



Manual for Compensation Assistance

**Victims Compensation Assistance Program
Pennsylvania Commission on Crime and Delinquency
Office of Victims' Services**

<http://www.pccd.pa.gov>
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Changes

[illegible]

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INTRODUCTION:

Pennsylvania's Victims Compensation Assistance Program *A national leader in customer service, technology and process*

As we look to constantly improve our Program, we have partnered with you, the advocate, and could not have served as many people as efficiently and effectively without your feedback and participation in the claims process. We are committed to helping victims and their families through the emotional and physical aftermath of a crime by easing the financial impact of the crime.

Our staff is well-trained and understands the issues that crime victims face. They are dedicated to helping crime victims and are available to assist you with any questions you may have about filing a claim. Victims will always be treated with dignity, compassion and respect as we assist them through the claim process.

Your assistance with helping victims file compensation claims with our program is a vital resource for victims. This manual was created to be your resource as you deliver that assistance.

Thank you for choosing to be a part of the victim services field.

ORGANIZATION AND MANUAL USE

This manual represents a comprehensive reference, and guide for both staff of the Victims Compensation Assistance Program (VCAP) and Victim Advocates statewide. It represents the collection of knowledge available regarding the current method and procedures necessary to ensure that each claim received by VCAP is handled in a fair and expedient manner and in accordance with the governing statute and regulations. This manual is not intended to supplement, expand or contradict the applicable statutes and regulations. This manual is divided into chapters by benefit type with a *Who, What, How* layout, to help you determine ‘*Who*’ is *eligible to file a claim for a particular benefit*, ‘*What*’ the person is *eligible for*, and ‘*How*’ to *file*, with a complete list of all the supporting documents necessary to submit with and process a claim. There are a few exceptions to this format, such as the *Eligibility Chapter* and the *Appeals Section*. A *Helpful Information Section* is located in the back of the manual providing information on Appeals, Attorney Fees, Contribution/Denials and other important aspects of compensation. Additionally, each chapter contains a *Question and Answer Section* designed to anticipate some questions you may have. You will notice that the terms ‘VCAP’ and ‘the Program’ are used interchangeably throughout this manual to describe the Victims Compensation Assistance Program. The questions and answers used throughout this manual should only be used as a general guideline. As we are all aware, there are many different aspects to determining eligibility, verification and the processing of a claim. Other conditions may exist within each situation that could easily change the answer to the question.

PLEASE NOTE: *Both the Pennsylvania Coalition Against Domestic Violence and the Pennsylvania Coalition Against Rape have created manuals that specifically address compensation and domestic violence and sexual assault, respectively. For more information on either of these curriculums, or to request a copy please contact:*

PCAR

717-728-9740

800-692-7445 Toll Free

717-728-9781 Fax

877-585-1091 TTY

www.pcar.org Website

**Sexual Assault/Victims Compensation
Assistance Program Manual**

PCADV

717-545-6400

800-932-4632 Toll Free

800-537-2238 Toll Free

717-671-8149 Fax

800-553-2508 TTY

www.pcadv.org Website

**Crime Victims Compensation for
Battered Women: Advocating for
Economic Justice**

Statute - [Pennsylvania Crime Victims Act](#)

Regulations - [Crime Victims Compensation Regulations](#)

ACTION TIPS FOR ADVOCATES

PROVIDE ASSISTANCE: Assist the victim in completing and mailing the claim form. Do not just mail out the claim form. If necessary, schedule a telephone appointment with the victim. For example, for a hospitalized or otherwise incapacitated victim. Encourage victims to bring all bills and documents when meeting with you. Complete as much of the form as you can and highlight the areas the victim needs to complete. If a victim does not respond within 10 days, call the victim to see what assistance you can provide. Explain the difference between restitution and compensation to victims up front. Stay in contact with both the victim and the compensation claims specialist throughout the compensation process for claims already filed.

KEEP UP-TO-DATE WITH COMPENSATION: Attend trainings (opportunities are always listed at www.pccd.pa.gov), sign-up for the OVS Newsletter if you are not already on this list serve (to sign-up call 800-692-7292 or 717-265-8730 and ask for Heather), and make sure you are aware of all expenses VCAP can reimburse and all crimes that are eligible for compensation. Compensation is always changing and improving, so it is important to stay up-to-date.

ASK: If there was a delay in reporting, work with the claimant to find out why. See the [“ELIGIBILITY”](#) chapter for guidelines explaining good cause, have the claimant document the reason and submit it to the Program.

REMEMBER: Police Incident numbers are important. If you are unable to obtain a copy of the police report to submit with the claim form, you can help by providing the Program with the name of the police department and the police incident number. The Program needs the number when requesting investigative reports from the police. Providing the police incident number to the police departments assists them in locating the police report in a timely manner to send to VCAP.

PROVIDE: Case numbers for juvenile defendants are important. If there is a known juvenile offender, you can help by providing the VCAP staff with that information. When staff verifies whether restitution has been ordered, having that number helps.

REACH THE \$100 MINIMUM: Work with the victim to find other eligible expenses to reach \$100, such as mileage or public transportation for counseling (at your agency)/pharmacy/medical services, and for crimes occurring on or after 12/12/09 mileage or public transportation to criminal justice or PFA proceedings; replacement services (mowing the yard, shoveling snow, cleaning the house, childcare, babysitting, meals and hotels when traveling 50 miles or more for medical appointments, etc.); lost wages due to reporting the crime/filing PFA or cooperating with the police or courts; over-the-counter medications purchased as a result of the crime; etc. The vast majority of claims that do not initially reach the \$100 minimum can with just a bit of work. Of course, if the victim is age 60 or older, no minimum loss is required.

ESTABLISH PARTNERSHIPS: Offer compensation training to law enforcement officers, educating them on their notification responsibility, their own potential compensation eligibility and provide support materials for them to give to victims. Organize a county-wide training on compensation and invite any allied professionals that may come into contact with crime victims, such

as counselors, health care providers, and funeral directors. At the county-wide training, showcase your agency's services, as well as compensation benefits.

