

TITLE 10. LAW

CHAPTER 4. ARIZONA CRIMINAL JUSTICE COMMISSION

ARTICLE 1. CRIME VICTIM COMPENSATION PROGRAM

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ARTICLE 1. CRIME VICTIM COMPENSATION PROGRAM

R10-4-101. Definitions

In this Article:

1. "Board" means the Crime Victim Compensation Board of an operational unit.
2. "Claim" means an application for compensation submitted under this Article.
3. "Claimant" means a natural person, who files a claim
4. "Collateral source" means a source of compensation for economic loss that a claimant received or is available to the claimant or that is payable to or on behalf of the victim. Collateral source includes the following sources of compensation:
 - a. The perpetrator or a third party responsible for the perpetrator's actions;
 - b. The United States government or any of its agencies, a state or any of its political subdivisions, or an instrumentality of two or more states, unless:
 - i. The law providing for the compensation makes the compensation excess or secondary to benefits under this Article, or
 - ii. The compensation is made with federal funds granted under 42 U.S.C. 10602;
 - c. Social Security, Medicare, or Arizona Health Care Cost Containment System payments;
 - d. State-required insurance for a temporary, nonoccupational disability;
 - e. Worker's compensation insurance;
 - f. Wage continuation program of any employer;
 - g. Insurance proceeds payable for loss due to criminally injurious conduct or an act of international terrorism;
 - h. A contract providing for prepaid hospital and other healthcare services or disability benefits; and
 - i. A gift, devise, or bequest to cover a specific compensable cost.
5. "Commission" means the Arizona Criminal Justice Commission as established by A.R.S. § 41-2404.
6. "Compensable cost" means an economic loss for which a compensation award is allowed under this Article.
7. "Compensation award" means a payment made to a claimant under the standards at R10-4-108.
8. "Crime scene cleanup expense" means the reasonable and customary cost for a professional service to remove or attempt to remove blood, dirt, stains, and other debris that result from criminally injurious conduct occurring in a residence.
9. "Criminally injurious conduct" means conduct that:
 - a. Constitutes a crime as defined by state or federal law regardless of whether the perpetrator of the conduct is convicted;

- b. Poses a substantial threat of physical injury, extreme mental distress, or death; and
 - c. Is punishable by fine, imprisonment, or death, or would be punishable but the perpetrator of the conduct lacked the capacity to commit the crime under applicable laws.
10. "Derivative victim" means:
- a. The spouse, child, parent, stepparent, stepchild, sibling, grandparent, grandchild, or guardian of a victim who died as a result of criminally injurious conduct or an act of international terrorism;
 - b. A child born to a victim after the victim's death;
 - c. A person living in the household of a victim who died as a result of criminally injurious conduct, in a relationship determined by the Board to be substantially similar to a relationship listed in subsection (10)(a);
 - d. A member of the victim's family who witnessed the criminally injurious conduct or act of international terrorism or who discovered the scene of the criminally injurious conduct;
 - e. A natural person who is not related to the victim but who witnessed the criminally injurious conduct or discovered the scene of the criminally injurious conduct; or
 - f. A natural person whose mental health counseling and care or presence during the victim's mental health counseling and care is required for the successful treatment of the victim.
11. "Durable medical equipment" means an appliance, apparatus, device, or product that:
- a. Is medically necessary to treat an injury or condition resulting from criminally injurious conduct or an act of international terrorism;
 - b. Improves the function of an injured body part or delays deterioration of a patient's physical condition;
 - c. Is primarily and customarily used to serve a medical purpose rather than primarily for transportation, comfort, or convenience; and
 - d. Provides the medically appropriate level of performance and quality for the medical injury or condition present.
12. "Economic loss" means financial detriment resulting from medical expense, mental health counseling and care expense, crime scene cleanup expense, funeral expense, or work loss.
13. "Extreme mental distress" means a substantial disorder of emotional processes, thought, or cognition that impairs judgment, behavior, or ability to cope with the ordinary demands of life.
14. "Fund" means the Victim Compensation and Assistance Fund established by A.R.S. § 41-2407.
15. "Funeral expense" means a reasonable and customary cost, such as those listed on the Statement of Funeral Goods and Services Selected required under A.A.C. R4-12-307, incurred as a direct result of a victim's funeral, cremation, Native American ceremony, or burial.
16. "Good cause" means a reason that the Board determines is substantial enough to afford a legal excuse.
17. "Inactive claim" means a claim for which no compensation award is made for 12 consecutive months.

