



Desk Manual for Victim Advocates Violent Crimes Compensation Board

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Introduction

The staff of the Violent Crimes Compensation Board (VCCB) has designed this manual to provide victim advocates throughout the state of Alaska with important information about the Board's Victim Compensation Program (VCP). This manual will help advocates provide the best compensation assistance possible to victims of crime and their families. It assists the advocate in advising victims on whether they meet eligibility requirements, and provides detailed information on the types of losses that are covered by the VCP. This manual also provides information regarding payment limits and monetary caps for each type of loss.

Please note that this manual is intended as a guide only. The Board regularly reviews its policies and thus the contents are subject to change.

Victim Compensation

The VCP is designed to help victims of violent crime and their families with the emotional, physical and financial aftermath of crime. The VCP, as the payer of last resort, reimburses qualifying expenses incurred as a direct result of a crime, which are not reimbursed by any other source.

Introduction

In order to be eligible for the benefits offered by the VCP, the claimant must meet certain criteria and the crime must be a qualifying offense.

Eligible Crimes

The VCP only covers those crimes listed in AS 18.67.101. These are:

- Murder in any degree
- Manslaughter
- Criminally negligent homicide
- Assault in any degree
- Kidnapping
- Sexual assault in any degree
- Sexual abuse of a minor
- Robbery in any degree
- Threats to do bodily harm
- Driving while under the influence of an alcoholic beverage, inhalant, or controlled substance or another crime resulting from the operation of a motor vehicle, boat, or airplane when the offender is under the influence of an alcoholic beverage, inhalant, or controlled substance
- Arson in the 1st degree
- Sex trafficking in violation of AS 11.66.110 (1st degree) or 11.66.130(A)(2)(B) (3rd degree)
- Human trafficking in any degree
- Unlawful exploitation of a minor

In addition, a violent crime prohibited by federal law will qualify for the program.

Reporting Requirements

In order for a claim to be eligible, the crime must have been reported to police within 5 days of its occurrence, or, if the incident could not reasonably have been reported within that period, within 5 days of the time when a report could reasonably have been made. This is a statutory requirement (AS 18.67.130(a)(2)).

Examples of when the incident could not reasonably have been reported *may* include:

- Incapacity due to the severity of the victim's injuries
- Fear of reprisal from the offender

Filing Requirements

The application must be filed within 2 years of the date of the crime.

Contributory Conduct

The Board will look at all relevant circumstances of the crime including conduct by the victim that may have directly or indirectly caused, contributed to or resulted in the injury or death.

Contributory conduct may include:

- The victim intentionally entering into or staying in a situation in which it was reasonably foreseeable that victimization could occur
- Negligent conduct that placed the victim or another person in a position to be injured e.g. knowingly allowing him or herself to be transported in a vehicle by a driver under the influence
- A situation of mutual combat e.g. a fight in a bar where both parties exchange blows and both sustain injuries consistent with mutual combat

Involvement in Illegal Activity

A victim who is engaged in the manufacture or supply of illegal drugs will not be eligible for benefits if the victimization occurred as a direct result of this activity.

Note: if a claim is based on a crime involving domestic violence, sexual assault or sexual abuse of a minor, the victim will not be deemed ineligible notwithstanding provocation, use of alcohol or drugs, the victim's prior social history, involvement or behavior.

Cooperation with Law Enforcement

An applicant must cooperate with law enforcement and prosecutors to further the prosecution of the offender and to avoid further injury to the applicant and persons in the care of the applicant.

Cooperation with law enforcement and/or prosecution includes, but is not limited to:

- Reporting the crime
- Completely and truthfully responding to requests for information in a timely manner
- Assisting with identifying and apprehending suspects
- Testifying in proceedings, as required.