CREATE CHECKLISTS: If you have filed any claims you are probably familiar with the checklists VCAP sends to victims requesting additional information. Consider creating your own checklists for victims with everything they will need to file the claim. For example, if a victim is filing for loss of earnings, the checklist items you would hand out would include two paystubs, disability statements, etc.

GET TRAINED ON DAVE: Sign-up for a DAVE training (via Web-Ex @ <http://www.pccd.pa.gov>) and learn how to enter claims directly online. By entering claims electronically through DAVE, your claim can be received by VCAP the same day that you input the information. Through DAVE, you can check claim status and you can produce multiple reports on claims filed by your agency. You can also check on the documents that are still needed and contact those agencies who have been sent letters requesting information to expedite the claims process.

HAND OUT ENVELOPES: Because a victim or claimant is unlikely to know the requirements of the Compensation Program at the time of the crime, they may not keep receipts, bills or other pertinent documentation. To help alleviate this problem, give victims an envelope at your first contact and ask them to put any receipts or insurance statements related to the crime in the envelope and bring it with them when filing for compensation.

Are you thinking I don't have time to make all of these changes? If so, you will be surprised to learn that most of these changes will save you time. For instance, giving victims a checklist and handing out envelopes will result in less work for you after the claim is filed as the needed documents are more likely to be included. How long do you think it takes to highlight the applicable parts of a claim form for a victim? One agency who does it estimates it only takes five seconds! Now, imagine how long it will take when the victim completes a claim form that is not highlighted that you will have to correct and obtain needed information. So what are you waiting for? See what changes you can make to save time and provide compensation assistance to more victims. You will be glad that you did!

ELIGIBILITY

(18 P.S. §11.701-702; §11.707 and 37 Pa Code §411.3; §411.11; §411.15; §411.16)

Eligibility at a Glance:

Use these statements as a quick reference for determining eligibility. However, there are exceptions to some of these requirements. More detail is provided throughout this chapter on the eligibility requirements.

- The crime occurred in Pennsylvania.
- The crime was reported to the proper authorities within 72 hours.
- A claim must be filed no later than two years after the discovery of the occurrence of a crime. (**Exception for Child Victims—See Below**)
- The minimum loss requirements are met.
- The victim cooperates with law enforcement, VCAP and the prosecution of the offender.
- The victim did not participate in illegal activity that caused his/her injuries.
- An eligible crime was committed.

If you can check all of the above, then there's a good chance the person you are working with is eligible for compensation.

Who is Eligible for Compensation:

- A direct victim
- An intervenor
- A surviving spouse, parent or child of a deceased victim or intervenor
- Any person dependent for principal support upon a deceased direct victim or intervenor (for loss of support)
- Any person who assumes the obligation or who pays for the crime-scene cleanup, funeral, or burial expenses incurred as a direct result of the crime
- Hospitals or other licensed health care providers (for forensic rape examinations only)
- Persons eligible for counseling (for counseling only)

Eligible Claimants:

EXCEPTION: A person who is criminally responsible for the crime upon which a claim is based or an accomplice of the person shall not be eligible to receive compensation with respect to the claim. A member of the family of the individual who committed the crime shall not be eligible if the offender is living in the same household as the direct victim and will substantially benefit from the award.

Who may File a Claim for Compensation (Eligible Claimant):

- A claim may be filed by anyone eligible for compensation (previous page).
- If the victim is a *minor*, a parent or guardian may file the claim. If the parent or guardian of a minor who is eligible for compensation is unavailable or fails to assume financial responsibility for the minor's care, a person who assumes financial responsibility for services eligible for compensation and who is not a provider of services or an insurance

company may file a claim on behalf of the minor and may receive compensation for eligible services provided to the minor.

- A claim for an *individual who is mentally incompetent* may be filed by his/her guardian or legal representative. If the guardian or legal representative is unavailable or fails to assume financial responsibility for the mentally incompetent individual, a person who assumes financial responsibility for services eligible for compensation may file a claim on behalf of the mentally incompetent individual and may receive compensation for eligible services provided to the individual.

Requirements for receiving compensation:

1. The crime occurred in Pennsylvania, or to a Pennsylvania resident who is injured or killed in a foreign country that does not have a compensation program, or by an act of international terrorism.

The following countries have a compensation program: Australia, Austria, Belgium, Bermuda, Canada, Colombia, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Germany, Great Britain and Northern Ireland, Hong Kong, Hungary, Iceland, Ireland, Israel, Italy, Japan, Luxembourg, Netherlands, New Zealand, Norway, Philippines, Poland, Portugal, Slovakia, Republic of Korea, Spain, Sweden, Switzerland, Taiwan, Trinidad and Tobago.

If you are working with a Pennsylvania resident who is injured or killed in an act of international terrorism, make sure to look into helping that person file for compensation through the International Terrorism Victim Expense Reimbursement Program (ITVERP) offered through the Office for Victims of Crime in the Office of Justice Programs. The ITVERP may have other benefits and higher maximums than the Pennsylvania program. For more information, go to the Office for Victims of Crime website at www.ovc.gov or call 800-363-0441.

2. The crime was reported to the proper authorities within 72 hours after the occurrence or discovery of the crime, *unless good cause is shown*. Filing a Protection from Abuse (PFA) Order is also considered reporting to proper authorities even if no report is made to the police. Please Note: A reason for delay in reporting must come directly from the victim/claimant. It may be accepted over the phone or in writing.

Examples of good cause for a delay in reporting include:

- the victim/claimant is mentally or physically incapacitated,
- the victim is a minor,
- there is a fear of retaliation,
- the occurrence of the crime is not readily apparent, or
- other circumstances where good cause is shown by the claimant.

Proper Authorities: May include law enforcement officer, district attorney or other applicable prosecutorial authority, magisterial district judges, military police, campus police, U.S. Postal Inspection Service, appropriate hospital security, probation and parole officer, child protective services, adult protective services, or in the case of a PFA order, the prothonotary or equivalent authority. If the crime occurs in a foreign country also includes the U.S. Consulate. The 72-hour reporting requirement has been met if the victim reported to any of the above.