18. "Incident of criminally injurious conduct" means all criminal actions that are related to or dependent upon each other regardless of the time involved in perpetrating the actions, number of persons perpetrating the actions, or the number of crimes with which the perpetrator is or could be charged.
19. "International terrorism" has the meaning prescribed in 18 U.S.C. 2331.
20. "Jurisdiction" means any county in this state.
21. "Medical expense" means a reasonable and customary cost for medical care provided to a victim due to a physical injury or medical condition that is a direct result of criminally injurious conduct or an act of international terrorism.
22. "Mental health counseling and care expense" means a reasonable and customary cost to assess, diagnose, and treat a victim's or derivative victim's extreme mental distress resulting from criminally injurious conduct or an act of international terrorism.
23. "Minimum wage standard" means the uniform minimum wage payable in Arizona under federal or state law, whichever is greater.
24. "Operational unit" means a public or private agency authorized by the Commission to receive, evaluate, and present to the Board a claim.
25. "Program" means the Crime Victim Compensation Program.
26. "Reasonable and customary" means the normal charge within a specific geographic area for a specific service by a provider of a particular level of experience or expertise.
27. "Resident" means a natural person who is domiciled in Arizona or is in Arizona for other than a temporary or transitory purpose.
28. "Subrogation" means the substitution of the state or an operational unit in place of a claimant to enforce a lawful claim against a collateral source to recover any part of a compensation award made to the claimant using funds of the state or operational unit.
29. "Victim" means a natural person who suffers a physical injury or medical condition, extreme mental distress, or death as a direct result of:
 - a. Criminally injurious conduct,
 - b. An act of international terrorism,
 - c. The person's good faith effort to prevent criminally injurious conduct or an act of international terrorism, or
 - d. The person's good faith effort to apprehend a person suspected of engaging in criminally injurious conduct or an act of international terrorism.
30. "Work loss" means a reduction in income from:
 - a. Work that a victim or derivative victim would have performed if the victim had not been a victim; and

- b. Social Security or Supplemental Security Income that a victim would have received or from which a derivative victim would have benefitted if the victim had not been killed.

R10-4-102. Administration of the Fund

- A. The Commission shall deposit in the Fund all funds received under A.R.S. § 12-116.01 and any other funds received for compensating a claimant.
- B. The Commission shall designate one operational unit in a jurisdiction to receive an allocation from the Fund each state fiscal year.
- C. The Commission shall distribute a portion of the Fund to each operational unit for expenditure by the Board. The Commission shall distribute the funds using a formula that the Commission determines annually using:
 - 1. A uniform base amount for each operational unit,
 - 2. An analysis of the prior year's expenditure, and
 - 3. The population of each jurisdiction.
- D. The Commission shall reserve the lesser of \$50,000 or 10 percent of the Fund to be used in the event of an unforeseen increase of victimization that causes the operational unit in a particular jurisdiction to lack the funds needed to provide compensation.
- E. If there is an unforeseen increase in victimization in a particular jurisdiction, the Commission shall allow a claimant from that jurisdiction to apply directly to the Commission for a compensation award. The Commission will determine whether to make a compensation award based on the criteria established by R10-4-108.
- F. If, at the end of a fiscal year, an operational unit has unexpended funds received from the Commission, the operational unit shall return the funds to the Commission within 90 days after the end of the fiscal year. The Commission shall deposit the returned funds in the Fund for use in the next fiscal year.
- G. Funds collected by an operational unit through subrogation or restitution may be retained by the operational unit to the extent authorized by the Commission and shall be used to pay compensation awards based on the criteria established by R10-4-108.
- H. An operational unit that receives additional funds for victim compensation shall submit a quarterly, written report to the Commission. The operational unit shall include in the report the amount of additional funds received and distributed to compensate victims or claimants. The Commission shall use the information in the written report to apply for federal matching funds. If matching funds are received, the Commission shall forward the matching funds to the appropriate operational unit.
- I. An operational unit shall use funds to pay administrative costs only to the extent authorized by the Commission.

