

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 18 September 2024

DOCKET NUMBER: AR20230007609

APPLICANT REQUESTS:

- approval of his claim for Traumatic Servicemembers' Group Life Insurance (TSGLI) benefits based on a traumatic injury resulting in losses of activities of daily living (ADL) for at least 90 days
- personal appearance before the Board

APPLICANT'S SUPPORTING DOCUMENT(S) CONSIDERED BY THE BOARD:

- DD Form 149 (Application for Correction of Military Record)
- 357 pages of medical records

FACTS:

1. The applicant defers to counsel.

2. Counsel states:

a. They disagree with the decision to deny TSGLI benefits for 60-90 days of ADL losses caused by a traumatic injury. \$50,000 has been provided for 60 days of ADL losses to date. However, an error and an injustice have resulted in the denials for 60 days of ADL losses. In review of the complete file and the reasons below, a correction to the applicant's military record is proper and requested to allow an additional \$25,000.00 under the TSGLI Schedule of Losses #20 for traumatic injury resulting in an inability to perform at least two ADLs at 90 consecutive days.

b. The decisions to date have discounted or ignored medical records favorable to approval, statements in support of the claim, and multiple medical opinions provided. The TSGLI reviewer has minimized the applicant's injuries and fails to recognize ADLs were severely impacted in light of the records and statements at issue, and but for assistance, the claimed ADLs could not be accomplished independently for over 90 days, but less than 120 days, which warrants additional benefits. The Adjutant General (TAG) is wrong in the assessment of ADL independence in the records, and TAG fails to consider physical and standby assistance for all eight types of ADLs

claimed, which include bathing, dressing, toileting, and transferring. A fair weighing of the evidence with proper consideration of the statements and all evidence must be made. Such a weighing supports approval of this appeal for 90 days of assistance for at least two of the four claimed ADL losses, especially for standby assistance with are dressing, toileting, and bathing (as provided by Dr. E), under the benefit of the doubt and preponderance of evidence standards.

3. The applicant enlisted in the Army National Guard on 27 May 2014.

4. Information obtained from the U.S. Army Human Resources Command (AHRC), Special Compensation Branch, indicates the applicant was involved in a motorcycle accident on 2 July 2018. He was admitted and diagnosed with open fractures of the right femoral neck, midshaft right femur, distal right femoral condyle, right tibia/fibula, and the proximal middle finger of the right hand. The right femur fractures were surgically repaired with an irrigation and debridement and open reduction internal fixation operation on 2 July 2018. The right hand fracture was treated non-surgically with a splint. On 11 July 2018, he was transferred to an inpatient rehab center. He was treated with physical therapy, occupational therapy, and I.V. antibiotics. He was discharged from the inpatient rehab center to his home with home healthcare.

5. On or around December 2018, the applicant submitted an application for TSGLI benefits, signed by an orthopedic surgeon in Part B, claiming limb salvage (left leg) and indicating the applicant was unable to bathe and dress independently without physical (hands on) assistance. On or around 18 January 2019, the applicant received a letter from the AHRC, Special Compensation Branch (TSGLI), approving his benefits for 15 consecutive days of inpatient hospitalization by compensating \$25,000.00. Other losses claimed were not approved. The letter states:

a. Evaluated Losses: The following losses were evaluated with regard to this decision:

- hospitalization
- ADL Other than Traumatic Brain Injury (OTI) up to 90 days
- limb salvage, left leg

b. Why additional losses were not approved: OTI-ADL Loss, 30 Days: Your claim for loss of ADLs due to for 30 days was not evaluated because under the current law, an additional payment for this loss cannot be made. Under the laws and regulations that govern the TSGLI Program, 15 consecutive days of hospitalization replaces the first increment of ADL loss. ( See 38 U.S. C. 1980A(d)(1) and 38 CFR 9.20(f)(18, 21)). Since your claim was approved for 15 consecutive days of hospitalization, you cannot be paid for 30 days (the first increment) of ADL loss. Member's loss was not evaluated because the loss cannot be combined with other losses paid.