PLEASE NOTE: Since most of the above have a responsibility to file a report with police, VCAP will still review the police report. Only on rare occasions will there not be a police report made and VCAP has discretion to review on a case-by-case basis the claims where there is no police report.

3. A claim must be filed not later than two years after the crime, discovery of the occurrence of the crime, or two years after the death of the victim as a result of the crime, or two years after the discovery and identification of the body of a murder victim. (Exceptions exist if the victim is a child. See Below**))

Example: A home was destroyed by fire in May, 2010. The local police conducted an investigation at the time but it was not until November 2011 that a state police fire marshal determined the fire to be arson. The victim has two years from November 2011, the date it was discovered that a crime occurred, to file a claim.

****Filing Time Extension for Children:**

For crimes occurring on or after 8/27/02, when the victim is under the age of 18 at the time of the crime and the alleged **perpetrator is one of the individuals listed below**, the filing time is extended until the victim reaches age 23 or the statute of limitations for the crime expires, whichever is greater. **The victim is eligible for all benefits.**

The perpetrator is:

- ***the victim's parent,***
- ***a paramour of the victim's parent,***
- ***an individual residing in the home with the victim, or***
- ***an individual responsible for the victim's welfare.***

If the alleged **perpetrator is not** one of the above individuals then the filing time is still extended until the victim reaches age 23 or the statute of limitations for the crime expires, whichever is greater, **but the victim is only eligible for counseling to include related medications.** (See "**COUNSELING**".)

EXAMPLE: A 15-year-old was a victim of rape in October 2013, and filed a claim in April 2016. The offender was her boyfriend. This victim is only eligible for counseling as the offender was not her parent, paramour of parent, or person responsible for her welfare, a paramour of her parent, or an individual residing in her household. Because the victim was under age 18 at the time of the rape, she has until she reaches age 23 to file a claim for counseling or until the statute of limitations for rape expires, whichever is later.

****REMEMBER:** If a claim is filed within two years of the occurrence or discovery of the crime, a minor victim is eligible for all benefits, regardless of relationship to perpetrator.**

Please refer to the [**"HELPFUL INFORMATION - CHILD VICTIMS:**](#) Section for more information on filing claims for child victims.

FOR CRIMES OCCURRING PRIOR TO 8/27/02, PLEASE CONTACT VCAP.

4. The minimum loss requirements are met:
 - If the victim is under age 60, there must be a minimum loss of \$100 from any combination of benefits offered by VCAP.
 - If the victim is age 60 or older, then no minimum loss is required.
5. The victim fully cooperates with law enforcement, VCAP and the courts, *unless good cause is shown*.

Examples of good cause for non cooperation include:

- The direct victim, or claimant is mentally or physically incapacitated.
- There is a fear of retaliation.
- The victim is a minor.
- Other circumstances where good cause is shown by the claimant.

PFA Information:

- Filing a Protection from Abuse (PFA) Order is considered reporting to proper authorities even if no report is made to the police.
- If a temporary PFA Order is issued and the claimant chooses not to pursue a final order, OVS will consider the PFA withdrawn and deny the claim unless OVS determines the withdrawal to be justified. Justification includes when: 1) the direct victim or intervenor or claimant is mentally or physically incapacitated; 2) there is fear of retaliation; or 3) other circumstances where good cause is shown by the claimant and deemed appropriate by the VCAP.
- If there is a violation of a PFA and the victim needs to file for compensation as a result, the violation must be reported to proper authorities in order to be considered for compensation payments.

- Claimants do not have to wait until a PFA becomes final to file a claim. In the process of verifying a claim, the VCAP will confirm the disposition of the final PFA
 - On a case-by-case basis the VCAP may consider claims where the claimant filed and was granted a temporary PFA, however the judge did not grant the permanent order.
6. The victim did not engage in conduct that caused his/her injuries. The VCAP may deny a claim or reduce the amount awarded if it determines that the conduct of the victim contributed to the injury.

EXCEPTIONS:

- The conduct of a homicide victim is not considered when an eligible claimant files for counseling. 18 P.S. §11.707 (f)(3)
- If the crime involved is rape or sexual assault, the conduct of the direct victim shall not be considered. 18 P.S. §11.707 (f)(2)
- If the crime involved is related to domestic violence, the conduct of the direct victim shall not be considered unless the direct victim was the primary aggressor. 18 P.S. §11.707 (f)(1)

VCAP examines a claim for a causal connection between the illegal activity or contributory conduct and the injuries sustained. Do not automatically assume that the claim will be denied because someone was engaged in illegal activity at the time of the crime. See the "CONTRIBUTION/DENIAL DETERMINATIONS" for more information on causal connection and exceptions.

7. At least one of the following eligible crimes must have been committed:
- 18 Pa. C.S. (Title 18 - relating to crimes and offenses—see partial list below)
 - 35 Pa. C.S. (known as The Controlled Substance, Drug, Device and Cosmetic Act)
 - 23 Pa. C.S. Ch. 61 (relating to protection from abuse)
 - 23 Pa. C.S. Ch. 61 §6114 (contempt for violation of order or agreement)
 - The former 75 Pa. C.S. §3731 (relating to driving under the influence of alcohol or controlled substance)
 - 75 Pa. C.S. §3732 (relating to homicide by vehicle)
 - 75 Pa. C.S. §3735 (relating to homicide by vehicle while driving under the influence)
 - 75 Pa. C.S. §3735.1 (relating to aggravated assault by vehicle while under the influence)
 - 75 Pa. C.S. §3742 (relating to hit and run)
 - 75 Pa. C.S. Ch. 38 (relating to driving after imbibing alcohol or utilizing drugs) in cases of bodily injury
 - 30 Pa. C.S. §5502 (relating to operation of watercraft while under the influence)
 - 30 Pa. C.S. §5502.1 (relating to homicide by watercraft while under the influence)