R10-4-103. Statewide Operation

For any portion of the state not served by an operational unit, the Commission shall operate a program in accordance with this Article or provide for a program by contract.

R10-4-104. Operational Unit Requirements

- A.** To be designated by the Commission as an operational unit for a jurisdiction, a public or private agency shall submit to the Commission a written request for designation.
- B.** The Commission shall designate a public or private agency as the operational unit for a jurisdiction:
 - 1. Only if the public or private agency agrees not to:
 - a. Use Commission funds or federal funds to supplant funds otherwise available to compensate a victim or claimant;
 - b. Make a distinction between a resident and a non-resident in evaluating a claim; and
 - c. Make a distinction in evaluating a claim relating to a federal crime that occurs in Arizona and one relating to a state crime; and
 - 2. Only if the public or private agency agrees to:
 - a. Forward to the Board a claim relating to an incident of criminally injurious conduct or an act of international terrorism occurring in the public or private agency's jurisdiction;
 - b. Forward to the Board a claim made by or on behalf of a resident of the public or private agency's jurisdiction who is a victim or derivative victim of an incident of criminally injurious conduct or an act of international terrorism occurring in another state, the District of Columbia, Puerto Rico, or any other possession or territory of the United States that does not have a crime victim compensation program that meets the requirements of 42 U.S.C. 10602(b);
 - c. Notify the Commission of any change in the public or private agency's program procedures before the change takes effect and if the change is material, obtain written approval from the Commission before instituting the change;
 - d. Submit a written quarterly financial report to the Commission, on a form provided by the Commission, and provide detailed information regarding the expenditure of funds received from the Commission and those required as a match for funds received from the Commission;
 - e. Provide an application form to a claimant;
 - f. Comply with all civil rights requirements;
 - g. Ensure that each claim is investigated and substantiated before forwarding the claim to the Board for a compensation award; and
 - h. Monitor a compensation award to ensure that amounts paid are consistent with this Article.

C. If more than one agency requests to be designated by the Commission as an operational unit for a jurisdiction, the Commission shall designate the agency that it determines is better able to evaluate claims and manage the expenditure of public funds. The Commission shall give preference to a public agency if both a public and private agency request designation.

R10-4-105. Crime Victim Compensation Board

- A. Each operational unit shall establish a Crime Victim Compensation Board that consists of an odd number of members with at least three members. Members of the Board shall not receive compensation for their services but are eligible for travel reimbursement under A.R.S. § 38-621.
- B. When a Board is first established, approximately one-third of the members shall be appointed for a three-year term, one-third for a two-year term, and one-third for a one-year term. If a Board member is unable to complete the term of the Board member's appointment, the Commission Chairman shall appoint a new Board member for the unexpired term only.
- C. When a Board is first established and when a new member is appointed to an existing Board, the Commission Chairman shall choose the individual to be appointed from a list submitted by the operational unit.
- D. A majority of the Board membership constitutes a quorum that may transact the business of the Board.
- E. The Board shall elect from its membership a chairman and other necessary officers to serve terms determined by the Board.
- F. The Board shall make a compensation award according to this Article and perform other acts necessary for operation of the program.
- G. As required by A.R.S. Title 38, Chapter 3, Article 8, a Board member shall not participate in making any decision regarding a claim or compensation award if the Board member or a relative of the Board member, as defined at A.R.S. § 38-502, has a substantial interest in the decision.