c. OTI-ADL Loss (60+ Days): Your claim for loss of ADLs for 60+ days was not approved because the medical documentation provided with your claim did not contain enough information to support that you could not perform ADLs independently. The documentation does not cover the dates necessary to evaluate potential ADL loss at the 60 day milestone or beyond.

d. Under the laws and regulations governing the TSGLI Program, Title 38 U.S. Code, section 1980A(b)(1)(H), (b)(2)(D), and Title 38 Code of Federal Regulations (CFR) 9.20(d), (e)(6)(vi), (f)(17) and (f)(20)), documentation must demonstrate your inability to independently perform at least two of the six ADLs (Eating, Bathing, Dressing, Toileting, Transferring, and Continence). To approve your claim, we need documentation addressing the specific injury/injuries you sustained as a result of the traumatic event and providing a timeline of treatment up to the first 60 days of recovery. The timeline of treatment would consist of notations from licensed medical providers such as physicians, physician assistants, nurse practitioners, registered nurses, etc. Supporting documentation can also be submitted by other medical providers acting within the scope of their practice pertinent to the sustained injury/injuries, to include occupational/physical therapists, audiologists, or speech/language pathologists.

e. Your claim for limb salvage was not approved because your loss did not meet the TSGLI medical standard. Medical documentation provided with your claim does not include evidence that amputation of your left leg was contemplated or offered in lieu of more conservative treatment or of a staged reconstruction involving multiple tissue type designed to preserve or enhance function. Under the regulations that govern the TSGLI Program, limb salvage is defined as a series of operations designed to avoid amputation of an arm or leg while at the same time maximizing the limb's functionality. (See 38 CFR 9.20(e)(6)(xix) and (f)(14, 15)). The surgeries typically involve bone and skin grafts, bone resection, reconstructive and plastic surgeries and often occur over a period of months or years. Surgeries defined as limb salvage must also be certified by a surgeon.

6. The applicant, through counsel, submit an application for reconsideration, dated 22 February 2019.

7. On 23 September 2019, the AHRC Special Compensation Branch (TSGLI), informed the applicant that his claim was approved for an additional \$25,000 for the inability to perform at least two ADLs for 60 days. The AHRC Special Compensation Branch stated the following:

a. In accordance with TSGLI guidelines, the previous payment of \$25,000 for inpatient hospitalization brings your total payment to \$50,000. Other losses claimed were not approved. This letter will explain why these losses were not approved, your

rights to appeal this decision, and the general requirements for TSGLI benefits. The following losses were evaluated with regard to this decision: ADL OTI up to 90 days.

b. Why additional losses were not approved: OTI-ADL Loss, 90 Days: Your claim for the inability to perform ADLs at this level was not approved because your loss did not meet the TSGLI medical standard. Medical documentation provided with your claim does not indicate that your ADL loss continued to the 90 day milestone. The regulations that govern the TSGLI Program state that in order to qualify, a claimant must have been unable to independently perform at least two ADLs for at least 30 consecutive days. (See 38 U.S.C. 1980A(b)(2)(D) and 38 CFR 9.20(d), (e)(6)(vi) and (f)(20)). The claimant is considered unable to perform an activity independently only if he or she requires at least one of the following, without which they would be incapable of performing the task:

- physical assistance (hands-on)
- stand-by assistance (within arm's reach)
- verbal assistance (must be instructed)

c. Medical documentation provided does not indicate the member's loss met the TSGLI minimum standard.

8. The applicant's claim for TSGLI benefits for inability to perform ADLs for up to 90 days were again disapproved by the AHRC Special Compensation Branch on 16 October 2019 and on 20 November 2019.