Title 18 crimes include (but are not limited to) the following:

- Chapter 25—Homicide, manslaughter
- Chapter 27—Assault, reckless endangerment, terrorist threats, harassment or stalking, ethnic intimidation, and neglect of care-dependent person
- Chapter 29—Kidnapping, unlawful restraint, criminal coercion, false imprisonment
- Chapter 31—Rape, sexual assault, institutional sexual assault, indecent exposure
- Chapter 33—Arson and related offenses
- Chapter 35—Burglary, criminal trespass
- Chapter 37—Robbery, robbery of motor vehicle
- Chapter 39—Theft, theft by deception
- Chapter 43—Bigamy, incest, endangering welfare of children
- Chapter 49—Victim and witness intimidation
- Chapter 63—Corruption of minors, sexual abuse of children

The above list is not a comprehensive list of the Title 18 crimes eligible for compensation. For the complete list of Title 18 crimes, refer to the Crimes Code citation:

18 Pa.C.S. § 101 et seq.

Benefit maximums:

In most cases, total compensation will not exceed \$35,000. Most benefits also have individual caps within the \$35,000 limit. Counseling, crime-scene cleanup, and forensic rape exam costs are three benefits which are over and above the \$35,000. Refer to the bottle graphic for a visual of the benefit caps and maximums. Every benefit contained within the bottle falls under the \$35,000 cap, with their individual caps listed and everything over and above the \$35,000 cap is listed on the outside of the bottle.



PLEASE NOTE: For crimes occurring prior to 12/12/09 the total payable for funeral expenses is \$5,000.

Payor of Last Resort/Collateral Resources:

The Crime Victim's Compensation Fund is the payer of last resort, which means that the victim/claimant must utilize all other sources of insurance, public benefits, pensions or settlements that could pay for expenses related to the injury before compensation can be considered.

Other sources are referred to as collateral resources. The following are examples of Collateral Resources when received by the claimant as a result of the crime:

- All types of medical insurance: (HMOs, Blue Cross, Blue Shield, Major Medical, Medical Assistance, Medicare and private health plans);
- Life insurance where the claimant is the beneficiary;
- Auto insurance;
- Settlements from civil litigation;
- Worker's Compensation;
- Sick, vacation, annual or personal pay;
- Disability pay;
- Pension plans including those providing for disability or survivor's benefits;
- Cash assistance and food stamps; and
- Paid restitution.
- Social Security (disability, supplemental income, survivors, etc.)

EXCEPTION: With a **"FORENSIC RAPE EXAMINATIONS"**, the claimant has the option of choosing whether to access their insurance, and for **"STOLEN CASH"** claims, if the amount stolen is less than or equal to the deductible on the victim's homeowner's or renter's insurance, VCAP does not require the victim to file with his/her insurance.

When a victim is covered by insurance, any **co-pays** or **deductibles** may be submitted for compensation.

It is not required that a victim or claimant utilize available/accrued **sick, vacation, annual or personal leave**, however, if they do utilize the benefits, the amount will be offset.

Miscellaneous Eligibility Information:

Estate—The estate of a victim cannot file a claim (not an eligible claimant). However, if a bodily injury claim has been filed and the direct victim subsequently dies, the VCAP may substitute the executor or administrator to complete the processing of the claim.

Prisoners— Claims for losses resulting from crimes committed in a correctional facility to an incarcerated person will be reviewed on a case-by-case basis. VCAP is the payer of last resort and as such requires that all other potential sources, including public funds, be accessed. Exceptional circumstances may exist so please contact VCAP if you have this situation.

Undocumented Immigrant – May submit a claim for consideration.

Property - A claim cannot be paid for property loss or damage (except certain medical equipment and supplies; or certain official documents, i.e., driver's license, passport, etc. on case by case basis).

Pain and suffering – VCAP does not reimburse for pain and suffering.

Filing Date - The official filing date for claims submitted by mail is the postmark date on the envelope. For claims electronically filed through DAVE, the date received is the date when the “Send completed claim to PCCD” button is pressed.

Signature - The claimant must sign the Acknowledgement and Reimbursement Agreement and the Authorization to Obtain Information on the back of the claim before the processing of the claim begins.

Eligibility Q & A

- Q A Pennsylvania resident was a victim of an assault while vacationing in Florida. The victim was taken to a Florida hospital for treatment of his injuries. He now has medical bills as a result of the crime but does not have insurance. Can the victim file a claim in Pennsylvania?
- A No, a claim must be filed in the state where the crime occurred.
- Q A Pennsylvania resident was a victim of sexual assault while vacationing in Spain. Can this victim file with the VCAP for counseling expenses?
- A No. Since Spain has a compensation program, the victim must file with Spain's program.
- Q A Pennsylvania resident was seriously injured in an assault while working as a freelance reporter in Kenya. He now has many unpaid medical bills and is unable to work because of his injuries. Where should this victim file a compensation claim?
- A *Since Kenya does not have a compensation program, he may file with Pennsylvania's VCAP.*
- Q A man shot his wife during an argument. The woman survived but has been in the hospital for an extended period of time. The victim's sister is caring for her two children who witnessed the shooting. The children are receiving counseling and the victim's sister is seeking compensation for their counseling expenses, which she has paid for. Is the victim's sister an eligible claimant?
- A *Yes. An eligible claimant is any person who assumes the financial responsibility for a minor child if the parent of that minor child is unavailable or fails to assume financial responsibility. In addition, the sister is eligible for counseling for herself as a result of the crime.*
- Q Does a victim have to wait for his/her PFA to become final to submit a claim to VCAP?
- A *No, he/she can submit a claim before his/her PFA becomes final. In the process of verifying a claim, the VCAP will confirm the disposition of the final PFA.*
- Q Are stolen Food Stamps or broken doors eligible for compensation?
- A *No. They are considered personal property and not covered under VCAP. The victim may have recourse through the Department of Public Welfare for the stolen food stamps.*
- Q A victim, age 25, was unable to return to work for three days after being assaulted. All of the victim's medical expenses were covered by insurance with the exception of \$30 in copays. Is the victim eligible for out-of-pocket expenses and loss of earnings?
- A *Yes, provided the combined minimum out-of-pocket expenses and loss of earnings was at least \$100.*

Q If a victim was on Medical Assistance at the time of the crime, can he/she be considered for any compensation for medical expenses?