R10-4-106. Prerequisites for a Compensation Award

- A. The Board shall make a compensation award only if it determines that:
 - 1. Criminally injurious conduct or an act of international terrorism:
 - a. Occurred in Arizona; or
 - b. Occurred outside of Arizona in an area without a crime compensation program and affected a resident;
 - 2. The criminally injurious conduct or act of international terrorism directly resulted in the victim's physical injury, extreme mental distress, medical condition, or death;
 - 3. The victim of the criminally injurious conduct or act of international terrorism was not:

- a. The perpetrator, an accomplice of the perpetrator, or a person who encouraged or in any way participated in or facilitated the criminally injurious conduct or act of international terrorism that directly resulted in the victim's physical injury, extreme mental distress, medical condition, or death;
 - b. Serving a sentence of imprisonment in any detention facility, home arrest program, or work furlough at the time of the criminally injurious conduct or act of international terrorism that directly resulted in the victim's physical injury, extreme mental distress, medical condition, or death;
 - c. Escaped from serving a sentence of imprisonment in any detention facility, home arrest program, or work furlough at the time of the criminally injurious conduct or act of international terrorism that directly resulted in the victim's physical injury, extreme mental distress, medical condition, or death;
 - d. Convicted of a federal crime and delinquent in paying a fine, monetary penalty, or restitution imposed for the offense if the U.S. Attorney General and the Director of the Administrative Office of the U.S. Courts have issued a written determination that the entities administering federal victim compensation programs have access to an accurate and efficient criminal debt payment tracking system; or
 - e. Convicted of a state crime and delinquent in paying a fine, monetary penalty, or restitution imposed for the crime if the delinquency is identified by the Arizona Administrative Office of the Courts or the Clerk of the Superior Court.
4. The criminally injurious conduct or act of international terrorism was reported to an appropriate law enforcement authority within 72 hours after its discovery;
 5. The victim, derivative victim, or claimant cooperated with law enforcement agencies;
 6. The victim, derivative victim, or claimant incurred economic loss as a direct result of the criminally injurious conduct or act of international terrorism that is not compensable by a collateral source; and
 7. A claim, as described in R10-4-107, was submitted to the operational unit within two years after discovery of the criminally injurious conduct or act of international terrorism.
- B.** The Board shall extend the time limits under subsections (A)(4) and (A)(7) if the Board determines there is good cause for a delay.

R10-4-107. Submitting a Claim

- A.** If the prerequisites in R10-4-106 are met, a natural person is eligible to submit a claim if the person is:
1. A victim;
 2. A derivative victim;
 3. A person authorized to act on behalf of a victim or a deceased victim's dependent; or
 4. A person who assumed an obligation for or paid an expense directly related to a victim's economic loss.
- B.** An operational unit shall not accept a claim from a person who is:

1. The perpetrator, an accomplice of the perpetrator, or a person who encouraged or in any way participated in or facilitated the criminally injurious conduct or act of international terrorism that directly resulted in the victim's physical injury, extreme mental distress, medical condition, or death;
 2. Serving a sentence of imprisonment in any detention facility, home arrest program, or work furlough at the time of the criminally injurious conduct or act of international terrorism that directly resulted in the victim's physical injury, extreme mental distress, medical condition, or death;
 3. Escaped from serving a sentence of imprisonment in any detention facility, home arrest program, or work furlough at the time of the criminally injurious conduct or act of international terrorism that directly resulted in the victim's physical injury, extreme mental distress, medical condition, or death;
 4. Convicted of a federal crime and delinquent in paying a fine, monetary penalty, or restitution imposed for the offense if the U.S. Attorney General and the Director of the Administrative Office of the U.S. Courts have issued a written determination that the entities administering federal victim compensation programs have access to an accurate and efficient criminal debt payment tracking system; or
 5. Convicted of a state crime and delinquent in paying a fine, monetary penalty, or restitution imposed for the crime if identified by the Arizona Administrative Office of the Courts or the Clerk of the Superior Court.
- C.** If a person is eligible under subsection (A) to submit a claim regarding more than one incident of criminally injurious conduct or act of international terrorism, the person shall submit a separate claim regarding each incident of criminally injurious conduct or act of international terrorism.
- D.** If more than one person is eligible under subsection (A) to submit a claim regarding an incident of criminally injurious conduct or act of international terrorism, each person shall submit a separate claim.
- E.** To apply for a compensation award, a person who is eligible under subsection (A) shall submit a claim, using a form that is available from the Commission, to the operational unit in the jurisdiction in which the incident of criminally injurious conduct occurred or in the county and state in which a victim of international terrorism lives. The claimant shall provide the following:
1. About the victim:
 - a. Full name,
 - b. Residential address,
 - c. Gender,
 - d. Date of birth,
 - e. Residential and work telephone numbers,
 - f. Social Security number,
 - g. Statement of whether the victim is deceased,
 - h. Ethnicity,

- i. Statement of whether the victim is a resident, and
 - j. Statement of whether the victim is disabled;
 2. About the claimant if the claimant is not the victim:
 - a. Full name;
 - b. Residential address;
 - c. Gender;
 - d. Date of birth;
 - e. Residential and work telephone numbers;
 - f. Social Security number;
 - g. Relationship to the victim; and
 - h. If there are multiple victims or derivative victims of an incident of criminally injurious conduct or act of international terrorism, the name, residential address, Social Security number, and date of birth of each, and for derivative victims, the relationship to the victim;
 3. About the crime:
 - a. Type of crime;
 - b. Statement of whether the crime was related to domestic violence;
 - c. Statement of whether the crime was a federal crime;
 - d. Date on which crime was committed;
 - e. Date on which crime was reported to law enforcement authorities;
 - f. Name of law enforcement agency to which the crime was reported;
 - g. Name of law enforcement officer to whom the crime was reported;
 - h. Law enforcement report number;
 - i. Location of crime;
 - j. Name of perpetrator, if known; and
 - k. Brief description of the crime and resulting injuries;
 4. About a civil lawsuit:
 - a. Statement of whether the claimant has or will file a civil lawsuit related to the crime; and
 - b. If the answer to subsection (E)(4)(a) is yes, the name, address, and telephone number of the claimant's attorney;
 5. About benefits from collateral sources:
 - a. List of the benefits the claimant has received since the incident of criminally injurious conduct or act of international terrorism or is entitled to receive; and
 - b. For each benefit identified:
 - i. Type of benefit,

- ii. Contact address and telephone number; and
 - iii. Claimant's identification or policy number;
6. About the economic loss for which compensation is requested:
- a. Medical expenses. A statement of whether the claim includes medical expenses and if so, the name, address, telephone number, account number, and date of service for each provider, and if mileage is claimed for medical care, the date and mileage of each trip;
 - b. Mental health counseling and care expenses. A statement of whether the claim includes mental health counseling and care expenses and if so, the name, address, telephone number, account number, and date of service for each provider, and if mileage is claimed for mental health counseling and care, the date and mileage of each trip;
 - c. Work loss expenses. A statement of whether the claim includes work loss expenses and if so, the date on which the claimant was first unable to work, date on which the claimant returned to work, total time lost from work, hourly rate of pay, number of hours worked each week, number of hours worked each day, name, address, and telephone number of employer, and name of supervisor;
 - d. Funeral expenses. A statement of whether the claim includes funeral expenses and if so, the name, address, and telephone number of the provider and the amount paid; and
 - e. Crime scene cleanup expenses. A statement of whether the claim includes crime scene cleanup expenses and if so, the name, address, and telephone number of the provider and the amount paid; and
7. The claimant's dated signature:
- a. Certifying that the claimant is eligible to submit a claim and that the information provided is true and correct to the best of the claimant's knowledge;
 - b. Subrogating to the state and operational unit the claimant's right to receive benefits from a collateral source;
 - c. Authorizing the release of confidential information necessary to administer the claim; and
 - d. Authorizing the release to the Program of protected health information that relates to care provided as a result of the criminally injurious conduct or act of international terrorism and is necessary to verify the claim.
- F.** A claimant shall attach the following to the claim form submitted under subsection (E):
- 1. A copy of all bills, contracts, receipts, and insurance statements relating to each expense claimed under subsection (E)(6); and
 - 2. If work loss expenses are claimed, a signed statement on official letterhead:
 - a. From the claimant's employer verifying the information provided under subsection (E)(6)(c); and

