |
| ARPC (See Note 2) | NGB/A1 (See Note 2) | **INCAP Pay Extensions** | 30 Workdays (See **Note 1**) |

| Coordination, Approval and Appeal Authorities | | Role | Processing Timeline (see note 3) |
|---|---|---|---|
| **AFRC** | **ANG** | | |
| | | • Coordinate/recommend INCAP Pay Extensions<br>**Appeals**<br>• Coordinate/recommend all INCAP Pay appeals | |
| AF/RE | ANGRC/CC | **INCAP Pay Extensions**<br>• Approve/Disapprove INCAP Pay Extensions<br>**Appeals**<br>• Approve Initial INCAP Pay<br>• Recommend disapproval of INCAP Pay appeal requests to SAF/MR | 10 Workdays (See **Note 1**) |
| SAF/MR | SAF/MR | Final INCAP Pay Appeal Authority | 10 Workdays (See **Note 1**) |
| **Notes**:<br>1. Not included in processing timeline.<br>2. Includes SG and Legal Advisor review.<br>3. Processing timeline resets when an INCAP Pay package is returned due to missing required or outdated documentation. | | | |

**7.5. Termination of INCAP Pay.** Termination of INCAP Pay will be coordinated through the member's immediate commander, INCAP Pay Manager, Reserve Pay Officer or ANG Wing Finance and the ARC CMD (if applicable).

7.5.1. Mandatory Termination of INCAP Pay. INCAP Pay shall be terminated on the earliest date when one of the following actions occurs:

7.5.1.1. The member declines INCAP Pay. **(T-1).**

7.5.1.2. The member's LOD determination was found to be NILOD-Due to Member's Misconduct or NILOD-Not Due to Member's Misconduct. **(T-0).**

7.5.1.3. For members who were unable to perform military duty, the member is able to perform military duties as determined by the immediate commander and meets the specific retention and mobility standards for the original injury, illness or disease condition as validated by the medical authority, unless the member still demonstrates a loss of civilian income. **(T-1).**

7.5.1.4. For members who were able to perform military duty, the member no longer experiences a loss of civilian earned income as a result of the LOD condition. **(T-0).**

7.5.1.5. The member is discharged/retired, or medically separated or retired, as a result of a DES determination; **(T-0)** or

7.5.1.6. AF/RE, ANGRC/CC or SAF/MR determines that it is no longer in the interest of fairness and equity to continue pay and allowances. **(T-0).**

7.5.1.7. Voluntary leave of absence, voluntary (resignation), and involuntary termination (due to negative performance, etc.) of employment from civilian employment does not constitute a loss of civilian earned income that qualifies under this program. **(T-1).**

7.5.2. **Discretionary Termination of INCAP Pay** . INCAP Pay benefits may be terminated at the discretion of the member's immediate commander (for Initial INCAP Pay) or SAF/MR (for INCAP Pay Extensions) for the following:

7.5.2.1. The member fails to fully participate in treatment or provide current/sufficient medical and financial documentation as required for INCAP Pay eligibility; **(T-1).**

7.5.2.2. The member refuses to reply to official requests or correspondence regarding the member's financial or medical status; **(T-1)** or

7.5.2.3. The member refuses to report for and perform military duties, as able, within the duty and mobility restrictions prescribed on AF Form 469. **(T-1).**

7.5.3. INCAP Pay Notification Coordination. The INCAP Pay PM will proactively maintain visibility of DES and medical review board rulings that may result in unanticipated curtailment of INCAP Pay and shall keep members, their unit and servicing medical unit advised on potential or impending curtailment of INCAP Pay. **(T-2)**.

**7.6. Appealing Denied INCAP Pay Requests.** Members that are denied INCAP Pay may submit an appeal to SAF/MR through the agencies outlined in accordance with **Table 7.1** Appeals must be made within 45 days of receipt of an INCAP Pay request denial. **(T-1)**.

7.6.1. The appeal package will be forwarded from the INCAP Pay Manager through the coordination/recommendation agencies for approval with AF/RE, ANGRC/CC or SAF/MR for final disposition of the appeal request in accordance with **Table 7.1**. **(T-1).**

7.6.1.1. All appeals must include the following documentation:

7.6.1.1.1. Official letter, (ANG - The Adjutant General endorsed) signed by the member, documenting what is being appealed and why it is being appealed; (T-1)

7.6.1.1.2. Memorandum from disapproval authority explaining rationale for disapproval; **(T-1)**

7.6.1.1.3. All documents originally submitted in support of the INCAP Pay request; (T-1) and

7.6.1.1.4. Latest or most current AF Form 469. (T-1).

7.6.1.2. Filing an appeal does not extend existing INCAP Pay or affect the member's status (Title 10 USC, Title 32 USC, state AD, or civilian).

JOHN A. FEDRIGO, SES
Principal Deputy Assistant Secretary
(Manpower and Reserve Affairs)

## Attachment 1

## GLOSSARY OF REFERENCES AND SUPPORTING INFORMATION

***References***

*Executive Order 9397*, Numbering System for Federal Accounts Relating to Individual Persons

5 USC §§ 2108, *Veteran; disabled veteran preference*

5 USC §§ 3309-3315, *Preference eligible; examinations additional points for*

5 USC § 8140, *Members of the Reserve Officers' Training Corps*

10 USC § 507, *Extension of enlistment for members needing medical care or hospitalization*

10 USC § 972, *Members: Effect of Time Lost*

10 USC § 1074a, *Medical and Dental Care: Members on Duty Other Than Active Duty for a Period of More Than 30 Days*

10 USC § 1201, *Regulars and Members on Active Duty for More Than 30 Days: Retirement*

10 USC § 1202, *Regulars and Members on Active Duty for More Than 30 Days: Temporary Disability Retired List*

10 USC § 1203, *Regulars and Members on Active Duty for More Than 30 Days: Separation*

10 USC § 1204, *Members on Active Duty for 30 Days or Less or on Inactive-Duty Training: Retirement*

10 USC § 1206, *Members on Active Duty for 30 Days or Less or on Inactive-Duty Training: Separation*

10 USC § 1206a, *Reserve Components Members Unable to Perform Duties When Ordered to Active Duty: Disability System Processing*

10 USC § 1207, *Disability from Intentional Misconduct or Willful Neglect: Separation*

10 USC § 1207a, *Members with Over Eight Years of Active Service: Eligibility for Disability Retirement for Pre-Existing Conditions*

10 USC § 1219, *Statement of Origin of Disease or Injury: Limitation*

10 USC § 1448, *Application of Plan*

10 USC § 9013, *Secretary of the Air Force*

10 USC § 10148, *Ready Reserve: Failure to Satisfactorily Perform Prescribed Training*

10 USC § 12301, *Reserve Components Generally*

10 USC § 12322, *Active Duty for Health Care*

10 USC § 12323, *Active Duty Pending Line of Duty Determination Required for Response to Sexual Assault*

10 USC § 12503, *Ready Reserve: Funeral Honors Duty*

21 USC § 812, *Schedules of Controlled Substances*

32 U.S. Code Title 32—*National Guard*

32 USC § 115, *Funeral Honors Duty Performed as a Federal Function*

37 USC § 204, *Entitlement*

37 USC § 403, *Basic allowance for housing*

37 USC § 802, *Forfeiture of Pay During Absence from Duty Due to Disease from Intemperate Use of Alcohol or Drugs*

38 USC §1110,—*Basic Entitlement*

38 USC § 1131, *Basic Entitlement*

38 USC § 1710, *Eligibility for hospital, nursing home, and domiciliary care*

38 USC § 1712. *Dental care; drugs and medicines for certain disabled veterans; vaccines*

38 USC § 3017, *Death Benefit*

DoDI 1215.06, *Uniform Reserve, Training, and Retirement Categories for the Reserve Components,* 11 March 2014