It is unnecessary for eligibility purposes for the offender to be prosecuted or convicted of the relevant offense

Cooperation with the VCP

In addition to cooperating with law enforcement agencies, claimants must cooperate with VCCB staff to verify the information on an application. The following actions may constitute a lack of cooperation:

- The claimant has information needed to process the application and has failed to provide that information after being requested to do so
- The claimant deliberately submitted false or misleading information

Residency Requirements

To receive assistance, a victim must have been injured, threatened with injury, or killed as a result of a crime that occurred in Alaska.

The Board may also assist Alaska residents victimized in a country or territory without a crime victim compensation program.

Incarceration

Individuals who are incarcerated or who reside in a half-way house at the time of application or during claim processing cannot be granted compensation by the Board. The claim will be administratively closed pending receipt of confirmation of release. At that point, the claim can be re-opened and processed.

Benefits

Introduction

The VCCB may reimburse claimants for specified qualifying expenses incurred as a direct result of the crime and not reimbursed by other sources. Covered expenses include the following:

- Medical
- Dental
- Mental Health
- Lost wages
- Loss of support
- Funeral and/or Burial Expenses
- Relocation
- Crime Scene Clean-up
- Job Retraining
- Security measures
- Childcare
- Disability accommodation
- Trial attendance
- Transportation

The VCCB does not reimburse expenses for property loss or pain and suffering. The only exception for property loss is replacement of broken doors and windows. When expenses are submitted, staff will verify that the treatment or service was necessary as a direct result of the crime and that it is covered by the VCCB.

The total of all payments on a claim may not exceed \$40,000 other than in the case of a homicide victim with multiple minor dependents. In such cases, the maximum payout may not exceed \$80,000.

The claimant's signature on the application authorizes the VCCB to obtain information from providers and employers. Any information requested by the VCCB should be provided at no cost to the VCCB or to the applicant.

Medical and Dental Expenses

A licensed practitioner must provide services in order to be reimbursed. Also, in some cases, treatment may require additional authorization. You may contact VCCB staff for more information on a specific type of treatment.

Covered Expenses:

- Chiropractic Treatment (limited to 10 visits occurring within 6 months of the date of the injury and subject to overall cap of \$3500)
- Dentistry
- Hospital Services
- Laboratory Tests and Blood work
- Medical or Medical-Related Equipment or Property
- Ophthalmology
- Over the Counter Medications and Medical Supplies
- Physical Therapy
- Physician's Services
- Prescriptions
- Prosthetics and Orthotic Appliances
- Psychiatric evaluations and treatment
- Replacement of eyeglasses damaged or lost in incident
- Reconstructive surgery (non-elective cosmetic)
- X-rays and other Radiological Services

Alternative Treatments – the Board may be willing to pay for acupuncture, massage (10 visits only) and other alternative therapies if referred by a physician or mental health counselor and if directly attributable to the incident.

Each bill will be thoroughly reviewed for crime relatedness and other reimbursement sources. Submitting a bill for one of these types of expenses is not a guarantee of payment.

Mental Health Expenses

The VCCB can reimburse mental health treatment that is undertaken as a direct result of the crime. The VCCB will pay the first intake session in full. If services are provided by a professional licensed counselor (LPC) or licensed clinic social worker (LCSW) then they will pay \$200/hour. If the services are provided by a master's level counselor under supervision, then sessions will be paid at \$135/hour. Services provided by a clinical psychologist (PhD, PsyD) will be paid at \$250/hour.

Psychiatrists are medical doctors and their fees are not limited.

The VCCB has set certain initial session limits as follows:

- Adult direct victim – up to \$2000 (10 sessions)
- Minor direct victim – up to \$4000 (20 sessions)
- Parent/legal guardian of minor victim – up to \$2000 (10 sessions)
- Child witness to violence – up to \$2000 (10 sessions)

The VCCB is willing to consider additional reimbursement for continued counseling but requires documentation in order to do so. The claimant's provider must submit a Treatment Plan to request continued treatment. The Plan is reviewed by the Board at a Board meeting to determine if additional sessions will be authorized.