- b. If applicable, from the physician or mental health care provider indicating that the claimant was unable to work as a result of being a victim or derivative victim, the length of time the claimant was unable to work, and the date on which the claimant was or will be able to return to work.

R10-4-108. Compensation Award Criteria

- A. The Board shall meet at least every 60 days to decide, based on the findings made by the operational unit, whether to make a compensation award and if so, the terms and amount of the compensation award. The Board shall make a decision within 60 days after the operational unit receives a claim under R10-4-107 unless good cause exists. The Board shall inform the claimant in writing within five days of the Board's decision.
- B. The Board shall not make a compensation award unless it determines that the prerequisites in R10-4-106 are met.
- C. The Board shall make a compensation award only for the following:
 - 1. Reasonable and customary medical expenses due to the victim's physical injury, medical condition, or death.
 - a. The Board shall include the following as a medical expense:
 - i. Repair of damage to a prosthetic device, eyeglasses or other corrective lenses, or a dental device;
 - ii. Durable medical equipment; and
 - iii. Reasonable transportation costs related to obtaining medical care.
 - b. The Board shall not include as a medical expense a charge for a private room in a hospital, clinic, convalescent home, nursing care facility, or other institution that provides medical services unless the Board determines that the private room is medically necessary;
 - 2. Reasonable and customary work loss expenses for:
 - a. A victim whose ability to work is reduced due to physical injury, extreme mental distress, or medical condition resulting from the criminally injurious conduct or act of international terrorism;
 - b. A victim or derivative victim to make a medical or mental health counseling and care visit or attend a court proceeding directly related to the criminally injurious conduct or act of international terrorism;
 - c. A deceased victim's spouse, child, sibling, parent, stepparent, stepchild, grandparent, or grandchild if the Board determines the death resulted in a loss of support from the victim to the spouse, child, sibling, parent, stepparent, stepchild, grandparent, or grandchild;
 - d. A parent or guardian of a minor victim to transport or accompany the minor victim to a medical or mental health counseling and care visit or court proceeding directly related to the criminally injurious conduct or act of international terrorism;

- e. A derivative victim to make funeral arrangements or tend to the affairs of a deceased victim if the derivative victim made the funeral arrangements or tended to the affairs of the deceased victim; or
 - f. A family member or guardian or a person living in the victim's household in a relationship similar to those listed in R10-4-101(10)(a) to provide non-skilled nursing care for the victim that is required as a result of the criminally injurious conduct or act of international terrorism;
3. Reasonable and customary funeral expenses. Expenses for clothing, travel, lodging, food, or per diem to attend a victim's funeral, Native American ceremony, or burial are not reasonable and customary funeral expenses and shall not be included in a claim for a compensation award;
 4. Reasonable and customary mental health counseling and care expenses due to a victim's or derivative victim's extreme mental distress resulting from the criminally injurious conduct or act of international terrorism if:
 - a. The mental health counseling and care is provided by an individual who:
 - i. Is licensed for independent practice by the Board of Behavioral Health Examiners,
 - ii. Is a behavioral health professional as defined at A.A.C. R9-20-101,
 - iii. Is a behavioral health technician as defined at A.A.C. R9-20-101 and employed by an agency licensed by the Department of Health Services, or
 - iv. Is authorized to perform mental health counseling and care by the laws of a federally recognized tribe; and
 - b. The mental health counseling and care expenses:
 - i. Include only reasonable costs of transportation related to obtaining the mental health counseling and care; and
 - ii. Do not include a charge for a private room in a hospital, clinic, convalescent home, nursing care facility, or any other institution that provides medical services unless the Board determines that the private room is medically necessary; and
 5. Reasonable and customary crime scene cleanup expenses due to a victim's death from criminally injurious conduct in a residence.