A Yes. The victim could be considered for any medical expenses not covered by Medical Assistance, such as co-pays, deductibles or non-covered medical supplies or services. Remember that the \$100 minimum loss must be met if victim is age under age 60.

Please refer to the [“Appendix A - BENEFITS AT-A-GLANCE”](#) at the end of the manual for a quick guide to the range of compensation benefits, the supporting documents needed to receive an award for each benefit and the maximums for those benefits. Please refer to the specific benefit chapters in this manual for more detailed explanations, examples and tips.

CLAIMS PROCESS OVERVIEW

Eligibility:

When the claim is received by mail at the Victims Compensation Assistance Program, pertinent data is entered into the **Dependable Access for Victim's Expenses (DAVE)** computer system and then assigned a claim number by the system. The claim form may also be submitted electronically through the DAVE computer system by selected Victim Service Programs throughout the Commonwealth. Additionally, a victim or claimant may submit a claim online at www.pacrivevictims.org. For electronically filed claims, the claimant can sign the form electronically. However, those submitting paper claims, the claimant must sign the Acknowledgement and Reimbursement Agreement and the Authorization to Obtain Information on the back of the claim before the processing of the claim begins. The claim is then assigned to a VCAP staff member who will handle the claim throughout the entire process. The staff member will review the claim form and supporting documents for **eligibility** determination.

Eligible Claims:

When it is determined that the claim **meets the basic eligibility requirements**, the claim is "accepted" and an acknowledgement letter is sent to the claimant. This letter will either state that no further information is needed from the claimant at this time; or that additional information is required from the claimant, and a checklist will be attached.

Eligible claims, where no verifiable out-of-pocket expense or loss is received by the VCAP within 5 years from the date of filing of the claim, will be closed with no further right of appeal (exception for minors). The VCAP will attempt to notify the claimant in writing 6 months prior to closing of the claim.

Cannot Determine Eligibility:

If there is **insufficient information to determine whether a claim has met the basic eligibility requirements**, a checklist will be sent requesting additional information from the claimant. These claims are kept in **Information Collection** status until the requested information is received.

Please Note: If sufficient information is not provided to the VCAP to determine eligibility within 2 years from the date of the filing of the claim, the claim will be closed with no further right of appeal. The VCAP will attempt to notify the claimant in writing 6 (six) months prior to the closing of the claim.

Verification:

Once a claim has been accepted (met the basic eligibility requirements), staff initiate the **verification process**. The Program is required by law to investigate each claim to verify the accuracy of the claim, to ensure that all requirements of the law are met and to make a determination as to whether the claim should be paid and the amount that should be awarded.

Depending on the type of claim and the documentation that was submitted with the claim, the assigned staff member will determine what entities need to be contacted for further information and verification. These verification requests are sent at the same time that the acknowledgement letter is sent to the claimant. If the requested information is not received within 30 days, the Program may issue a subpoena for the requested information. A letter is sent to the claimant and to the victim service program notifying them of the Program's attempts to obtain the required information. If after sending a subpoena the VCAP still does not receive the necessary information, the claim may be made inactive.

If a victim is applying for multiple benefits, such as medical expenses and loss of earnings, however verification is received only for the medical expenses, VCAP may pay the medical expenses and consider the lost earnings once the required documentation is received.

If there is a known offender, the Program will verify the status of court proceedings and restitution.

The acknowledgement letter will indicate the name and phone number of the VCAP staff assigned to the claim. VCAP also has Client Service Representatives who answer the phone Monday through Friday, during business hours, who can also help to answer questions that you may have about a claim. **A VICTIM SERVICE PROGRAM WHO ASSISTED A VICTIM IN FILING A CLAIM WILL BE COPIED ON ALL CORRESPONDENCE SENT TO THE CLAIMANT.**

Verification requests are most commonly sent to the following:

Police Departments – The program requires a police report (unless a PFA was filed) to determine:

- An eligible crime was committed.
- The crime was reported within 72 hours.
- The victim did not engage in conduct that caused the injury.
- The victim cooperated with the investigation and prosecution.

Medical/Public Assistance – The Program may access the Medical Assistance/Public Assistance office database to determine whether the victim was/is eligible for benefits (Medical, Cash, or Food Stamps).

Hospitals – The Program may contact a hospital to verify charges or, when necessary, to request medical records to verify that services directly relate to crime.

Doctors – The Program may contact a doctor to verify charges, verify that services relate directly to crime, and types of supplies or medications prescribed as a result of the crime. If the victim is requesting loss of earnings, VCAP requires the doctor complete the verification form related to the victim's disability period. If the victim sought mental health, physical therapy, or chiropractic services, a treatment form is attached for the doctor or licensed professional to certify what percentage of the treatment is directly related to the crime.

Dentists - The Program may contact dentists to verify the charges, the percentage of services that directly relate to the crime, any medications or supplies prescribed, specific teeth requiring treatment, and dental records if necessary.

Funeral Homes – The Program will send a verification form to the funeral home to verify payments made, who the payments were made by, and balance due.

Employers – Employers are requested to complete the verification form indicating the dates the victim/claimant lost time from work, regularly scheduled day/weekly hours, and any reimbursements received, i.e., sick, vacation or disability pay.

Contribution/Denial Determinations:

If the assigned staff person decides that a contribution assessment or a denial may be warranted, the claim is forwarded to a Claims Review Officer for review.

If the Claims Review Officer determines that the claim should be denied, a letter explaining the reason for the denial will be prepared and sent to the claimant and a copy to the advocate who assisted with the filing of the claim. If the claim is a homicide, a phone call is made to the claimant advising of such prior to mailing the denial.