Lost Wages and Loss of Support

If a victim is unable to work due to a crime related injury, disability or emotional trauma, the VCCB may reimburse the victim's lost wages. In order to receive lost wages, the victim must have been working or have had a verifiable job offer at the time of the crime.

Additionally, support payments may be made to victims who were legally dependent on a victim who died as a result of a crime. In the case of dependent minor children, an interest-earning trust fund will be set up in order to preserve the capital until the child reaches the age of 18. Annual support payments are made to the legal guardian.

Required documentation:

The victim advocate can assist a victim requesting income or loss of support with obtaining the information that is needed.

The following information should be submitted with all income or loss of support requests:

- Employment Information Form completed by the employer, verifying amount earned and time off work due to the crime; in some instances, a letter signed by the employer providing the same information will be acceptable
- Medical Information Form completed by the victim's physician confirming inability to work and prognosis
- Documentation of any reimbursements received as a result of the crime (e.g. restitution payments)
- Proof of legal dependency for victims requesting support loss
- Copies of past 3 year tax returns (required for a person who was self employed).

For victims who lived a subsistence lifestyle, the VCCB generally uses the state minimum wage as the basis for calculating loss of wages/loss of support.

Funeral and Burial Expenses

The VCCB may reimburse any individual who voluntarily pays or assumes the obligation to pay funeral and burial expenses. The overall cap for funeral expenses is \$10,000.

Some expenses that may be reimbursed when submitted with a bill or receipt are:

- Burial costs
- Burial vault
- Casket
- Costs to transport the body
- Cremation charges
- Grave, marker, headstone or tombstone charges
- Funeral service charges
- Gravesite services
- Chapel or memorial services
- Miscellaneous fees – flowers, burial clothing etc
- Transportation costs
- Hearse charges
- Travel costs to make funeral arrangements
- Hotel lodging for persons making funeral arrangements

Relocation Expenses

In some cases, it may be necessary for a victim to relocate. The VCCB can assist with relocation expenses up to \$5,000 per household, if the request meets certain criteria. Transportation costs are outside and additional to this limit.

In order to qualify for relocation expenses, each request must be submitted with a detailed relocation plan. The plan must include a statement that relocation is necessary for the victim's personal safety or emotional well being. The Board may deem relocation unnecessary for safety but may choose instead to award security measures.

Additionally, the claimant will need to provide the VCCB with a proposed rental agreement (if requesting rent and/or security deposit) if one is available, or detailed estimates of expenses.

Please note: the VCCB will only relocate one time per crime. Also, the VCCB cannot make a relocation award where victims lose their homes due to the loss of an offender's support, unless there are young children in the home. In such cases, the VCCB may consider helping the parent move to a more affordable home.

In order to receive the relocation benefit, victims of domestic violence or sexual assault must agree not to inform the offender of the new address and not allow the offender on the premises, or they must seek a restraining order against the perpetrator.

The total amount received for relocation cannot exceed \$5,000 per household and may include:

- Rent (including security deposit, first and last months' rent – the Board does not pay rent on an ongoing basis therefore the victim must have a realistic plan of how he or she will maintain the rent payments)
- Utility deposits and connection fees
- Telephone deposits and connection fees
- Other necessary expenses (moving vans, etc)
- Food expenses (emergencies only)
- Clothing and basic essentials (emergencies only where belongings have been abandoned or destroyed)
- Shipping expenses (up to \$2,500 only)
- Storage costs (limited to 2 months)

Housing Choice Vouchers

The Housing Choice Voucher program assists low-income families with decent, safe and sanitary housing. If a claimant is a member of this program or is on the waiting list for this program, he or she could relocate with the help of this program. A victim of domestic violence who is on the waiting list for Housing Choice Vouchers will be given priority on the waiting list. If a

voucher is used, the VCCB could help with paying the deposit. Alaska Housing can provide more information in this regard.