D. The Board shall not make a compensation award to a claimant that exceeds:

1. Twenty thousand dollars for all economic loss sustained by the claimant as a result of an incident of criminally injurious conduct or act of international terrorism;
2. The amount available to the operational unit and not committed to other compensation awards at the time the Board makes the compensation award determination;
3. For work loss expenses:
 - a. Work loss expenses under subsections (C)(2)(a) and (C)(2)(c) are limited to 40 hours per week at the current minimum wage and the maximum amount specified in subsections (D)(1) and (D)(2),

- b. Work loss expenses under subsections (C)(2)(b) and (C)(2)(d) are limited to 40 hours per month at the current minimum wage and the maximum amount specified in subsections (D)(1) and (D)(2),
 - c. Work loss expenses under subsection (C)(2)(e) are limited to 24 hours at the current minimum wage, and
 - d. Work loss expenses under subsection (C)(2)(f) are limited to 40 hours per week at the current minimum wage to a maximum of 160 hours;
- 4. For mental health counseling and care expenses, \$5,000 per victim or derivative victim;
 - 5. For funeral expenses, \$5,000; and
 - 6. For crime scene cleanup expenses, \$1,000.
- E.** The Board shall deny or reduce a compensation award to a claimant if:
- 1. The victim or claimant has recouped or is eligible to recoup the economic loss from a collateral source except if the Board determines that use of a collateral source, excluding benefits from a federal or federally financed program, to pay for mental health counseling and care expenses is not in the best interest of the victim or derivative victim, the Board shall not deny or reduce a compensation award for the mental health counseling and care expenses;
 - 2. The Board determines that the victim or claimant earned income from substitute work or unreasonably failed to perform available substitute work; or
 - 3. The Board determines that the victim's physical injury, medical condition, extreme mental distress, or death was due in part to the victim's:
 - a. Negligence,
 - b. Intentional unlawful conduct that occurred at the time of the incident of criminally injurious conduct, or
 - c. Conduct that intentionally provoked or aggravated the criminally injurious conduct.
- F.** The Board shall deny or reduce a compensation award under subsection (E)(3) in proportion to the degree to which the Board determines the victim is responsible for the victim's physical injury, medical condition, extreme mental distress, or death.
- G.** The Board shall deny a compensation award to a claimant if:
- 1. The Board determines that the victim or claimant did not cooperate fully with the appropriate law enforcement agency and the failure to cooperate fully was not due to a substantial health or safety risk. The Board shall use the following criteria to determine whether failure to cooperate fully with law enforcement warrants that a claim be denied:
 - a. The victim or claimant failed to assist in the prosecution of a person who engaged in the criminally injurious conduct or act of international terrorism or failed to appear as a witness for the prosecution;

- b. The victim or claimant delayed assisting in the prosecution of a suspect and as a result, the suspect of the criminally injurious conduct or act of international terrorism escaped prosecution or the prosecution of the suspect was negatively affected; or
 - c. A law enforcement authority indicates to the Board that the victim or claimant delayed giving information pertaining to the criminally injurious conduct or act of international terrorism, failed to appear when requested without good cause, gave false or misleading information, or attempted to avoid law enforcement authorities; or
2. The Board determines that the victim or claimant knowingly made a false or misleading statement on the claim or in writing on supporting documents submitted to the Board or operational unit.