DoDI 1241.01, *Reserve Component (RC) Line of Duty Determination for Medical and Dental Treatments and Incapacitation Pay Entitlements,* 19 April 2016

DoDI 1332.18, *Disability Evaluation System (DES),* 5 August 2014

DoDI 1332.45, *Retention Determinations for Non-Deployable Service Members,* 30 July 2018

DoDI 6025.20, *Medical Management (MM) Programs in the Direct Care System (DCS) and Remote Areas,* 9 April 2013

DoDI 6490.04, *Mental Health Evaluations of Members of the Military Services,* 4 March 2013

DoDI 6490.07, *Deployment-Limiting Medical Conditions for Service Members and DOD Civilian Employees,* 5 February 2010

DoDI 6495.02, *Sexual Assault Prevention and Response (SAPR) Program Procedures, Vol 1,* 28 March 13

DoD Financial Management Regulation (FMR) MR 7000.14-R, Volume 7A, *Military Pay Policy –Active Duty and Reserve Pay,* April 2021

DAFI 33-360, *Publications and Forms Management,* 1 December 2015

DAFMAN 48-123, *Medical Examinations and Standards,* 8 December 2020

AFI 33-322, *Records Management and Information Governance Program,* 23 March 2020

AFI 36-2110, *Total Force Assignments,* 05 October 2018

AFI 36-2603, *Air Force Board for Correction of Military Records (AFBCMR),* 18 September 2017

AFI 36-2606, *Reenlistment and Extension of Reenlistment in the United States Air Force*, 20 September 2019

AFI 36-3003, *Military Leave Program,* 24 August 2020

AFI 36-3203, *Service Retirements*, 29 January 2021

AFI 36-3208, *Administrative Separation of Airmen*, 9 July 2004

AFI 36-3212, *Physical Evaluation for Retention, Retirement, and Separation*, 15 July 2019

AFI 44-102, *Medical Care Management*, 17 March 2015

AFI 44-119, *Medical Quality Operations*, 16 August 2011

AFI 44-173, *Population Health*, 10 January 2019

AFI 48-133, *Duty Limiting Conditions*, 7 August 2020

AFI 90-6001, *Sexual Assault Prevention and Response (SAPR) Program*, 15 July 2020

AFMAN 41-210, *TRICARE Operations and Patient Administration*, 10 September 2019

AFPD 36-29, *Military Standards*, 11 April 2019

ANGI 36-101, The *Air National Guard Active Guard/Reserve (AGR) Program*, 3 June 2010

Defense Health Agency Procedures Manual, *Clinical Quality Management in the Military Health System, Volume 5, Accreditation and Compliance*, 29 Aug 2019

***Prescribed Forms***

AF Form 348, *Line of Duty Determination*

AF Form 348-R, *Line of Duty Determination for Restricted Report of Sexual Assault*

AF Form 1971, *Certification for Incapacitation Pay*

***Adopted Forms***

DD Form 261, *Report of Investigation Line of Duty and Misconduct Status*

DD Form 2870, *Authorization for Disclosure of Medical or Dental Information*

DD Form 2910, *Victim Reporting Preference Statement*

SF 600, *Chronological Record of Medical Care*

AF Form 40A, *Record of Individual Inactive Duty Training* AF Form 469, *Duty Limiting Condition Report*

AF Form 847, *Recommendation for Change of Publication*

AF Form 988, *Leave Request/Authorization*

AF Form 1768, *Staff Summary Sheet*

*Medical Continuation Airman Responsibilities and Consent Form*

NGB Form 105S, *Individual Inactive Duty Authorization/Certification*

***Abbreviations and Acronyms***

**AD**—Active Duty

**ADT**—Active duty for training

**AF**—Air Force

**AF/A1MT**—Air Force Directorate of Manpower, Organization and Resources, End Strength Division

**AFBCMR**—Air Force Board for Correction of Military Records

**AF/A1**—Air Force Personnel

**AFI**—Air Force Instruction

**AFMAN**—Air Force Manual

**AFMRA**—Air Force Medical Readiness Agency

**AFPC**—Air Force Personnel Center

**AFPC/DPFC**—Air Force Personnel Center/ Directorate of Airman and Family Care

**AFPD**—Air Force Policy Directive

**AFRC**—Air Force Reserve Command

**AFRC/A1**—Air Force Reserve Commander Personnel

**AFRC/CD**—Air Force Reserve Commander/Commander

**AF/RE**—Air Force Reserve

**AF/REM**—Air Force Reserve Medical

**AFRC/SGP**—Air Force Reserve Surgeon General Medical Operations Division

**AFROTC**—Air Force Reserve Officer Training Corps

**AGR**—Active Guard Reserve

**AMRO**—Airman Medical Readiness Optimization

**ANG**—Air National Guard

**ANG/A1**—Air National Guard Personnel

**ANGRC**—Air National Guard Readiness Center

**ANGRC/CC**—Air National Guard Readiness Center/Commander

**ARC**—Air Reserve Component (Guard and Reserve)

**ARC CMD**—Air Reserve Component Case Management Division

**ARPC**—Air Reserve Personnel Center

**CAT A**—Category A

**CC**—Commander

**DAFI**—Department of the Air Force Instruction

**DAWG**—Deployment Availability Working Group

**DD**—Department of Defense Force

**DES**—Disability Evaluation System

**DoD**—Department of Defense

**DoDI**—Department of Defense Instruction

**DVA**—Department of Veterans Affairs

**EAD**—Extended active duty

**ECT**—Electronic case tracking

**EPTS-SA**—Existed prior to service- service aggravated

**EPTS-NSA**—Existed prior to service-not service aggravated

**FSS**—Force support squadron

**GMU**—Guard medical unit

**IDES**—Integrated Disability Evaluation System

**IDT**—Inactive duty for training

**ILOD**—In line of duty

**INCAP**—Incapacitation

**IRILO**—Initial review in lieu of

**LOD**—Line of duty

**LOD-MFP**—Line of duty-medical focal point

**M4S**—Manpower MPA Man-day Management System

**MAJCOM**—Major command

**MEB**—Medical evaluation board

**MEDCON**—Medical continuation

**MPA**—Military personnel appropriation

**MTF**—Military treatment facility

**NGB**—National Guard Bureau

**NGB/A1**—National Guard Bureau Personnel

**NGB/A1PS**—National Guard Bureau Customer Support & Policy Branch office (NGB/A1PS)

**NGB/CF**—National Guard Bureau Deputy Chief

**NGB/SG**—National Guard Bureau/Surgeon

**NGB/SGP**—National Guard Bureau/ Surgeon General for Policy

**NILOD**—Not in Line of Duty

**PEB**—Physical Evaluation Board

**PM**—Program manager

**PSC**—Prior service condition

**RegAF**—Regular Air Force

**RMU**—Reserve medical unit

**RPA**—Reserve personnel appropriation

**SAF/MR**—Assistant Secretary of the Air Force (Manpower and Reserve Affairs)

**SAPR**—Sexual Assault Prevention and Response

**SARC**—Sexual Assault Response Coordinator

**SECAF**—Secretary of the Air Force

**SG**—Surgeon general

**SJA**—Staff judge advocate

**UCMJ**—Uniform Code of Military Justice

**USAF**—United States Air Force

**USC**—United States Code

**USSF**—United States Space Force

***Terms***

**Unauthorized Absence**—Consider member in an unauthorized absence if the member is voluntarily absent for more than 24 hours, or was voluntarily absent from a scheduled duty or formation, a restriction or an arrest. Scheduled duty or formation means doing a specified task at a specified time and place for a specified purpose. It is not the same as regularly scheduled duty. Consider the member in an unauthorized absence if not excused and absent from duty in civil confinement for more than 24 hours.