If the Claims Review Officer determines that a claim should be reduced for contribution, an assessment amount is determined, and the claim is forwarded to Legal Counsel for review and advice. The claimant will be notified of the assessment in the Report and Determination (Award Decision).

If the Claims Review Officer determines that a claim should not be reduced for contribution or denied, the claim is returned to the assigned staff member to continue the processing of the claim.

Report and Determination (Award Decision):

When sufficient verification has been received, the assigned staff member will review all documents, determine the payable losses, and process a **Report & Determination**. The Report and Determination will either be reviewed and approved by the staff member's Second Reviewer, or it will be system-approved by the DAVE System. (A percentage of claims approved by the DAVE system are post audited by Second Reviewers within a week so that in

the event that an error is found, corrections can be made before a check is mailed by the Treasury Department.)

Once second approved, the Report & Determination is sent to the claimant. If money is due directly to the claimant, a check will also be enclosed (up to \$5,000) from VCAP's Advancement Account. Any remaining balance to the claimant, as well as any amount due a provider, will be processed and mailed from the Treasury Department within approximately three to five weeks. All checks due a provider will be mailed directly to the provider.

Please Note: The Treasury Department does not mail checks for claims where contribution was assessed. Treasury mails the checks to VCAP where they are held until the 30-day appeal time has lapsed with no response from the victim/claimant.

Appeals:

If a claimant does not agree with the Program's decision, he or she may file a **Request for Reconsideration** within 30 days of the date of the Report & Determination. If the victim/claimant received a check from the Program, it must be returned with the Request for Reconsideration. The Request for Reconsideration is reviewed by the Claims Review Officer and additional follow-up is done as necessary. A decision is then made to either change the original decision or reaffirm it. If after the Reconsideration determination the claimant still disagrees with the decision, he or she has the right to file a **Request for Hearing** within 30 days of the date of the reconsidered decision.

NOTE: A Request for Reconsideration must be completed and signed by the claimant. An advocate may assist the claimant in writing the appeal, however, the claimant must sign.

Report and Determination (Supplemental Decision):

If a claimant incurs additional bills related to the crime, these bills may be considered on a Supplemental Decision. **A new claim form is not required.** The bill(s) can be sent to the VCAP with the original claim number written on it. These bills will be assigned to the same staff member as the initial award and the claim follows the same process as a new claim.

EMERGENCY AWARDS

(18 P.S. §11.706)

Who?

A victim or eligible claimant who incurs an undue hardship by paying medical or funeral expenses out of his or her own pocket (not due and owing to a provider), or incurs lost wages, or was financially dependent upon a victim of a homicide (loss of support) or is applying for money that was stolen or defrauded from them.

What?

The total amount of the emergency award will not exceed **\$5,000** per claim

How?

With a paper claim form

Complete and sign an Emergency Compensation Award Application (found at the end of this chapter) along with the Standard VCAP Claim Form and required documentation.

Through DAVE

For every claim entered into DAVE, the system asks whether the claim should be filed as an emergency claim. If yes is clicked, the next screen provides eligibility information and requires selection of at least one of the following four scenarios:

- claimant has already paid for medical/funeral bills,
- claimant has lost wages,
- claimant is applying for money that was stolen or defrauded from him/her, and/or
- claimant was financially dependent upon a victim of homicide.

If none of the above scenarios apply to the claim that has been entered, hit cancel as the claim will not qualify for an emergency award.

VCAP staff will give preference to the Emergency Award request and will expeditiously determine whether the eligibility requirements have been met and review submitted documentation. Once the claim is determined to be eligible and all required information is received, VCAP staff will make every effort to process the emergency award and issue the check within three to five working days.

At no time, is an emergency award made without receiving all of the required information and verification (including a police report).

Example: *If an emergency award is being requested for loss of earnings, however, no paystubs are submitted with the claim, an emergency award will not be made until the pay stubs are received.*

Emergency Awards Q & A

- Q** Can an emergency award be considered after an initial award is made?
- A** *Yes, as long as the claim has not previously reached the Emergency Award cap. For example, a victim files a claim for medical expenses and loss of earnings. The claim was not initially filed as an emergency claim because the victim did not incur any out-of-pocket expenses and was using sick leave. However, the sick leave is exhausted a few months later. With no other source reimbursing the lost wages, the victim is now eligible to file for an emergency award even though an initial award has already been made to cover the medical expenses.*
- Q** A victim is being pursued by a collection agency for payment on a doctor's bill. Can the victim apply for an emergency award to pay a portion of the bill?
- A** *No. An emergency award may be granted only if the victim/claimant has already paid the doctor's bill.*
- Q** Does the victim/claimant have to wait until the emergency award check is received in the mail?
- A** *No. The victim/claimant, with proper identification (photo ID with victim/claimant's name), may pick up his or her check at VCAP's office at the Pennsylvania Commission on Crime and Delinquency (PCCD), 3101 North Front Street, Harrisburg, PA 17110. Arrangements **must** be made in advance by calling VCAP at (800) 233-2339.*
- Q** Is an emergency award over and above the maximum allowable award?
- A** *No. Any money received as part of an emergency award will be included in the \$35,000 cap.*
- Q** Are there any circumstances where VCAP will pay an emergency award right away without determining eligibility and reviewing all needed verifications?
- A** *No. Eligibility must always be determined and all needed documents and verifications received before any payment can be made. Staff will attempt to expedite the verification by telephone where feasible.*
- Q** What if there is not sufficient information included when an Emergency Compensation Award Application is submitted to VCAP?
- A** *The process for claims filed without sufficient information included is the same for all claims, whether filed as an emergency or not. If the claim is received without sufficient information from the claimant (such as W-2 forms or pay stubs), the assigned Program member will request the required information on a checklist sent to the claimant. If information is needed from others (such as a police report or employer information), the Program member will request this directly from the entity and include this information on the checklist to the claimant. The checklist will state what additional information is needed before a decision can be made and indicate that VCAP will request the above information, and upon receipt of the information, will review the emergency request.*

SAMPLE

**Pennsylvania Commission on Crime and Delinquency
Office of Victims' Services
Victims Compensation Assistance Program
P.O. Box 1167
Harrisburg, PA 17108-1167**

Emergency Compensation Award Application

Last Name (claimant)	First Name	Middle Initial
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Address

City	State	Zip Code	Telephone Number
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An Emergency Compensation Award is solely for a claimant who is experiencing an undue financial hardship as a result of the crime, due to the following:

(Please check box(s) that apply--at least one box must be checked to be eligible).