H. If there are insufficient funds to make a compensation award, the Board may;

- 1. Deny the claim,
- 2. Make a partial award and reconsider the claim later during the fiscal year, or
- 3. Extend the claim into a subsequent fiscal year.

I. The Board shall not make a compensation award to pay attorney's fees incurred by a victim or claimant.

J. The operational unit, in its discretion, may pay a compensation award directly to a claimant or to a provider.

K. The operational unit may close an inactive claim:

- 1. Five years after the claim is submitted for an adult victim or derivative victim except in a homicide case;
- 2. Ten years after the claim is submitted for a minor victim or derivative victim except in a homicide case; and
- 3. Fifteen years after the claim is submitted for a homicide victim or derivative victim.

R10-4-109. Hearing; Request for Rehearing or Review

A. The Board shall conduct a hearing regarding a claim submitted under this Article if:

- 1. The Board determines that a hearing will enable it to evaluate the claim and make a proper decision; or
- 2. A claimant appeals a decision made by the Board without a hearing. A claimant who wishes to have a hearing shall submit to the Board a written request within 30 days after receiving notice of the Board's decision stating the basis for the request.

B. The Board shall provide a claimant with at least 30 days notice of a hearing and due process.

C. The Board shall serve any notice required under this Section by personal delivery or certified mail to the last known residence or place of business of the person being served. Service is complete upon personal service or within five days after mailing by certified mail.

D. The Board shall provide written notice of its decision to the claimant within 20 days after a hearing.

- E.** A claimant who is aggrieved by a decision of the Board made after a hearing may request a rehearing or review of the decision within 30 days after the Board serves notice of the decision. A claimant shall request for a rehearing or review in writing and specify the grounds for the request.
- F.** A claimant may amend a request for a rehearing or review of a Board decision at any time before it is ruled on by the Board.
- G.** The Board may require additional written explanation of an issue raised in a request for rehearing or review of a Board decision and may provide for oral argument.
- H.** The Board may grant a rehearing or review for any of the following reasons materially affecting a claimant's rights:
 - 1. Irregularity in the proceedings of the Board or its operational unit or any order or abuse of discretion that deprived the claimant of a fair Board decision;
 - 2. Misconduct of the Board, the operational unit, or staff of the operational unit;
 - 3. Newly discovered material evidence that could not, with reasonable diligence, have been discovered and produced at the original Board meeting;
 - 4. Error in the admission or rejection of evidence or other error of law occurring at the Board meeting; and
 - 5. The decision is not justified by the evidence or is contrary to law.
- I.** The Board may affirm or modify a decision or grant a rehearing to the claimant on all or part of the issues for any of the reasons listed in subsection (H). An order granting a rehearing or modifying a decision shall specify with particularity the grounds for the order. If a rehearing is granted, the rehearing shall cover only the matters specified in the order.
- J.** Not later than 30 days after the date of a decision and after giving the claimant notice and an opportunity to be heard, the Board may, on its own initiative, order a rehearing or review of its decision for any reason for which it might have granted a hearing on a request by a claimant. The Board may grant a request for a rehearing or review for a reason not stated in the request. An order granting a rehearing or review shall specify with particularity the grounds on which the hearing or review is granted.

R10-4-110. Emergency Compensation Award

- A.** After receiving a claim submitted under R10-4-107, An operational unit may grant an emergency compensation award if the operational unit determines there is a reasonable likelihood that:
 - 1. The person to whom the emergency compensation award is made is or will be an eligible claimant, and
 - 2. Serious hardship will result to the person if an immediate compensation award is not made.

- B.** An operational unit that makes an emergency compensation award shall ensure that the emergency compensation award does not exceed \$500.
- C.** If the Board decides under R10-4-108 to make a compensation award to the claimant, the Board shall ensure that the amount of the emergency compensation award is deducted from the final compensation award made to the claimant.

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