**Accidental Death**—Refers to a death from inadvertent action or action where no harm was intended.

**Active Duty**—Full-time duty in the active military service of the United States. Such term includes full-time training duty, annual training duty, and attendance, while in the active military service, at a school designated as a service school by law or by the secretary of the military department concerned. Such term does not include full-time National Guard duty. For the purposes of this instruction, active duty refers to members of the RegAF, AFR-Active Guard Reserve, ANG-Permanent Active Guard Reserve and ARC Extended active duty (EAD).

**Active Duty for Training (ADT)**—A tour of Active Duty that is used for training members of the Reserve components to provide trained units and qualified persons to fill the needs of the armed forces in time of war or national emergency and such other times as the national security requires. The member is under orders that provides for return to non-active status when the period of ADT is completed. It includes annual training, special tours of ADT, school tours and the initial duty for training performed by non-prior service enlistees.

**Active Guard Reserve (AGR)**—Reserve Component members on voluntary active duty providing full-time support to Reserve Component or Active Component organizations for the purpose of organizing, administering, recruiting, instructing or training the Reserve Components.

**Active Service**—Service on active duty or full-time National Guard duty.

**Air Reserve Component (ARC)**—The component of the USAF that includes the AFR and ANG.

**Alcohol Abuse**—The illegal or improper use or possession of alcohol, on or off duty, that results in, but is not limited to, impaired duty performance, intoxicated driving, domestic disturbances, assault, aberrant behavior, altercations, underage drinking or other behavior inconsistent with Air Force standards.

**Allocation**—Days (on orders) given to a subordinate unit for expenditure (also referred to as sub-allocation).

**Chronic condition**—Medical conditions that involve long-developed syndromes that can lead to but not necessarily include acute conditions.

**Clear and Convincing Evidence**—Evidence indicating that the thing to be proved is highly probable or reasonably certain. It is a burden of proof that is higher than a preponderance of the evidence but lower than clear and unmistakable evidence.

**Clear and Unmistakable Evidence**—It is undebatable information that the condition existed prior to military service or if increased in service was not aggravated by military service. In other words, reasonable minds could only conclude that the condition existed prior to military service from a review of all of the evidence in the record. It is a standard of evidentiary proof that is higher than a preponderance of the evidence and clear and convincing evidence.

**Confidential Communication**—Oral, written or electronic communications of personally identifiable information concerning a sexual assault victim and the sexual assault incident provided by the victim to the SARC, SAPR Victims Advocate or healthcare personnel in a Restricted Report. This includes the victim's Sexual Assault Forensics Exam Kit and its information.

**Disability Evaluation System (DES)**—The DoD mechanism for determining return to duty, separation or retirement of members because of disability in accordance with Chapter 61 of 10 USC. Members will proceed through one of the DES processes: the Legacy Disability Evaluation System, the Integrated DES Fit for Duty.

**Disease**—The abnormal condition of an organism that impairs bodily functions, associated with specific symptoms and signs. Disease may be caused by external factors, such as infectious diseases, or it may be caused by internal dysfunctions, such as autoimmune diseases.

**Drugs**—Any controlled substance included in Schedules I, II, III, IV and V in 21 USC § 812, *Schedules of controlled substances*, including anabolic or androgenic steroids, or any intoxicating substance, other than alcohol, that is inhaled, injected, consumed or introduced into the body in any manner to alter mood or function.

**Drug Abuse**—The illegal or improper use, possession, sale, transfer or trafficking of any controlled substance included in Schedules I, II, III, IV and V in 21 USC § 812, drug abuse paraphernalia or any intoxicating substance, other than alcohol, that is inhaled, injected, consumed or introduced into the body in any manner to alter mood or function.

**Duty Status**—For purposes of this instruction, a member is considered to be in a duty status during any period of Active Duty, funeral honors duty or IDT while traveling directly to or from the place at which funeral honors duty or IDT is performed; while remaining overnight immediately before the commencement of IDT or between successive periods of IDT, at or in the vicinity of the site of the IDT, if the site is outside reasonable commuting distance of the member's residence; and while remaining overnight at or in the vicinity of the place the funeral honors duty is to be

performed immediately before serving such duty, if the place is outside of a reasonable commuting distance from the member's residence.

**Earned Income**—Income from nonmilitary employment, including self-employment. This includes normal wages, salaries, professional fees, tips or other taxable compensation for personal services actually rendered, as well as income from income protection plans, vacation pays and sick leave that the member elects to receive. It does not include rents, royalties, retirement pays, dividends or interest, welfare payments or other nontaxable Government benefits.

**Extended Active Duty (EAD) and Active Guard and Reserve (AGR)**—Reserve Component members on voluntary active duty providing full-time support to Reserve Component or Active Component organizations for the purpose of organizing, administering, recruiting, instructing or training the Reserve Components.

**Exacerbation**—A temporary flare or escalation of symptoms/pain that does not result from or result in a permanent change in condition. Often flares are expected in some medical conditions otherwise stated as an acute episode of a chronic condition.

**Full-Time National Guard**—Training or other duty, other than IDT, performed by a member of the Army National Guard of the United States or the Air National Guard of the United States in the member's status as a member of the National Guard of a State or territory, the Commonwealth of Puerto Rico, or the District of Columbia under section 316, 502, 503, 504, or 505 of title 32 for which the member is entitled to pay from the United States or for which the member has waived pay from the United States.

**Gross Negligence**—A degree of carelessness that is greater than simple negligence. It is an act or omission that is accompanied by a disregard for the foreseeable consequences to other of that act or omission.

**Healthcare Personnel**—Persons assisting or otherwise supporting healthcare providers in providing healthcare services (e.g., administrative personnel assigned to a MTF or mental healthcare personnel). Healthcare personnel also include all healthcare providers.

**Hostile Casualty**—A hostile casualty is a person who is the victim of a terrorist activity or who becomes a casualty "in action." "In action" characterizes the casualty as having been the direct result of hostile action, sustained in combat or relating thereto, or sustained going to or returning from a combat mission provided that the occurrence was directly related to hostile action. Included are persons killed or wounded mistakenly or accidentally by friendly fire directed at a hostile force or what is thought to be a hostile force. However, not to be considered as sustained in action and not to be interpreted as hostile casualties are injuries or death due to the elements, self-inflicted wounds, combat fatigue, and except in unusual cases, wounds or death inflicted by a friendly force while the individual is in an AWOL, deserter, or dropped-from-rolls status or is voluntarily absent without authority from a place of duty.

**Inactive Duty Training (IDT)**—Authorized training performed by a member of a Reserve Component not on active duty or Active Duty for Training (ADT) and consisting of regularly scheduled IDTs, additional training assemblies, periods of appropriate duty or equivalent training and any special additional duties authorized for Reserve Component personnel by the Secretary concerned and performed by them in connection with the prescribed activities of the organization in which they are assigned with or without pay. Does not include work or study associated with correspondence course.