9. On 16 February 2021, the AHRC, Office of the Adjutant General, again disapproved the applicant's claim for TSGLI benefits for inability to perform ADLs for up to 90 days. TAG informed the applicant's counsel the following:

a. The TSGLI program office has received your appeal request for the applicant. After reviewing the claim and supporting documentation, I have found his claim concerning losses associated with ADL from the traumatic event on 2 July 2018 in does not qualify for any additional TSGLI payment.

b. Loss of TSGLI program-specific ADLs is defined in Title 38 of the CFR, section 9.20 (d)(6)(vi) as follows "the term inability to carry out activities of daily living means the inability to independently perform at least two of the six following functions: (A) Bathing, (B) Continence, (C) Dressing, (D) Eating, (E) Toileting, (F) Transferring in or out of a bed or chair with or without equipment." The TSGLI Procedural Guide, Part 4 (7)(a) (page 18) further clarifies "if the patient is able to perform the activity by using accommodating equipment [such as a cane, walker, commode, etc.] or adaptive behavior, the patient is considered able to independently perform the activity." In addition, qualifying OTI related ADL loss claims will pay \$25,000 at the 30, 60, 90, and

120 consecutive day milestones, per Title 38 of the CFR, section 9.20 (f)(20) and the TSGLI Procedural Guide, Part 4 (7)(g) (page 22).

c. The applicant was previously paid \$50,000 for OTI-related ADL loss of 60 days or greater. Therefore, the next OTI-related ADL loss milestone eligible for payment is at the 90-day milestone.

d. Why the Claim Was Not Approved: Concerning the OTI-related ADL loss claim, the medical record does not support basic ADL loss at the 90-day milestone or beyond. The Homecare Physical Therapy (PT) Visit Notes only specifically addressed basic ADL performance at the 17 August 2018 (Day 47 after the traumatic event) initial evaluation, when he required assistance, and the 3 October 2018 (Day 94) discharge note, when he did not require assistance. The remainder of the PT notes only addressed assistance needed for ambulation and his exercise program, which only required supervision as of 4 September 2018 (Day 65). Yet, supervision does not equate to the stand-by assistance required for TSGLI payment as defined by the TSGLI Procedural Guide, Part 4 (7)(a) (page 23), because supervision does not require that the Physical Therapist be within arm's reach of the patient.

e. Although basic ADL performance was not specifically documented, the PT Visit Notes do provide insight into his physical abilities and showed consistent progressive improvement of his abilities during the entire home PT program. First, the 17 August 2018 (Day 47) PT initial evaluation documented he had normal strength throughout both upper extremities and the left lower extremity, while there was somewhat functional strength in the right lower extremity. The initial evaluation also noted that he had the walker, crutches, and shower chair that would eventually allow modified independent performance. Second, these PT Visit Notes showed he was no longer considered at risk of falling according to the Fall Risk Assessment Tool as of 21 August 2018 (Day 51) and this Fall Risk Assessment Tool also documented in every home PT Visit Note that he had no history of falls for the previous three months. In addition, he began using crutches, which would increase his access as compared to a walker, as of 21 August 2018 and progressively increased the distance he was able to ambulate from 50 feet to 150 feet by Day 90. This improvement indicates an increase in physical ability that should allow him to be able to get from a bed or chair to the bathroom for toileting and/or bathing.

f. The Timed "Up and Go" Test involves a person standing up from a chair with or without an assistive device, walking 10 feet, turning around, walking back to the chair, and sitting down. His score for this test was 25 seconds on 17 August 2018 (Day 47) and 19 seconds on 12 September 2018 (Day 73), which would be considered moderately impaired, but was 9.5 seconds on 3 October 2018 (Day 94), which was normal. Despite the fact he required increased time for this test on Day 45 and Day 73, the ability to even perform this test indicates at least a modified independence for

transfers. In addition, the 17 August 2018 initial evaluation showed he was able to stand three times from a chair in 30 seconds. This modified independence is confirmed in the 29 August 2018 (Day 90) PT Visit Note, which stated he was independent with supine-to-sit transfers and modified independent with sit-to-stand transfers.

g. The PT Visit Notes also documented that he had achieved 80% of his goal for being a safe community ambulatory and on the Tinetti Balance Assessment by 24 September 2018 (Day 85) and 90% on the Tinetti Balance Assessment by 29 September 2018 (Day 90). Being a safe community ambulatory indicates the ability to safely walk outside of the house, which shows a physical ability and strength that should allow at least modified independent performance of basic ADLs. This ability was demonstrated in the 29 September 2018 PT Visit Note, when he was able to exit and then enter his residence and go up and down on a curb with crutches.