Miscellaneous Expenses

Child Care

The Board recognizes that in some circumstances, the occurrence of a crime may result in the need for a change in childcare arrangements. This could be due to the death of a stay at home parent who previously took care of the family, or because of a sudden change in the finances of the family. The Board recognizes that stable, reliable childcare is of high importance to the children's welfare, particularly in a time of emotional trauma and upheaval. The Board will therefore provide a financial bridge and will pay childcare for up to two months in situations where one parent loses the support of the other parent and has to navigate new childcare arrangements or has to find employment.

Crime-Scene Clean Up

When a qualifying crime occurs in someone's residence, any individual who pays or assumes the obligation to pay for the costs of having a professional clean up the crime scene, may file an application for reimbursement of the associated costs.

Costs may include up to \$5,000 for Hazmat cleaning, property rendered unusable by the crime investigation or lab testing.

Job Retraining

The Board recognizes that injuries incurred as a direct result of violent crime may jeopardize a person's ability to return to their employment. The Board may consider awarding up to \$1,500 in job re-training costs. However, victims are encouraged to apply for assistance from the Department of Labor, Division of Vocational Rehabilitation.

Security

A victim may be eligible to receive reimbursement for installing or increasing residential security. Some expenses that may be covered are:

- Home security device or system
- Alarms, keypads, cameras, motion detectors
- Installation costs
- Monitoring costs for up to 1 year after installation
- Window bars or security doors
- Replacing or increasing number of locks
- Post Office Box for up to 1 year

The VCCB will not pay for

- Weapons (guns, mace, tasers etc)
- Self-defense courses

The maximum payable is \$1000.

Reimbursement Sources

The VCCB is the payer of last resort. This means that all sources of reimbursement a victim has must be utilized before the program can pay any expenses. The program will cover medical co-pays and deductibles for crime-related covered expenses.

Other sources of payment may include but are not limited to:

- Health insurance/Medicare/Medicaid
- Disability benefits
- Sick leave
- Bereavement leave
- Worker's Compensation
- Vehicle insurance
- Other public benefit programs
- Restitution payments to a victim

Civil Suits

If a claimant files a civil suit against a perpetrator or a third party, the law requires him or her to inform the Board of the intent to file a legal action. Any settlement received by a victim may be used to offset expenses that have been submitted to the Board. Additionally, if the Board has already paid monies to or on behalf of a victim who receives a civil suit settlement, the victim is required to repay the Board.

Restitution

A judge may order restitution to the victim or to the VCCB directly. If the victim receives money from a restitution order directly, he or she will be required to repay the VCCB for expenditures already made to or on behalf of the victim.

How to Apply for the Victim Compensation Program

Introduction

All victim witness centers should have hardcopy versions of the VCCB application form. Additional copies can be obtained by calling the VCCB at 1-800-764-3040. Applications can also be printed from the VCCB website at www.doa.alaska.gov/vccb

Filing Period

An application must be filed within a certain time frame. AS 18.67.130(a)(1) provides that an application must be made within two years after the date of the personal injury or death.

In some circumstances, a claim may be accepted after the two year filing period. The Board routinely waives the time limit in the case of child sexual abuse victims who do not report the abuse until several years later.

In cases other than child sexual abuse, if a claim is submitted beyond the two year filing period, the claimant must demonstrate a good reason why the claim was not filed within the parameters. If the reason for late filing is submitted with the application, it will be reviewed as it is entered into the VCCB claims management system. VCCB staff will request the claimant to provide a written explanation for late filing if no explanation is included. The advocate can assist the claimant by encouraging him or her to provide the letter as quickly as possible. If the letter is not provided, the claim will be denied.

Acceptance of a late claim does not mean the application is necessarily eligible. An accepted late claim simply means that the claim can be evaluated and processed despite the late filing. A claimant whose late application is accepted may still have his or her application for benefits denied if it does not meet all eligibility criteria or if the Board determines that good cause has not been demonstrated.