**Incapacitation (INCAP)**—Physical disability due to injury, illness or disease that prevents the performance of military duties as determined by the Secretary concerned, or which prevents the member from returning to the civilian occupation in which the member was engaged at the time the injury, illness or disease was incurred or aggravated.

**Incurred**—To occur or come into being (develop), regardless of when discovered or diagnosed, and during a qualified military duty status.

**Injury**—Damage or harm caused to the structure or function of the body caused by an outside agent or force.

**In Line of Duty (ILOD)**—A finding, after all available information has been reviewed, that determines an injury, illness or disease was incurred or aggravated while in an authorized duty status and was not due to misconduct.

**Integrated Disability Evaluation System (IDES)**—The IDES is the joint DoD-DVA process by which DoD determines whether wounded, ill or injured members are fit for continued military service and by which DoD and DVA determine appropriate benefits for members who are discharged or retired for a service-connected disability. The IDES features a single set of disability medical examinations appropriate for fitness determination by the Military Departments and a single set of disability ratings provided by DVA for appropriate use by both departments. Although the IDES includes medical examinations, IDES processes are administrative in nature and are independent of clinical care and treatment.

**Intemperate**—Not temperate or moderate; excessive, especially in the use of alcoholic beverages. Someone who is given to excessive indulgence of bodily appetites especially for intoxicating liquors; a hard drinker.

**Intentional Conduct**——An act, by commission or omission, done on purpose.

**Interim Line of Duty**—A preliminary LOD determination pertaining to ARC Airmen that is used to determine eligibility for continued medical care and pay and allowances. An interim ILOD determination is made unless there is clear and unmistakable evidence that the injury, illness or disease was not incurred or aggravated in a duty status, or clear and convincing evidence shows it was due to misconduct. The AF Form 348 is a valid Interim LOD when both the Military Medical Provider and Immediate Commander blocks have been completed.

**Intervening event**—An independent action occurring between the original ILOD finding of a medical condition and the medical condition becoming unfit for continued service. The intervening event is a break in the natural progression of a medical condition that accelerates the condition becoming unfitting for continued service.

**Intoxication**—A state in which a person's normal capacity to act or reason is inhibited by alcohol or drugs.

**Latent Onset**—Medical condition that initially or previously since exposure/event may not be active or obviously symptomatic, that occurs or becomes apparent after a medically acceptable time period.

**Medical Evaluation Board (MEB) Phase**—The MEB phase of the IDES includes activities from the point of referral to the DES to the transfer of a completed MEB case file to the PEB administration function.

**Mental Responsibility**—The capacity to understand when one's conduct is wrong and to conform one's conduct to the requirement of the law. All members are presumed mentally responsible for their acts, unless there is contrary evidence. This presumption usually means it is unnecessary to pursue the issue of mental responsibility unless there is credible evidence of lack of mental responsibility. Such evidence may consist of the circumstances surrounding the death, illness, injury or disease, previous abnormal or irrational behavior, expert opinion or other evidence directly or indirectly pointing toward lack of mental responsibility. Members are not responsible for their misconduct and its foreseeable consequence if, as a result of mental disease or defect, they lack substantial capacity either to appreciate that their conduct is wrong or to conform the conduct to the requirements of law. The term "mental disease or defect" does not include an abnormality manifested only by repeated wrongful or otherwise antisocial behavior. Members with impaired mental faculties as a result of their own prior misconduct, such as by taking a hallucinogen, other illegal (controlled) substance or deliberately ingesting any harmful/dangerous substance, are mentally responsible. **Note:** The determination of mental responsibility on the LOD is for the time of the incident and may be different from determinations made prior to the incident.

**Military Duty(ies)**—The duties of a member's office and grade as determined by the Secretary concerned, and not necessarily the specialty skill or special qualification held by the member prior to incurring or aggravating an injury, illness or disease in the LOD.

**Misconduct**—Intentional conduct that is wrongful or improper. Also, willful neglect or gross negligence.

**New and Significant Evidence**—New and significant evidence is evidence not previously part of the actual record before the approving authority that by itself or when considered with previous evidence of record, relates to an unestablished fact necessary to substantiate LOD. New and significant evidence can be neither cumulative nor redundant of the evidence of record at the time of the NLOD determination sought to be reopened, and must raise a reasonable possibility of substantiating.

**Not In Line of Duty (NILOD)**—A finding, after all available information has been reviewed, that determines an injury, illness or disease was not incurred or aggravated while in an authorized duty status or could be due to misconduct.

**Personally Identifiable Information**—Includes the person's name, other particularly identifying descriptions (e.g., physical characteristics or identity by position, rank or organization) or other information about the person or the facts and circumstances involved that could reasonably be understood to identify the person (e.g., a female in a particular squadron or barracks when there is only one female assigned).

**Physical disability**—A medical impairment or physical defect standing alone does not constitute a physical disability. To constitute a physical disability, the medical impairment or physical defect must be of such a nature and degree of severity as to interfere with the member's ability to perform military duties adequately.

**Preponderance of the Evidence**—The greater weight of credible evidence. That evidence that, when fairly considered, produces the stronger impression and is more convincing as to its truth when weighed against the opposing evidence.

**Proximate Cause**—It is the cause that, in a natural and continuous sequence unbroken by an independent and unforeseeable new cause, results in the death, illness, injury or disease and without which the death, illness, injury or disease would not have occurred.

**Qualified Duty Status**—The period in which an RC service member is: On AD or FTNGD for more than 30 days; Performing AD or FTNGD for 30 days or less; Performing IDT; Performing FHD; Traveling to or from the place where he or she is to perform or has performed AD or FTNGD as provided in this definition, IDT, or FHD; Remaining overnight immediately before the commencement of, or between successive periods of IDT at or in the vicinity of the site of the IDT; or Remaining overnight immediately before serving on FHD, at or in the vicinity of the place where the RC service member was to so serve, if the place is outside reasonable commuting distance from his or her residence.

**Returned to duty (RTD)**—(1) being able to perform military duty or (2) a return to duty finding via the IRILO or DES process even if on an Assignment Limitation Code, or (3) the condition meets medical retention standards and can no longer be materially improved by further hospitalization or treatment.

**Reserve Personnel Appropriation (RPA)**—Money budgeted by the Reserve and National Guard to pay Reservists/Guardsmen for performing Reserve/Guard or Active Duty related training. RPA includes the following: IDT, Annual Tour, Active Guard-Reserve, Active Duty Operational Support and Special Training.

**Restricted Reporting**—Reporting option that allows sexual assault victims to confidentially disclose the assault to specified individuals (i.e., SARC, SAPR Victims Advocate or healthcare personnel) and receive medical treatment, including emergency care, counseling and assignment of a SARC and SAPR Victims Advocate, without triggering an official investigation. The victim's report provided to healthcare personnel (including the information acquired from a Sexual Assault Forensics Exam Kit), SARCs or SAPR victim advocates will not be reported to law enforcement or to the command to initiate the official investigative process unless the victim consents or an established exception applies. Only a SARC, SAPR Victims Advocate or healthcare personnel may receive a Restricted Report.

**Secretary Concerned**—The SecAF with respect to matters concerning the Air Force.

**Self-Inflicted Death**—Refers to a death resulting from the actions of the deceased and includes both suicide and accidental death.

**Separate(d)/Separation**—Severance of military affiliation as opposed to release from active duty. For the purposes of this AFI, separate (d)/separation refers to discharge from the Air Force (either RegAF or ARC).