h. The strength was confirmed in the 3 October 2018 PT Discharge Note, where he had normal strength in both upper extremities and left lower extremity along with functional strength (4 to 4+ out of 5) throughout the right lower extremity.

i. Pain would not have been a limiting factor in the last 30 days prior to the 90-day milestone. The PT Visit Notes consistently documented that he reported current pain levels of 2-3 out of 10 from the initial assessment on Day 47 throughout the entire Homecare PT program. These levels are considered mild and should not significantly interfere with functioning. This is confirmed in the 12 September 2018 (Day 73) PT Reassessment, which stated his pain only had mild effects on his physical functioning. In fact, the highest current pain level of 4 out of 10 was reported in the 3 October 2018 PT Discharge Note, where he was deemed modified independent to independent with all basic ADLs. Thus, his pain did not prevent independent basic ADL performance in the month prior to the 90-day milestone.

j. He did develop some minor complications in his conditions prior to the 90-day milestone, but the medical record does not indicate these significantly affected his basic ADL performance. The 22 September 2018 (Day 83) PT Visit Note stated that the orthopedist noted the head of the femur remained slow to heal with the doctor suspecting possible avascular necrosis. However, the doctor upgraded his weight-bearing status on that date to partial weight-bearing on the right lower extremity, and the remainder of the PT notes showed continued improvement culminating in the discharge from home PT just 10 days later for achieving his PT goals. In addition, he had another right middle finger surgery on 26 September 2018 (Day 87). However, this did not significantly affect his functioning, because he was able to increase his ambulation to 150 feet using crutches and be deemed independent with transfers just three days after the surgery. Furthermore, he was discharged from home PT with an assessment of modified independent to independent with all basic ADLs just seven days after the surgery. It should also be noted that functional movements in the hand for dressing and

bathing primarily involve the index finger and the thumb, which would not have been significantly affected by this injury or surgery. Thus, these complications did not prevent independent basic ADLs prior to the 90-day milestone.

k. In conclusion, the medical record showed that prior to the 90-day milestone, he had fully functional upper extremities, except the right middle finger, fully functional left lower extremity, and a partially functional right lower extremity. He had increased his strength and endurance and had the equipment that would allow for modified independent performance of bathing, dressing, toileting, and transferring prior to Day 90. Therefore, his claim of OTI-related ADL loss does not meet the 90-day standard for TSGLI payment.

l. The applicant's and his mother's statements were reviewed and considered for this adjudication. The statement that his mother provided ADL assistance to him for a period is accepted without question. However, the fact that she did provide ADL assistance is not the standard for TSGLI payment. The standard is that the ADL assistance must have been rendered because without such assistance he could not have performed ADLs in even a modified independent manner. In addition, he and his mother stated that his pain was pretty high, which prevented him from doing anything. However, the medical record showed he reported current pain levels of 2-3 out of 10 during PT with a range of 0-6 out of 10 for the entire month prior to the 90-day milestone. As discussed above, these pain levels would not prevent basic ADL performance.

m. The applicant stated his non-weight-bearing status prevented him from doing anything, and his mother stated it took a long time to use crutches after he started working with PT. However, the PT Visit Notes showed he was able to use crutches by Day 51 and progressively increased his crutch ambulation distance from 50 feet to 150 feet by Day 90. Plus, his weight-bearing status was elevated to partial weight-bearing on 20 September 2018 (Day 81) by his orthopedist. Although his mother stated he was dizzy and they were concerned he would fall, there were no vestibular problems noted or verbalized on his 17 August 2018 PT initial evaluation, and he had good sitting balance and fair standing balance. Furthermore, as discussed above, the Fall Risk Assessment consistently noted he was not a fall risk nor had a history of a fall from Day 51 onward. Therefore, these statements are not definitive proof that he qualified for TSGLI payment at the 90-day milestone for OTI-related ADL loss.

