
MANAGEMENT DIRECTIVE

630.2 Amended
Number

COMMONWEALTH OF PENNSYLVANIA GOVERNOR'S OFFICE

Subject:

Reporting of Employee Liability Claims

By Direction Of:


Gary E. Crowell, Secretary of General Services

Date:

April 28, 1998

This directive contains policy and procedures for reporting liability claims and is being updated to change the address for the Bureau of Risk and Insurance Management.

1. PURPOSE. To establish the Employee Liability Self-Insurance Program (ELSIP) coverage policy and procedures for the reporting of certain liability claims, primarily those founded in negligence, against Commonwealth employes, officials, or volunteer workers.

2. SCOPE. Includes actions to be taken when an accident or occurrence results in personal injury liability claims against Commonwealth employes, officials, or volunteer workers while acting in good faith and in furtherance of Commonwealth business. Liability claims resulting from incidents involving intentional, willful, or malicious acts are not covered. Also, claims involving vehicles of the Commonwealth Automotive Fleet and General Tort matters are excluded but covered under the Self-Insurance Programs established under *Act 152 of 1978, as amended*.

3. POLICY.

a. An Employee Liability Self-Insurance Program was established effective at noon March 17, 1975, to provide protection for Commonwealth employes, officials, and volunteer workers who, by virtue of their activities for the Commonwealth, are exposed to certain liability claims.

b. The ELSIP retains the right to reject or accept coverage responsibility for a claim based on investigation of facts surrounding a claim. If the ELSIP rejects coverage, such rejection shall be in writing and forwarded to the individual(s) named as defendant(s) in the claim.

c. The ELSIP does not cover claims resulting from intentional, willful, or malicious conduct, or conduct outside the scope of employment or authorized activity. Claims, damages, or settlements involving Commonwealth employes back pay and pay grade differential are not covered by ELSIP and are the involved agency's responsibility.

d. The limit of coverage is \$250,000.00 per occurrence. Under extraordinary circumstances and in the sole discretion of the General Counsel, in consultation with the Commonwealth Risk and Insurance Manager, Bureau of Risk and Insurance Management, Department of General Services, excess coverage may be approved.

e. An employe, official, or volunteer worker named as a defendant in a claim has the right to obtain his or her own counsel. The use of personal counsel when ELSIP coverage is offered may

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preclude reimbursement of attorneys' fees and indemnification for any judgment against an employe, official, or volunteer.

f. A Commonwealth employe, official, or volunteer worker's rejection of ELSIP coverage should be in writing, notarized, and forwarded as shown in Section 6.

g. The ELSIP will not provide a defense for, nor indemnify the expenses of a judgment against an employe, official, or volunteer worker who fails to notify the ELSIP administrator promptly of any incident which might result in a claim against the individual.

4. DEFINITIONS.

a. **Personal Injury Liability.** Claims for damages alleging negligence, violation of civil rights, employment discrimination, wrongful discharge, sexual harassment, assault, false arrest, defamation, invasion of privacy, and errors or omissions are the types of claims that must be reported.

b. **Occurrence.** An accident or incident, including continuous or repeated exposure to substantially the same general harmful conditions which results in personal injury, bodily injury, or property damage, and which is neither expected nor intended from the standpoint of the Commonwealth employe, official, or volunteer worker.

c. **Indemnification.** Payment of damages to a claimant/plaintiff on behalf of a defendant, including plaintiff's reasonable counsel fees. Such indemnification may be a result of a judgment, court order, or compromise settlement. Under the ELSIP, settlement and legal strategy authority are vested in the parties injured and ELSIP, not with the Commonwealth employe, official, or volunteer worker. Attorney fees received for counsel retained by a defendant may not be reimbursed by ELSIP.

5. RESPONSIBILITIES.

a. **Persons involved** in an occurrence that may result in a claim or potential claim are to report immediately to their agencies that claims have been or may be made.

b. **Agencies**, upon notification of a claim, are to prepare Form STD-430, Liability Accident Report, and forward it as shown in Section 6. Claims of \$500 or less are not reimbursable from ELSIP but must be handled by agencies employing the defendants. Notification must still be given as shown in Section 6. An attorney assigned by the Office of General Counsel will assist agencies not having permanent counsel with these claims. The agency chief counsel or designee must approve all claims settlements of any amount.

c. **The Bureau of Risk and Insurance Management, Department of General Services**, administers ELSIP. The bureau will review claims, establish claim files and, through the Fund Claim Administrator, settle claims in amounts of \$501 through \$5,000.

d. All settlements of claims in excess of \$5,000 must be approved by the Office of Attorney General and the Office of General Counsel, the Department of General Services, and the agency employing the individual involved in the claim. Outside adjustment services may be contracted, as needed, by the representatives or attorney assigned to the case.

6. PROCEDURES.

a. All notification of claims, Form STD-430, and related documents, and ELSIP coverage rejections by Commonwealth employes, officials, or volunteer workers are to be sent to the:

Department of General Services
Bureau of Risk and Insurance Management
Room G-10
221 Forster St. •

OR, for U.S. Postal Service requests: •

P. O. Box 1365
Harrisburg, PA 17105 •

b. Documents related to civil suits should be hand carried or sent by certified mail with a return receipt requested.

This directive supersedes Management Directive 630.2 dated November 8, 1996.