**Service Aggravation**—A condition is aggravated in a qualified duty status when there is a worsening of the condition over and above natural progression, caused by trauma or the nature of military service.

**Sexual Assault Prevention and Response (SAPR) Program**—A DoD program for the Military Departments and the DoD Components that establishes SAPR policies to be implemented worldwide. The program objective is an environment and military community intolerant of sexual assault.

**Sexual Assault Prevention and Response Victim Advocate**—A person who, as a victim advocate, provides non-clinical crisis intervention, referral and ongoing non-clinical support to adult sexual assault victims. Support includes providing information on available options and resources to victims. The SAPR victim advocate, on behalf of the sexual assault victim, provides liaison assistance with other organizations and agencies on victim care matters and reports directly to the SARC when performing victim advocacy duties.

**Sexual Assault Response Coordinator (SARC)**—The single point of contact at an installation or within a geographic area that oversees sexual assault awareness, prevention and response training; coordinates medical treatment, including emergency care, for victims of sexual assault; and tracks the services provided to a victim of sexual assault from the initial report through final disposition and resolution.

**Specialty Platform**—Seven Air Force MTFs are designated by AF/SG for MTF Optimization: Eglin, Elmendorf, Keesler, Langley, Nellis, Travis and Wright- Patterson. In addition, two Medical Wings, and 59MDW Lackland, are joint operations providing additional platforms for MEDCON MEBs.

**Suicide**—Refers to a death resulting from purposeful action intended to result in one's own death. In order for suicide to constitute willful misconduct, the act of self-destruction must be intentional. A person of unsound mind is incapable of forming intent (*mens rea*, or guilty mind, which is an essential element of crime or willful misconduct). Whether a person, at the time of suicide, was so unsound mentally that the person did not realize the consequence of such an act, or was unable to resist such impulse, is a question to be determined in each individual case, based on all available lay and medical evidence pertaining to the members' mental condition at the time of suicide. The act of suicide is, in and of itself, considered evidence of mental unsoundness. If there is no reasonably adequate motive for suicide, as shown by the evidence, the act will be considered to have resulted from mental unsoundness. A reasonably adequate motive for suicide may only be established by probable cause showing circumstances which could lead a rational person to self-destruction. In all instances, any reasonable doubt should be resolved favorably to support a determination of ILOD.

**Suicide Attempts and Suicidal Gestures**—When reviewing a suicide attempt or gesture, consider all evidence, to include potential issues that may serve as motivation. Evidence of mental responsibility, including an expert psychiatric evaluation, should be obtained and considered. A bona fide suicide attempt, in the absence of any intervening misconduct, raises a strong legal presumption of lack of mental responsibility due to the instinct for self-preservation. A bona fide suicide attempt is sufficient evidence to rebut a presumption of mental responsibility. Intentionally self-inflicted illness, injury or disease not prompted by a bona fide suicide attempt may be found to be the result of misconduct unless a lack of mental responsibility can be shown. In all instances, any reasonable doubt should be resolved favorably to support a determination of ILOD.

**Unable to Perform Military Duties**—The member is unable to meet retention or mobility standards in accordance with DAFMAN 48-123.

**Under the Influence of Alcohol or Drugs**—Any impairment caused by alcohol or drugs that is sufficient to impair the rational and full exercise of the mental or physical faculties.

**Unrestricted Reporting**—A process that an individual covered by this policy uses to disclose, without requesting confidentiality or Restricted Reporting, that the individual is the victim of a sexual assault. Under these circumstances, the victim's report provided to healthcare personnel, the SARC, a SAPR victim advocate, command authorities or other persons is reported to law enforcement and may be used to initiate the official investigative process.

**Willful Neglect**—An intentional act of omission or commission that evidences a reckless or wanton disregard for the attendant consequences. Conduct that indicates a member intentionally exhibited reckless or wanton disregard for their personal well-being or for the well-being of another.

## Attachment 2

## LOD DETERMINATIONS FOR SPECIFIC SITUATIONS

**Note:** The Guidance for the following situations applies to the RegAF. Applicability to ARC members will be based on duty status and the specifics of the situation.

**A2.1. Alcohol Abuse.** Drinking, drunkenness and alcoholism by themselves are not illnesses, diseases or injuries requiring a LOD determination to be initiated. They may more properly require punitive or other administrative action.

A2.1.1. Initiate a LOD determination when the member suffers an illness, injury, disease or death because of alcohol abuse. **(T-1).**

A2.1.2. An injury incurred during the intemperate use of alcohol should be found to be due to misconduct if it is proven that, the intemperate use of alcohol was the proximate cause of the injury.

A2.1.3. Any acute or transient disease directly caused by or immediately following the intemperate use of alcohol should be found to be due to misconduct. Additionally, organic diseases or disabilities that are secondary to alcoholism, such as Laennec's cirrhosis, fatty metamorphosis of the liver and chronic brain syndrome, should be found to be NILOD due to misconduct.

**A2.2. Drug Abuse.** Drug abuse itself is not considered to be a disease or an injury for the purpose of requiring a LOD determination to be initiated.

A2.2.1. Initiate a LOD determination when the member suffers an illness, injury, disease or death because of drug abuse. **(T-1).**

A2.2.2. Drug abuse is strong evidence of misconduct. Illness, injury, disease or death proximately caused by drug abuse should be found to be due to misconduct. This includes the debilitating effect the drug has on the body and the effect the drug has in impairing the member's mental or physical faculties affecting the members' actions. The fact that the member may have a preexisting physical condition causing the member to be more susceptible to the effects of the drug does not, of itself, excuse any resulting misconduct.

A2.2.3. Illness, injury, disease or death resulting from drug abuse may be found to be due to misconduct even though the drug abuse was made known as a result of the limited privilege communication program, identified through urinalysis or incident to medical care for other than drug abuse.

**A2.3. Explosives, Firearms, and Dangerous Substances.** Unexploded ammunition or other objects, firearms, and highly flammable liquids are inherently dangerous and their handling necessitates a high degree of care.

A2.3.1. Initiate a LOD determination when the member suffers an illness, injury, disease or death because of explosives, firearms, and dangerous substances. **(T-1).**

A2.3.2. Tampering with, attempting to ignite, or otherwise handling such objects in disregard of their dangerous qualities is strong evidence of misconduct.

**A2.4. Fights.** Aggression or voluntary participation in a fight or similar encounter, where a member is at least equally at fault with the adversary in starting or continuing the fight, is evidence of misconduct. Additional evidence of misconduct includes provocative actions or language taken or uttered under circumstances where a reasonable person would anticipate retaliation.

A2.4.1. Initiate a LOD determination when the member suffers an illness, injury, disease or death when there are questionable circumstances surrounding the origins or continuation of a fight. **(T-1).**

A2.4.2. There is no misconduct if a member is a victim of an unprovoked assault or acts in self-defense. Misconduct may not always be the proximate cause of injury caused by excessive means. For example, where a fight is underway and an adversary uses an excessive means that, under the circumstances, could not reasonably be foreseen.

A2.4.3. However, there can be a causal connection between the misconduct and the injury or death where a member persists in a fight or other encounter knowing that an adversary has produced a dangerous weapon. Determine each case on its own facts.