n. Also, the statements by Dr. E and T.B., RN, were reviewed and considered for this adjudication. Dr. E's argument relies heavily upon the Tinetti Balance and Gait Assessment and the fact its goal was only 90% achieved by Day 90. First, the scale for the Tinetti Balance and Gait Assessment is as follows: below 19 is a high fall risk; between 19 and 23 is a moderate fall risk; and 24 or above is a low fall risk. Second, his Tinetti Balance and Gait Assessment score at the 17 August 2018 initial evaluation was

13 out of 28. Then, he progressively improved toward the Tinetti Balance and Gait goal throughout his home PT program going from 20% to 40% to 60% to 70% to 80% to 90% and finally reaching 100% on the 3 October 2018 PT Discharge with a Tinetti Balance score of 24 out of 28. Thus, his actual goal would have been 24 out of 28, and with this goal, he would have reached the moderate fall risk at the 60% improvement mark on Day 65 and would have been at 23 out of 28 on Day 90. Therefore, his Tinetti Balance and Gait Assessment would concur with the remainder of the medical evidence (i.e. improvement in the Falls Risk Assessment, the Time "Up and Go" Test, ambulation distance with crutches, etc.) in showing an increased physical ability that should allow modified independent basic ADL performance by Day 90.

o. Most of the points in T.B., RN, statement were addressed above. However, her interpretation of the 29 September 2018 (Day 90) PT Visit Note should be addressed separately. She stated that the ambulation distance of "150 feet X 2 with crutches" meant he required the assistance of two persons to ambulate with crutches. However, "150 feet X 2 with crutches" means he was able to ambulate with crutches for 150 feet twice during the PT visit. She also stated his pain level was still high at "6-intense." However, the PT Visit Note actually documented that his reported current pain level was 3 (tolerable) out of 10 with a range of his worst pain being 6 (intense) out of 10 and his best pain being 2 (discomforting) out of 10. This pain occurred daily but was intermittent. Thus, his pain was primarily in the milder range, yet 6 out of 10 would be considered in the moderate range and should not prevent independent basic ADL performance. Lastly, she stated he was only able to demonstrate the use of crutches with "assistance," however the visit note indicates he only required supervision to ambulate with crutches. Therefore, Dr. E's and T.B., RN, statements are not definitive proof that he qualified for TSGLI payment at the 90-day milestone.

p. Appeal Rights: The available medical record indicated that the applicant was to be seen by Dr. J.R., his treating orthopedist, at the end of July 2018, in August 2018, on 20 September 2018, and in December 2018. These notes were not presented. If these notes were presented to the Army TSGLI program office, they would be considered new and material evidence, and his case could be re-adjudicated.

10. TAG also advised the applicant and counsel of their right to appeal to the Army Review Boards Agency (ARBA) and/or federal district court.

#### 11. MEDICAL REVIEW:

a. The Army Review Boards Agency (ARBA) Medical Advisor was asked to review this case. Documentation reviewed included the applicant's ABCMR application and accompanying documentation, his prior TSGLI denials, the military electronic medical record (AHLTA), the VA electronic medical record (JLV), the electronic Physical Evaluation Board (ePEB), the Medical Electronic Data Care History and Readiness



Tracking (MEDCHART) application, and/or the Interactive Personnel Electronic Records Management System (iPERMS).

b. Through counsel, the applicant is applying to the ABCMR requesting the \$25,000 benefit for the inability of independently perform two of the six activities of daily living (ADLs) of bathing, maintaining continence, eating, dressing, toileting, and transferring, with or without activity modification and/or assistive devices, for more than 90 but less than 120 consecutive days due to traumatic injuries sustained in a motor vehicle accident on 2 July 2018.

c. The applicant has previously received payment of a \$50,000 000 benefit for the inability of independently perform two of the six activities of daily living (ADLs) of bathing and dressing, with or without activity modification and/or assistive devices, for more than 60 but less than 90 consecutive days due to traumatic injuries. In the Part B (Medical Professional Statement) of that TSLGI Application (SGLV 8600), the applicant also requested a \$25,000 benefit for limb salvage surgery(s) of the left leg and a \$25,000 benefit for more than 15 days of consecutive inpatient hospitalization due to a traumatic injury.

d. The Part B of the SGLV 8600 for the current application was neither submitted with the application nor found in the supporting documentation. While the applicant's DD 149 contains the request for the \$25,000 benefit for being unable to perform 2 or more activities of daily living (ADL) for more than 90 days after the injury, the two affected ADLs are unknown due to the incomplete application. Thus, an evaluation of the potential loss of ADL function for more than 90 but less than 120 days is not possible without knowledge of the claimed losses.

