

NIH Policy Manual

2300-892-1 - Reimbursement for Professional Liability Insurance

Issuing Office: OD/OM/OHR/CPD **Phone:** [\(301\) 496-0377](tel:3014960377)

Issuing Office Website: <https://hr.nih.gov/benefits/pay/title-5-pay>

Release Date: 7/22/2020 ?

Transmittal Notice

- 1. Explanation of Material Transmitted:** This issuance updates the procedures and definitions for qualified NIH employees to request and obtain reimbursement for professional liability insurance. This update clarifies that one-half of the costs incurred by employees may be reimbursed by NIH. If an employee is qualified to receive this reimbursement, reimbursement for this type of insurance is mandatory.
- 2. Filing Instructions:**

Remove: NIH Manual 2300-892-1, dated 11/04/99.

Insert: NIH Manual 2300-892-1, dated 7/22/2020.

PLEASE NOTE: For information on:

- Content of this chapter, contact the issuing office listed above.
- NIH Manual System, contact the Division of Management Support, OMA on 301 496-2832, or enter this URL: <https://oma.od.nih.gov/DMS/Pages/Manual-Chapters.aspx>

A. Purpose

This chapter states the policy and procedures for reimbursing one-half of the cost of professional liability insurance policies purchased by qualified NIH managers, supervisors, and law enforcement officers.

B. References

[5 U.S.C. Part III, Subpart D, Chapter 59, Subchapter IV - Miscellaneous Allowances, Notes](#)

[Public Law 104-208, Section 636](#)

[Treasury Postal Service and General Government Appropriations Act, 1997](#)

[5 U.S.C. § 7103 Definitions](#)

NIH Manual Chapter 1743, “Keeping and Destroying Records” [NIH Manual Chapter 1743](#), Appendix 1, [NIH Records Management Schedule](#)

C. Policy

As required by 5 United States Code, Part III, Subpart D, Chapter 59, Subchapter IV, Notes, agencies are required to use funds appropriated for salaries and expenses to reimburse qualified employees who choose to purchase professional liability insurance for up to one half of the cost. The NIH policy is that Institutes and Centers (ICs) are required to reimburse qualified employees electing to purchase professional liability for half of the cost of their policies.

D. Scope

This policy applies to all types of employment at NIH,^[1] including qualified employees in the competitive service, excepted service (including Title 42), Federal Wage System, Commissioned Corps, Senior Executive Service, and the Senior Biomedical Research Service.

This policy does not apply to those in non- full time equivalent (FTE) positions, including the Visiting Fellowship Program, the Intramural Research Training Award Program, Guest Researchers and professional service contracts. This policy also does not apply to Special Volunteers and individuals serving on other types of voluntary assignments.

[1] The NIH will continue to honor all current Collective Bargaining Agreements and will implement this policy consistent with the Agreements and its obligations under law, rule or regulation.

E. Coverage

Employees are qualified for the reimbursement of professional liability insurance if they meet the definition of supervisor, management official, or law enforcement officer. Currently, no NIH employees are designated as law enforcement officers.

F. Definitions

The following terms are defined as follows, consistent with the statutory definitions provided in 5 United States Code, Part III, Subpart D, Chapter 59, Subchapter IV, Notes where applicable:

1. Professional Liability Insurance is defined as:

- a. "*Legal liability for damages* due to injuries to other persons, damage to their property, or other damage or loss to such other persons (including the expenses of litigation and settlement) resulting from or arising out of any tortious act, error,

or omission of the covered individual (whether common law, statutory, or constitutional) while in the performance of such individual's official duties as a qualified employee; and

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

2. Supervisors and Management Officials are defined as:

- a. *"Supervisor* means an individual employed by an agency having authority in the interest of the agency to hire, direct, assign, promote, reward, transfer, furlough, layoff, recall, suspend, discipline, or remove employees, to adjust their grievances, or to effectively recommend such action, if the exercise of the authority is not merely routine or clerical in nature but requires the consistent exercise of independent judgment, except that, with respect to any unit which includes firefighters or nurses, the term "supervisor" includes only those individuals who devote a preponderance of their employment time to exercising such authority."
- b. *"Management Official* means an individual employed by the agency in a position the duties and responsibilities of which require or authorize the individual to formulate, determine, or influence the policies of the agency."