**A2.5. Joint Ventures, Imputed Misconduct.** A member can be held responsible for the misconduct of another if the member exercises control over, and is responsible for, the conduct of the principal actor or if the circumstances demonstrate coordinated action sufficient to establish a joint enterprise. Mere presence of the member is not sufficient to establish a joint enterprise or to give a basis for holding the member responsible for the misconduct of another. There is no obligation to exert a positive or constructive influence over the conduct of the principal actor.

**A2.6. Motor Vehicle Accidents.**

A2.6.1. A member who operates a motor vehicle in an intentionally wrongful or negligent manner that was the proximate cause of an illness, injury, disease or death may be found to have engaged in misconduct.

A2.6.2. A member who knew or should have reasonably known the member was unfit to drive, and who is injured as a result of driving a motor vehicle when unfit to do so, may be found to have engaged in misconduct. The test for misconduct is whether a reasonable person, under circumstances and conditions similar to those under which the member drove, would or would not have undertaken to drive and whether having elected to drive, the member's actions constitute intentional misconduct or willful neglect.

A2.6.2.1. Voluntary intoxication, use of drugs or other circumstances that affect the member's mental or physical faculties causing a member to be unfit.

A2.6.2.2. It is not necessarily misconduct when a member has a motor vehicle accident because the member fell asleep while driving.

A2.6.3. Injury or death incurred while not wearing safety devices such as seat belts or safety helmets is one factor to consider. Standing alone, the violation of a safety standard or regulation constitutes only simple negligence. The violation must, under the circumstances, amount to gross, willful or wanton carelessness to constitute misconduct.

A2.6.3.1. The failure to use safety devices may have nothing to do with the proximate cause of the injury or death. For example, the failure to wear a safety helmet may have nothing to do with a motorcyclist who breaks a leg.

A2.6.3.2. In other cases, failure to use safety devices can aggravate the injuries but may not be the proximate cause of the injuries.

A2.6.3.3. Do not focus solely upon whether or not the member was wearing seat belts or other protective devices at the time of the accident, instead carefully examine the facts and circumstances of each case.

**A2.7. Participation in Inherently Hazardous Off-Duty Activities.** A LOD Determination for a member who participated in inherently hazardous off-duty activities is evaluated the same way as any other case. Consider the nature of the activity, its inherent hazards and the prior training and experience of the member.

**A2.8. Pregnant Members.** Do not perform a LOD determination for pregnancy or for any diagnosis associated with pregnancy. (RegAF only). Make a LOD determination if the member is unable to do the member's duties for more than 24 hours, there is a likelihood of a permanent disability or in cases involving an induced abortion in violation of the law of the location of the abortion.

**A2.9. Refusal or Failure to Seek and Obtain Medical or Dental Treatment.** Initiate a LOD determination when the member's unreasonable refusal or failure through willful neglect or by design to submit to medical, surgical or dental treatment, proximately causes illness, injury, disease or death even though misconduct did not cause the original condition. The refusal or failure to seek and obtain medical or dental treatment is considered misconduct.

**A2.10. Residual Effects of Surgery or Treatment.** Normal disability resulting from the surgery or treatment incurred NILOD is likewise NILOD. However, unanticipated residuals from the surgery or treatment may be considered as incurred ILOD following a LOD determination.

**A2.11. Resisting Arrest/Escape from Custody.** Consider any illness, injury, disease or death resulting from resisting arrest or trying to escape from custody a result of the member's misconduct. The member can reasonably anticipate the use of necessary force, even excessive force, to restrain the member. One who engages in such activities acts in disregard of personal safety.

**A2.12. Suicide, Suicide Attempts and Suicidal Gestures.** When reviewing a suicide, suicide attempt or gesture, obtain evidence on the question of mental responsibility, including an expert psychiatric evaluation. Consider all evidence bearing on the suicide, suicide attempt or gesture and any problem that might serve as motivation for the incident.

A2.12.1. A bona fide suicide or attempt, in the absence of any intervening misconduct, raises a strong inference of lack of mental responsibility because of the instinct for self- preservation. A bona fide suicide or attempt is sufficient evidence to rebut the presumption that the member was mentally responsible.

A2.12.2. Intentionally self-inflicted illness, injury or disease not prompted by a bona fide suicide attempt may be found to be the result of misconduct unless a lack of mental responsibility can be shown. In all instances, any reasonable doubt should be resolved favorably to support a determination of ILOD.

**A2.13. Sexually Transmitted Infection.** The fact that a member has a sexually transmitted infection is not, by itself, evidence of misconduct.

## Attachment 3

## GUIDE FOR INVESTIGATING OFFICERS

**A3.1. Duty.** The investigating officer will attempt to determine all the facts leading up to and connected with a death, injury, illness or disease and render a comprehensive detailed report, which includes a recommended determination of whether or not the death, illness, injury or disease occurred ILOD. The report must contain enough pertinent data to enable later reviews to be made without additional information.

**A3.2. Investigate the Circumstances.** The investigating officer will ascertain dates, places, persons and events definitely and accurately.

A3.2.1. Consult with the servicing legal office or Legal Advisor. The investigating officer should consult with the legal advisor before beginning the investigation and as often as necessary during the investigation.

A3.2.2. Secure Reports. The investigating officer should obtain copies of all pertinent records including:

A3.2.2.1. Relevant documents with respect to the duty, leave, pass or unauthorized absence status of the member at the time of the incident resulting in death, illness, injury or disease. When the subject is a member of the USAF Reserves or is an ANG member, include information as to member's status in relation to EAD, ADT, IDT, etc., at the time of the incident.

A3.2.2.2. All relevant military police reports, including summaries of the Office of Special Investigations (OSI) report.

A3.2.2.3. All relevant civilian police reports. While civilian agencies will make traffic investigations available to an investigating officer, OSI assistance may be necessary to obtain civilian reports of criminal investigations.

A3.2.2.4. All relevant medical reports including analysis of blood, breath, urine and tissue.

A3.2.2.5. When relevant, information concerning the site and terrain at which the incident in question occurred and photographs, maps, charts, diagrams or other exhibits which may be helpful to a complete understanding of the incident.

A3.2.2.6. For cases involving suicides, suicide attempts or gestures, obtain a copy of the mental health evaluation. If there has been no evaluation and one is necessary, have the member's commander or the appointing authority request one in accordance with DoDI 6490.04, *Mental Health Evaluations of Members of the Military Services,* 4 March 2013. Collect evidence bearing on the mental condition of the member, including evidence of actions or moods immediately before the incident, and any problems that might motivate the act. Consult with the Legal Advisor as necessary.

A3.2.3. Secure Statements.

A3.2.3.1. Statement of Subject. The report of investigation must contain the sworn statement of the subject of the investigation (see **Attachment 4,** Sample Format for Statements) or an explanation why the statement could not be obtained.

A3.2.3.2. Advise Subject of Rights.

A3.2.3.2.1. 10 USC § 1219, *Statement of Origin of Disease or Injury: Limitation* Rights. In all cases, the subject of the investigation must be advised before being interviewed that 10 USC § 1219 states: "A member of an armed force may not be required to sign a statement relating to the origin, incurrence, or aggravation of a disease or injury that the member has. **(T-0).** Any such statement against the members 'interests, signed by a member, is invalid." **(T-0).** A member's right to make a statement is violated if a person, in the course of the investigation, obtains the member's oral statements and reduces them to writing, unless the above advice was given first.

A3.2.3.2.2. Article 31 Rights. Advise the subject of subject's rights under Article 31, UCMJ, only if the investigating officer suspects the commission of an offense. **(T-0).** Consult with the servicing legal office or Legal Advisor on the form of the advice.