#### BOARD DISCUSSION:

1. After reviewing the application, all supporting documents, and the evidence found within the military record, the Board found that relief was not warranted. The Board through counsel carefully considered the applicant's record of service, documents submitted in support of the petition and executed a comprehensive and standard review based on law, policy and regulation. Upon review through counsel of the applicant's petition, available military records, U.S. Army Human Resources Command – Adjutant General advisory opinion and medical review, the Board concurred with both the advising official and opine finding the applicant's claim for losses associated with his activities of daily living (ADL) from a traumatic event on July 2, 2018, does not qualify for any additional TSGLI payment.

2. The Board determined the next OTI-related ADL loss milestone eligible for payment is at the 90-day milestone. The Board agreed the applicant's counsel did not provide sufficient evidence within the applicant's medical records to support basic ADL loss at the 90-day milestone or beyond. The Board noted, the applicant's PT initial evaluation documented he had normal strength throughout both upper extremities and the left lower extremity, while there was somewhat functional strength in the right lower extremity. Furthermore, the evaluation noted that he had a walker, crutches and shoer chair that would eventually allow modified independent performances.

3. The Board determined the applicant had fully functional upper extremities, except for the right middle finger, fully functional left lower extremity and a partially functional right lower extremity prior r to the 90-day milestone. Based on the preponderance of evidence, the Board found approval of the applicant's claim for Traumatic Servicemembers' Group Life Insurance (TSGLI) benefits based on a traumatic injury resulting in losses of activities of daily living (ADL) for at least 90 days is without merit and denied relief.

4. The applicant's request for a personal appearance hearing was carefully considered. In this case, the evidence of record was sufficient to render a fair and equitable decision. As a result, a personal appearance hearing is not necessary to serve the interest of equity and justice in this case.

BOARD VOTE:

Mbr 1      Mbr 2      Mbr 3

:	:	:	GRANT FULL RELIEF
:	:	:	GRANT PARTIAL RELIEF
:	:	:	GRANT FORMAL HEARING
■	■	■	DENY APPLICATION

BOARD DETERMINATION/RECOMMENDATION:

The evidence presented does not demonstrate the existence of a probable error or injustice. Therefore, the Board determined the overall merits of this case are insufficient as a basis for correction of the records of the individual concerned.

[REDACTED]

[REDACTED] [REDACTED]

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[REDACTED]

[REDACTED]

I certify that herein is recorded the true and complete record of the proceedings of the Army Board for Correction of Military Records in this case.

REFERENCES:

1. The TSGLI program is an automatic provision under SGLI. TSGLI provides for payment to Servicemembers who are severely injured (on or off duty) as the result of a traumatic event and suffer a loss that qualifies for payment under TSGLI. TSGLI is designed to help traumatically injured Servicemembers and their families with the financial burdens associated with recovering from a severe injury. TSGLI payments range from \$25,000 to \$100,000 based on the qualifying loss suffered. The benefit is paid to the member, someone acting on the member's behalf if the member is incompetent, or the members' SGLI beneficiary if the member is deceased. TSGLI coverage was added to SGLI policies effective 1 December 2005 with a retroactive provision covering injuries from 7 October 2001 through 30 November 2005. All members covered under SGLI who experience a traumatic event that directly results in a traumatic injury causing a scheduled loss defined under the program are eligible for TSGLI payment.