- ☐ Claimant has already paid for medical/funeral bills.
- ☐ Claimant has lost wages.
- ☐ Claimant is applying for money that was stolen or defrauded from them.
- ☐ Claimant was financially dependent upon a victim of homicide.

NOTE: In order for an Emergency Compensation claim to be processed, it must be submitted with the Program's standard claim form and required documentation. Claimants under age 60 must meet the \$100 minimum out-of-pocket loss to be eligible. Claimants age 60 or older have no minimum loss requirement.

Due to an urgent financial need, I am requesting an Emergency Compensation Award. I understand that the Program will review the police report and the supporting documentation to determine if the claim is eligible for an award. I understand that this award may not exceed \$5,000 (crimes on or after 12/12/09) or \$1,500 (crimes prior to 12/12/09).

Claimant's Signature	Date
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SUPPLEMENTAL (ADDITIONAL) EXPENSES

(37 Pa Code §411.11 & §411.18)

Who?

A victim or eligible claimant who has additional crime related expenses, loss of earnings, or loss of support subsequent to his or her initial claim which was previously filed with and paid by the Program.

What?

Up to the remaining maximum(s) from the previous award(s). For example, if a victim previously received \$8,000 in lost wages in previous awards, he/she may be eligible for an additional \$7,000 in lost wages as the maximum is \$15,000.

How?

A claimant may make a request for a supplemental award at any time after receiving the first award, provided that the claimant has not received the maximum payable under the law. The claim number assigned to the original claim should be referenced in the written request for reimbursement of additional expenses or on the bill(s) submitted for consideration. A NEW CLAIM FORM IS NOT REQUIRED.

An advocate can enter a supplemental bill in DAVE and then fax the bill to the VCAP. To aid in the processing, write the claim number in large numbers on the first page (or cover page if faxing) to ensure it will be given to the assigned VCAP staff member immediately. If all documents and verification have been completed for the expense on a prior award, no further action is required beyond submitting the additional bill(s) or receipt(s).

Example: *A victim has been receiving counseling that has been verified for one year. Prior awards were paid through the first six months. The victim is now submitting itemized bills for the last six months. Because this service has already been verified no further action is required. An award will be made up to cap.*

Example: *The same victim in the above example is now also filing for loss of earnings for the first three months after the crime. Since this expense is new, all the required documents for loss of earnings (i.e., paystubs or W-2s, doctor certification, employer verification, offsets, etc.) would also need to be submitted with the supplemental claim.*

All bills for services submitted for a supplemental award will be verified by the Program to determine that they are directly related to the crime incident.

Please see the relevant chapter(s) in this manual for a list of the required documentation.

Supplemental Expenses Q & A

- Q** Is there a time limit to file for additional expenses after an initial award is made?
- A** *No, as long as the expenses can be verified as crime related.*
- Q** Two years ago, a victim received compensation for an assault. Recently, however, he required surgery due to a complication of his injuries. Does he need to file another claim form and will he be assigned a new claim number?
- A** *No. Since the surgery is required as a result of injuries sustained during the crime upon which the original claim was based, a new claim is not filed, and the same claim number is used.*
- Q** Three years ago, a victim received compensation for an assault. He was recently assaulted while attending a baseball game. Does he need to file another claim form and will he be assigned a new claim number?
- A** *Yes, the victim would complete and submit a new Claim Form and file an entirely separate claim since this is a new crime and will receive a new claim number.*
- Q** A victim has received the maximum amount of \$35,000 in compensation for medical expenses. Since two eligible crimes were charged against the offender for the same incident, can the victim file a supplemental or (another new claim) for the other charge?
- A** *No, a claim can only be filed per crime, not per criminal charge.*
- Q** A victim received the maximum award for a specific benefit. A few years later, legislative changes raised the maximum payable for this. Can the victim now file for additional expenses incurred related to that benefit?
- A** *No. Changes to VCAP become effective for crimes occurring on or after the date the changes are passed. The date of the crime is normally the determining factor versus the date of filing.*

MEDICAL EXPENSES

(18 P.S. §11.103 & §11.707 and 37 Pa Code §411.11; §411.16 & §411.42)

Who?

A victim or eligible claimant who as a direct result of a crime suffers from a physical or mental injury may be compensated for expenses incurred for medical care and treatment as approved by VCAP.

What?

Eligible Expenses:

- Hospital
- Physician
- Dentist
- Ambulance
- Physical Therapy
- Medical supplies and equipment needed, stolen or damaged as a result of the crime (prosthetic devices, walkers, canes, wheelchairs, hearing aids, prescription medications, eyeglasses or other corrective lenses, or dental devices)
- Childcare
- Prescriptions/Medicine
- Medical co-pays and deductibles.
- Nutrient supplements such as Ensure and Pedialite can be considered for reimbursement in cases of a broken jaw, facial injury, etc.

Note: Alternative or holistic treatment may be considered if a physician deems it medically necessary and VCAP finds the request reasonable. Horse (equine) therapy may also be considered—See **“COUNSELING”**.

Additional Eligible Expenses include:

- Mental Health Counseling (see **“COUNSELING”**)
- Home Healthcare (see **“HOME HEALTHCARE AND REPLACEMENT SERVICES”**)
- Transportation to medical treatment, counseling sessions and pharmacies (see **“TRANSPORTATION & TRAVEL EXPENSES”**)
- Replacement Services (i.e. laundering, housekeeping, grocery shopping, meal preparation, administration of medication) (See the **“HOME HEALTHCARE AND REPLACEMENT SERVICES”**)
- **Reimbursement Rate:** Medical expenses for **treatment received** will be paid to a hospital or other licensed health care provider on behalf of the victim at a rate of **65%** (considered payment in full).