A3.2.3.3. Witness Statements. Obtain statements of witnesses with relevant information. If witnesses are not available for personal interview, obtain copies of available sworn or unsworn statements made by those witnesses to other investigators. If no such statements are available, arrange where possible, for others to take the statements. See **Attachment 4**, Sample Format for Statements.

A3.2.3.4. Advise Witnesses.

A3.2.3.4.1. Section 1219 Rights. Do not apply to witnesses.

A3.2.3.4.2. Article 31 Rights. Do not apply to civilian witnesses. Advise a military witness of their rights under Article 31 of the UCMJ only if the investigating officer suspects the commission of an offense. Consult with the servicing legal office or Legal Advisor on the form of the advice.

A3.2.4. Develop the Facts. When alcohol is concerned in an investigation, thoroughly explore the part it played. Pertinent questions which should be resolved are the amount and type of alcohol consumed, period of time during which it was consumed, outward appearance of the person before the incident (staggering, bellicose, unable to speak rationally, etc.). Include the results of any alcohol tests taken shortly after the incident in question.

**A3.3. Make the Recommendation.** An illness, injury, disease, or death by a member on active orders is presumed ILOD. For ARC, Investigating Officers will submit investigation findings and report through an electronic system.

A3.3.1. Duty Status Determination. An illness, injury, disease, or death incurred while a member is unauthorized absence is NILOD. It does not matter whether the illness injury, disease or death was or was not the result of the member's misconduct.

A3.3.1.1. Rely on the immediate commander's finding that the member was present for duty or absent with authority unless there is evidence to the contrary.

A3.3.1.2. Inquire further into the facts and circumstances of the member's duty status when the immediate commander finds the member was unauthorized absence or where there is evidence to indicate the commander's finding of present for duty or absent with authority is incorrect. For the definition of the term "unauthorized absence", see **Attachment 1.**

A3.3.2. Misconduct Determination. Determine whether misconduct was or was not the proximate cause of the member's illness, injury, disease, or death. Misconduct must be proven by clear and convincing evidence.

A3.3.3. For explanation of the terms "misconduct" and "proximate cause", see **Attachment 1**.

**A3.4. Compile the Report.**

A3.4.1. DD Form 261. Serves as a cover sheet and forwarding document. Complete lines 1-12 of the form.

A3.4.2. Investigating Officer Report. At the conclusion of the investigation, the investigating officer prepares a narrative report. The report should include a statement of the authority under which the investigation was conducted, identification of any duty time lost, the matter investigated, the facts, a discussion of those facts as they relate to the issues under investigation, conclusions, and a statement of findings. The investigating officer should clarify any discrepancy in the date and place of illness, injury, disease or death, or in the evidence as to the duty status of the member. When relevant, comment on the credibility of statements of witnesses.

A3.4.3. Supporting Documents. All documents in the report must be of good quality. Original documents should be in the report to the extent they are available. The documents should be assembled as prescribed in **Figure A3.1**:

**Figure A3.1. Supporting Documents.**

DD Form 261 as cover sheet
Tab A - Index of exhibits
Tab B - Legal review
Tab C - IO summary
Tab D - IO appointment letter
Tab E - AF Form 348
Tab F - Subject's sworn statement or IO explanation why subject's statement is unavailable.
Tab G - Statements of witnesses.
Tab H - Copies of orders or other documents relating to duty status
Tab I - Copies of other investigative reports prepared by military or civilian authorities
Tab J - Maps, photographs or sketches
Tab K - Medical records relevant to the LOD determination

A3.4.3.1. The investigating officer may add additional tabs as needed. If more than one exhibit appears under a given tab, label the exhibits separately; for example, F-1, F-2 and F-3. Where there are no exhibits to include behind a given tab, the tab letter should still appear in the index with the notation "No exhibit, this tab." Tabs are not required if processed electronically.

**A3.5. Forward the Documentation.** The investigating officer will send the completed report to the appointing authority.

## Attachment 4

## SAMPLE FORMAT FOR STATEMENTS

**Figure A4.1. Sample Format for Statements.**

**Statement of Subject of Investigation.** I, (name), (grade), (address), am aware that I may submit a sworn statement in connection with this investigation concerning my__(specify what the disease or injury is).

I have been advised that 10 USC § 1219 provides as follows:
"A member of an armed force may not be required to sign a statement relating to the origin, incurrence, or aggravation of a disease or injury that (he) (she) has. Any such statement against (his) (her) interests, signed by a member, is invalid."

I understand that I cannot be required to sign any such statement but that if I willingly do so it may be considered in determining whether or not my injury or disease occurred in line of duty.

(I have also been advised of my rights under Article 31of the UCMJ [see **Note 1**]).

I make and sign the following sworn statement voluntarily and with this understanding:
(Body of Statement)

(Signature of member)
Subscribed and sworn to before me this_____day of_, 20__.

(Signature of person administering the oath [see Note 2])

**PRIVACY ACT STATEMENT**
**AUTHORITY:** 5 USC §§ 2108, 3309-3315, 8140; 10 USC §§ 507, 972, 1074, 1201-1221; 37 USC §§ 204, 403, 802; 38 USC §§ 1110, 1131, 1710, 1712.

**PURPOSE:** Information provided is used by processing activities in determining whether you were or were not acting in line of duty when your illness, injury or disease occurred. The information will be filed in your Master Personnel Record Group and you will be given a copy as well. Information may be reviewed by the base ground safety office.

**ROUTINE USES:** NONE.

**DISCLOSURE IS VOLUNTARY:** If information is not provided, the Air Force will complete processing using information that is available.

**Notes**:
1. Omit if military member is not suspected of committing an offense.
2. The investigating officer, any person authorized by 10 USC § 936 or a notary public may administer the oath. Enter the typed or printed name, grade or organization or, if a notary, the notary's identification under the signature block.

**Figure A4.2. Statement of Military Witness Other than the Subject of the Investigation.**

I, (name), (grade), (address), (have been advised of my rights under Article 31 of the UCMJ, [see **Note 1**]) am aware of the purpose of this investigation and of the importance of a correct and complete statement of the facts as known to me (see **Note 2**).

I understand the foregoing and make the following sworn statement:
(Body of Statement)

(Signature of witness)
Subscribed and sworn to before me this_____day of_, 20__.

(Signature of person administering the oath [see **Note 3**])

**PRIVACY ACT STATEMENT**
**AUTHORITY**: 5 USC §§ 2108, 3309-3315, 8140; 10 USC §§ 507, 972, 1074, 1201-1221; 37 USC §§ 204, 403, 802; 38 USC §§ 1110, 1131, 1710, 1712.

**PURPOSE:** Information provided is used by processing activities in determining whether the ill, injured, diseased or deceased member was or was not acting in line of duty when the illness, injury, disease or death occurred. The information will be filed in the member's Master Personnel Record Group and the member will be given a copy as well. Information may be reviewed by the base ground safety office.

**ROUTINE USES:** NONE.

**DISCLOSURE IS MANDATORY:** If information known to a military witness is not provided when lawfully ordered to do so by the investigating officer, the witness is subject to punishment under the UCMJ.