- 3. **Law Enforcement Officer** is defined as an "... employee, the duties of whose positions are primarily the investigation, apprehension, prosecution, or detention of individuals suspected of, or convicted of offenses against the criminal laws of the United States, including an employee engaged in these activities who is transferred to a supervisory or administrative position..."
- 4. **Qualified Employees** are employees who may be reimbursed for half of the cost of professional liability insurance, provided they meet the definitions contained in paragraphs F.2. and F.3. above.
- 5. **Eligibility Officer** is an individual in the IC who determines an employee's eligibility for reimbursement of professional liability insurance. Ex: Employee's Supervisor or Administrative Officer.
- 6. **Authorized Certifying Officer** is the individual in the IC who certifies that the request for reimbursement of cost for professional liability insurance is legal, proper and correct. This person is usually an Administrative Officer or the Budget Officer.

Note: PHS Commissioned Officers are eligible for reimbursement for the purchase of professional liability insurance, if they meet the definitions provided in paragraph F.2. above.

G. Roles and Responsibilities for Obtaining Professional Liability Insurance

ICs will adhere to the following procedures to reimburse the partial cost of professional liability insurance for qualified IC employees:

1. Identify at least two different officials to handle different aspects of the reimbursement process.
 - a. The *eligibility officer* will be responsible for determining employee eligibility for reimbursement. The eligibility officer notifies the IC *authorized certifying officer* regarding which employees have been certified as qualified for reimbursement for professional liability insurance policies. The IC *eligibility officer* keeps a record of employees who are qualified for reimbursements.
 - b. The *authorized certifying officer* will authorize reimbursement of the designated amount to the qualified employee upon presentation of adequate documentation of purchase of the insurance by the qualified employees. S/he signs the SF-1304 indicating that the amount to be paid is the correct amount, the documentation provided supports the request and the payment is requested from the correct CAN. Since the cost of professional liability insurance is relatively low, requests for reimbursements in excess of \$500 per twelve-month period should be carefully reviewed to make sure that policies purchased by employees do not contain additional insurance benefits than permitted by the authorizing statute.
2. Employees who want to purchase professional liability insurance must contact their IC *eligibility officer* responsible for determining whether they are qualified for reimbursement for the purchase of professional liability insurance. The IC *eligibility officer* will make the determination based on whether employees meet the definitions in this Manual Chapter. Qualified employees are responsible for finding insurers and negotiating insurance policies and extensions. They are also responsible for assuring that their insurance policies do not lapse. Qualified employees are responsible for paying insurance premiums and obtaining the information needed to show proof of purchase of insurance policies so that reimbursements can be made. Qualified employees must make personal judgments concerning their liability and need for the coverage and purchase of personal liability insurance.
3. Qualified employees who purchase insurance must present proof of purchase to their IC *authorized certifying official*. If all documentation is proper, the *authorized certifying officer* will approve the reimbursement using an SF-1034, "Public Voucher for Purchases and Services Other Than Personal." (<https://www.gsa.gov/cdnstatic/SF1034-87c.pdf?forceDownload=1>). See Appendix 1 for specific instructions on the use of the SF-1034. The Office of Financial Management should be consulted on the process for reimbursement.

Proof of purchase will include:

- a. A copy of the insurance bill in the qualified employee's name, indicating that it is for professional liability insurance, the period of the policy, the full amount of the policy, and
 - b. A paid receipt for the full cost of the insurance. If a check is used as the paid receipt, a copy of both sides of the canceled check is required.
4. Qualified employee requests for reimbursement of professional liability insurance costs are made by submitting a complete, signed package to the Office of Financial Management as soon as possible after such expenses are incurred, but no later than 120 days after the insurance takes effect.
5. Renewals and extensions of professional liability insurance policies will follow the same procedure as the initial purchase. Employees must be certified as still meeting the legal definition to be qualified for reimbursements.

Appendix 1. Instructions for Completing the SF-1034 Public Voucher for Purchases and Services Other Than Personal

(<https://www.gsa.gov/cdnstatic/SF1034-87c.pdf?forceDownload=1>)

1. The authorized certifying officer must sign the SF-1034 form as a means of keeping a record that the employee was determined to be eligible for reimbursement.
2. A copy of the insurance bill, indicating that it is for professional liability insurance, must be attached to this form (SF-1034). The coverage period of the professional liability insurance must be included on the bill and on the reimbursement form.
3. A paid receipt must also be attached for reimbursement. If a canceled check is used as a paid receipt, a copy of both sides of the canceled check must be attached.
4. The completed SF-1034 form along with appropriate attachments should be sent to the Office of Financial Management for payment by electronic means.
 - by paper copy to 2115 East Jefferson Street, Room 4C-404, Rockville, MD 20852-8500.
 - by secure email to Deitra Whitehead and Paula Kinard.
5. Any questions concerning the processing of reimbursements should be addressed to the Office of Financial Management.