2. A service member must meet all of the following requirements to be eligible for payment of TSGLI. The service member must have:

- been insured by SGLI at the time of the traumatic event
- incurred a scheduled loss and that loss must be a direct result of a traumatic injury
- suffered the traumatic injury prior to midnight of the day of separation from the Uniformed Services
- suffered a scheduled loss within 2 years (730 days) of the traumatic injury

- survived for a period of not less than 7 full days from the date of the traumatic injury (in a death-related case)

3. A qualifying traumatic injury is an injury or loss caused by a traumatic event or a condition whose cause can be directly linked to a traumatic event. The AHRC official TSGLI website lists two types of TSGLI losses, categorized as Part I and Part II. Each loss has a corresponding payment amount.

4. Part I losses includes sight, hearing, speech, quadriplegia, hemiplegia, uniplegia, burns, amputation of hand, amputation of four fingers on one hand or one thumb alone, amputation of foot, amputation of all toes including the big toe on one foot, amputation of big toe only, or other four toes on one foot, limb salvage of arm or leg, facial reconstruction, and coma from traumatic injury and/or traumatic brain injury resulting in the inability to perform two ADL.

5. Part II losses include traumatic injuries resulting in the inability to perform at least two ADL for 30 or more consecutive days and hospitalization due to a traumatic injury and other traumatic injury resulting in the inability to carry out two of the six ADL, which are dressing, bathing, toileting, eating, continence, and transferring. TSGLI claims may be filed for loss of ADL if the claimant is required assistance from another person to perform two of the six ADL for 30 days or more. ADL loss must be certified by a healthcare provider in Part B of the claim form and ADL loss must be substantiated by appropriate documentation, such as occupational/physical therapy reports, patient discharge summaries, or other pertinent documents demonstrating the injury type and duration of ADL loss.

6. The TSGLI Procedures Guide provides the following definitions:

a. Traumatic Event: The application of external force, violence, chemical, biological, or radiological weapons, accidental ingestion of a contaminated substance, or exposure to the elements that causes damage to a living body. Examples include:

- military motor vehicle accident
- military aircraft accident
- civilian motorcycle accident
- rocket propelled grenade attack
- improvised explosive device attack
- civilian motor vehicle accident
- civilian aircraft accident
- small arms attack
- training accident

b. External Force: An external force is any sudden or violent motion causing an unexpected impact from a source outside of the body and independent of body mechanics.

c. Body Mechanics: Body mechanics is the use of one's body in production of motion or posture of the body, including movements during routine daily activities. The event must involve a physical impact upon an individual. Some examples would include: an airplane crash, a fall in the bathtub, or a brick that falls and causes a sudden blow to the head. For example, a member who sprains an ankle while running in a basketball game would not be eligible for TSGLI payment because the loss was due to routine body mechanics involved in the twisting of the ankle while running.

d. Direct Result: Direct result means there must be a clear connection between the traumatic event and resulting loss and no other cause, aside from the traumatic event can play a part in causing the loss.

e. Traumatic Injury: A traumatic injury is the physical damage to your body that results from a traumatic event.

f. Scheduled Loss: A scheduled loss is a condition listed in the TSGLI Schedule of Losses if that condition is directly caused by a traumatic injury. The Schedule of Losses lists all covered losses and payment amounts.

7. Army Regulation 15-185 (Army Board for Correction of Military Records (ABCMR)) provides Department of the Army policy, criteria, and administrative instructions regarding an applicant's request for the correction of a military record. Paragraph 2-11 states applicants do not have a right to a hearing before the ABCMR. The Director or the ABCMR may grant a formal hearing whenever justice requires.

8. Section 1556 of Title 10, United States Code, requires the Secretary of the Army to ensure that an applicant seeking corrective action by ARBA be provided with a copy of any correspondence and communications (including summaries of verbal communications) to or from the Agency with anyone outside the Agency that directly pertains to or has material effect on the applicant's case, except as authorized by statute. ARBA medical advisory opinions and reviews are authored by ARBA civilian and military medical and behavioral health professionals and are therefore internal agency work product. Accordingly, ARBA does not routinely provide copies of ARBA Medical Office recommendations, opinions (including advisory opinions), and reviews to Army Board for Correction of Military Records applicants (and/or their counsel) prior to adjudication.

//NOTHING FOLLOWS//