**Notes**:
1. Omit if the member is not suspected of committing an offense.
2. After explaining the purpose and importance of the investigation, request the military witness to provide any relevant information known to them. In the rare case, a military witness may not wish to disclose information. The investigating officer can legally order a military witness other than the subject of the investigation, to disclose the information if the disclosure will not tend to incriminate the witness. A military witness can rely upon those rights provided by Article 31 of the UCMJ when requested or ordered to disclose information that might tend to be self- incriminating. Before ordering a military witness to disclose information, the investigating officer should consult with the Legal Advisor.
3. The investigating officer, any person authorized by 10 USC § 936 or a notary public may administer the oath. Enter the typed or printed name, grade or organization or, if a notary, the notary's identification under the signature block.

**Figure A4.3. Statement of Civilian Witness.**

I, (name), (address), am aware of the purpose of this investigation and of the importance of a correct and complete statement of the facts as known to me, I understand the foregoing and voluntarily make the following sworn statement:

(Body of Statement)

(Signature of witness)
Subscribed and sworn to before me this_____day of_, 20__.

(Signature of person administering the oath [see **Note 1**])

**PRIVACY ACT STATEMENT**
**AUTHORITY**: 5 USC §§ 2108, 3309-3315, 8140; 10 USC §§ 507, 972, 1074, 1201-1221; 37 USC §§ 204, 403, 802; 38 USC §§ 1110, 1131, 1710, 1712.

**PURPOSE:** Information provided is used by processing activities in determining whether the ill, injured, diseased or deceased member was or was not acting in line of duty when the illness, injury, disease or death occurred. The information will be filed in the member's Master Personnel Record Group and the member will be given a copy as well. Information may be reviewed by the base ground safety office.

**ROUTINE USES:** NONE.

**DISCLOSURE IS VOLUNTARY (see Note 2):** If information is not provided, the Air Force will complete processing using information that is available.

**Notes**:
1. The investigating officer, any person authorized by 10 USC § 936 or a notary public, may administer the oath. Enter the typed or printed name, grade or organization or, if a notary, the notary's identification under the signature block.
2. Witnesses who are civilian employees of the DoD may be required to provide a statement. The investigating officer should coordinate with the Civilian Personnel Flight regarding whether a DoD civilian must provide a statement.

## Attachment 5

## SAMPLE FORMAT OF MEMBER NOTIFICATION OF NOT IN LINE OF DUTY DETERMINATION (NILOD)

**Figure A5.1. Sample Format of Member Notification of NILOD Determination.**

Date

MEMORANDUM FOR: (Member's Name)

FROM: (Immediate Commander)

SUBJECT: Notification of Determination of Not in Line of Duty (NILOD) under AFI 36-2910

This letter serves to notify you that (Name of Approving Authority), approving authority under AFI 36- 2910, has determined that your (describe illness, injury or disease at issue) occurred NILOD. This determination was reached after review of a formal investigation of the circumstances of your injury or disease. This determination can be reconsidered only if you notify (Name of Appointing Authority), in writing, of new and significant evidence that indicates a likelihood of error in the determination. Such a request for reconsideration must be made within 45 days of receipt of this notification.

Alternatively, you may appeal this determination to (name of appellate authority), appellate authority, in writing, within 30 days of receipt of this notification. Any request for reconsideration or appeal must be sent to (address of FSS/MPS).

(Commander's Signature Block)

Attachment:
Copy of Case File

## Attachment 6

## SAMPLE FORMAT OF NOTIFICATION OF NOT IN LINE OF DUTY DETERMINATION (NILOD) IN DEATH CASES

**Figure A6.1. Sample Format of Notification of NILOD in Death Cases.**

Date

MEMORANDUM FOR: (Name of Next of Kin)

FROM: (Immediate Commander)

SUBJECT: Notification of Determination of Not in Line of Duty (NILOD) under AFI 36-2910

This letter serves to notify you that (Name of Approving Authority), approving authority under AFI 36-2910, has determined that (member's name) death occurred NILOD. This determination was reached after review of a formal investigation of the circumstances of (his)(her) death.

10 USC § 1448 provides that a member's dependents may be eligible for benefits under the Survivor Benefit Plan, as long as the member's death was found to be ILOD. As a result of the determination that (member's name) was NILOD, (his) (her) dependents will not be eligible for benefits under this plan.

This determination can be reconsidered only if you notify (Name of Appointing Authority), in writing, of new and significant evidence that indicates a likelihood of error in the determination. Such a request for reconsideration must be made within 45 days of receipt of this notification.

Alternatively, you may appeal this determination to (name of appellate authority), appellate authority, in writing, within 30 days of receipt of this notification. Any request for reconsideration or appeal must be sent to (address of FSS/MPS).

(Commander's Signature Block)

Attachment:
Copy of Case File

## Attachment 7

## SAMPLE ARC CMD PERFORMANCE MEASURES FRAMEWORK

### Table A7.1. Sample ARC CMD Performance Measures Framework.

| Measure | Monthly Trend | Year To Date | Illness / Injury | Counts | | | | Number of LODs | | | | Orders Status | | | | Referred to DES | | | | Wing | Component | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | | | | All | Min | Avg | Max | All | One | Two | 3+ | T10 MPA | T10 RPA | Title 32 | IN CAP | All | RTD | Med Ret | Dis-charge | | AFR | NGB |
| Number of cases within the Case Management System - Pending | x | x | | x | | | | x | | | | x | x | x | x | | | | | x | x | x |
| Number of cases within the Case Management System - Completed | x | x | | x | | | | x | | | | x | x | x | x | | | | | x | x | x |
| Total number of cases within the Case Management System (include LOD initial and/or completed) | x | x | | x | | | | x | x | x | x | x | x | x | x | | | | | x | x | x |
| Number of members with illness/injury from contingency operations | x | x | x | x | | | | x | | | | x | x | x | x | x | x | x | x | x | x | x |
| Case Manager Acuity (Number of contacts/hours by Case Manager) | x | x | x | x | | | | x | | | | x | x | x | x | | | | | x | x | x |
| Care Coordinator Acuity (Number of contacts/hours by Care Coordinator) | x | x | x | x | | | | x | | | | x | x | x | x | | | | | x | x | x |
| Types of Illness/Injury by LOD description | | x | | x | | | | x | | | | x | x | x | x | | | | | | x | x |
| Duration between LOD Determination Initiated/Completed and Start of MEDCON orders | x | x | | x | x | x | x | x | | | | x | x | x | x | | | | | | x | x |
| Duration between LOD Determination Initiated and LOD Completed | x | x | | x | x | x | x | x | | | | x | x | x | x | | | | | | x | x |
| Number of illnesses/injuries resolved | x | x | x | x | x | x | x | x | | | | x | x | x | x | | | | | x | x | x |
| Number of cases referred to DVA for care | x | x | | x | | | | | | | | x | x | x | x | | | | | x | x | x |
| Number of cases referred to DES | x | | x | x | | | | x | | | | x | x | x | x | x | | | | x | x | x |
| Number of cases with early referral to DES | x | x | x | x | | | | x | | | | x | x | x | x | x | | x | x | x | x | x |
| Duration between LOD Initiated/Completed and RTD/DES Referral | x | x | | x | x | x | x | x | | | | x | x | x | x | x | | | | | x | x |
| Duration between DES Referral and DES Final Resolution | x | x | | x | x | x | x | x | | | | x | x | x | x | x | x | x | x | | x | x |
| Length of time on MEDCON orders | x | x | x | x | x | x | x | x | | | | x | x | x | x | | | | | | x | x |
| Number of MEDCON days obligated | x | x | | x | | | | | | | | x | x | x | x | | | | | x | x | x |
| Dollar amount of MEDCON orders obligated | x | x | | x | | | | | | | | x | x | x | x | | | | | x | x | x |