Signature Requirements

When a claimant files an application with the VCCB, he or she must sign and date the application in two sections. The second signature allows VCCB staff to obtain and verify any information needed during the processing of the claim. The first signature is a promise to contact and repay the VCCB if he or she receives any other payments that should have been used to cover expenses already paid by the VCCB.

Note: A claimant's faxed signature is acceptable in order to begin the claim process. However, an original signature is required.

Adult Claimants

Adult victims and claimants should sign their own application. The only exceptions to this requirement are:

- Adults who have been deemed legally incompetent by a court. In these circumstances, the conservator should file on behalf of the victim.
- If there isn't a conservator, the power of attorney may also sign an application on the victim's behalf. The power of attorney documents should be submitted with the application.

Minor Claimants

Minor victims and claimants generally cannot file a claim on their own. A parent or legal guardian must file a claim on behalf of the minor victim.

Applications signed by a legal guardian or other court-approved designee must be submitted with the court documentation in order to be accepted by the VCCB.

An emancipated minor can file his or her own claim, but must submit proof of emancipation with the application.

Complete Applications

When completing an application, certain information is required for an application to be considered to be complete. Incomplete applications may not be processed timely and could result in a delay in receiving payment.

A complete application contains the following information:

- Victim's name
- Claimant's name (if different from victim)
- Date of Birth of both victim and claimant
- Social Security number (victim and claimant)
- Date of Crime or date reported
- Location of crime
- Type of crime
- Law enforcement case number
- An address where the claimant can receive mail
- Type(s) of expense requested
- Valid signatures on release form

In addition to this required information, submitting an application with a crime report could reduce the claim processing time.

Emergency Awards

In certain situations, a victim may request an emergency award. Emergency awards will only be considered for loss of wages, counseling if paid directly to service providers, relocation if there is immediate danger to the victim, or security measures. The amount payable is limited by statute to \$5000.

In order to receive an emergency award, the claimant must show that he or she would suffer a substantial hardship without the emergency payment.

The victim advocate can help VCCB staff expedite an emergency award by including an explanation supporting substantial hardship and immediate need as part of the application.

If bills or other documentation are not submitted with an emergency award request, the request may be denied. There are no appeal rights on an emergency award request. However, if an emergency award is denied, the claimant's regular application will be reviewed at a formal Board meeting and may still be found eligible for award.

Some examples of emergency awards are:

- A victim must relocate because the man who assaulted her will be released from prison in two weeks and he has threatened her from prison
- A victim who was assaulted will not be able to return to work for several weeks due to the severity of injuries.
- A woman requests installation of security measures as she was sexually assaulted by an intruder in her home that has not been caught.

The Role of a Victim Witness Advocate in Obtaining Victim Compensation

The Victim Witness Advocate may help a victim through his or her victimization in many ways. Assisting a victim in learning about and applying for victim compensation is an important duty of the advocate.

- Providing information – an advocate may be the first support person, after law enforcement, that a victim may encounter. The advocate can assist victims by informing them about the VCCB and answering questions about program eligibility or benefits that are available to victims.
- Filing the application – if a victim decides to submit a claim, the advocate can assist him or her in completing the application process. The advocate does not need to determine whether the application will qualify. VCCB staff will determine victim eligibility. The advocate can ensure that the application contains all the information the VCCB staff will need to make a determination and ensure that the claim is submitted timely.

While processing a victim's claim, VCCB staff may contact the victim advocate for additional information needed to verify a claim or benefits.

The Advocate as a Representative

The victim advocate may choose to represent a claimant. For example, in the case that a claim or a bill is denied by the VCCB, the representative may assist with filing an appeal. This could involve helping the claimant obtain new and relevant information. A representative may also attend a hearing with the claimant, either in person, or, more usually, over the telephone. In these cases, the representative may answer questions on the claimant's behalf or give testimony as to the new or relevant information that has come forward.