By law, hospitals and other health care providers must accept VCAP’s payment as payment in full and may not attempt to collect from the victim any amount exceeding the amount of reimbursement made by VCAP. 18 P.S. §11.708(b).

The maximum award for medical expenses, services, equipment and supplies falls under the \$35,000 cap.

Please Note: Providers who write off bills to a direct victim, claimant or intervenor may not at any point following the write off seek reimbursement from the VCAP, direct victim, claimant or intervenor. 37 §411.53

How?

1. Itemized bills (each service is listed) must be included. The bills must be in the name of the claimant and include the name, address, and telephone number of the provider of service, the date of service, the type of service provided and the amount charged for each service.
2. If filing for prescription medication reimbursement, a copy of the actual prescription which shows the victim's name, the type of medication, the date prescribed and the doctor's name, must be included; or a printout from the pharmacy reflecting this information. For over-the-counter medications, a copy of an itemized receipt is often sufficient. To ensure the expenses are crime-related, Program staff may send for doctor verification for any medicine that the victim is seeking reimbursement for.
3. If the victim or claimant paid for any of the expenses, attaching copies of paid receipts or cancelled checks can be helpful. However, staff may also verify this directly with the provider by either sending a Provider Verification Form or making a telephone call.
4. If the victim or claimant is covered by medical insurance, then an insurance explanation of benefit statement (EOB) for each bill must be included. The EOB should include the name, address and telephone number of the insurance company, the dates of service, charges, the patient pay responsibility (including co-pays and deductibles) and the amount paid by the insurance.

Please Note: *Staff will use discretion—For example, obviously it is not reasonable to request an EOB from a victim for a hospital bill that has a balance of \$25 which is a common co-pay for a hospital visit. Additionally, if there is a bill for which no EOB was provided but the bill clearly reflects insurance payments and required write-offs, the Program will often consider and accept the bill without having the actual insurance benefit statement.*

5. Justification is required from the victim/claimant if victim is covered by an insurance plan or medical assistance, but did not utilize the prescribed coverage, such as that the victim could not obtain the required care, could not maintain ongoing care from a previous provider, travel considerations or other circumstances deemed appropriate by the VCAP.

NOTE: The justification must come from the victim/claimant. It can be in writing or over the telephone. An advocate may assist a victim/claimant in writing such justification, however, the victim must sign.

Examples: *A child needs to receive counseling from a counselor who is outside the network but specializes in child sexual trauma; OR*
A victim does not have a vehicle to travel 30 miles to a covered provider and wishes to use a provider within walking distance to home.

OUT OF NETWORK INSURANCE REIMBURSEMENT: Effective May 1, 2013 (service date) – Victims who have health insurance and go to an out of network provider will need to submit those bills to their insurance company before VCAP can consider the bills. Their insurance company may pay a portion of the bill. VCAP requires either verification of the amount paid or indication of denial. If the claimant submits to their insurance and is denied and the claimant continues with the service, VCAP would only need to see the denial one time for payments to continue. For Out-of-Network requirements for counseling, please see ["COUNSELING"](#).

Please Note: For consideration of expenses for *holistic or alternative treatment*, a letter from the victim's treating referring physician specifically addressing how the treatment relates to the crime and how the treatment will benefit the victim is required. If the letter is not submitted with the claim, please provide the name and address of the doctor so that staff can obtain the necessary verification.

Personal health-related supplies and equipment

What?

Personal health-related supplies and equipment

- Canes
- Hearing aids
- Walkers
- Dental devices
- Prescription medications
- Wheelchairs
- Eyeglasses or other corrective lenses
- Prosthetic devices
- Nonmedical remedial (corrective) care or products that are needed to assist in normal daily life functions such as a wheel chair ramp, lifts, or other special accommodations, including equipment or robotic devices needed to assist in normal, daily life functions.

If any of the prior listed items are needed as a result of the crime:

- The amount awarded for each item does not have a specific monetary limit under the \$35,000 cap, with the exception of eyeglass frames, which have a maximum of \$200.
- The VCAP will consider paying rental costs for personal health related medical equipment.
- The award will be based on reasonableness.
- Must be doctor certified.

If any of the prior listed personal health-related supplies and equipment items are required to be replaced or repaired because the item was stolen or damaged as a result of the crime:

Reimbursement will not exceed **\$1,000** and shall be subject to the following limitations:

- Replacement of eyeglass frames shall be limited to \$200.
- \$1,000 for the replacement of all combined prescription medications stolen or damaged in a single crime.
- \$100 for the reimbursement of canes.
- \$250 for reimbursement of walkers.
- Doctor certification is **not** required.

Please Note: When items of this nature are **stolen**, the Program in most cases requires they be listed in the police report. If the items are **damaged** during a crime, they should be listed in the police report, when feasible. There can be instances, however, where the Program will waive the requirement that the stolen or damaged item must be listed in the police report.

Example: *A victim submits a receipt for a new pair of eyeglasses. The police report indicates that the victim was hit in the face but fails to indicate specifically that the eyeglasses were broken. It is reasonable to assume that eyeglasses were damaged because of the injury. These cases will be reviewed for timeliness of repair or purchase on a case-by-case basis.*

Example: *The police report states that the victim's purse was stolen but does not indicate that the victim's eyeglasses and prescriptions were inside the purse. VCAP may accept the claimant's word that the items were in the purse, provided that the date of the repair or replacement of the item is provided and is within a reasonable amount of time (normally one week, unless extenuating circumstances exist).*

Any addendum made to the police report must be made within two weeks of the initial report.

Please Note: Any large dollar (**over \$5,000**) medical, rehabilitation or other devices such as special wheelchairs, chair lifts, ramps, van conversion equipment, therapy spas or special needs home remodeling medically necessary as a result of the crime **will require two bids**. The VCAP will pay the lowest amount unless good cause is shown justifying the higher amount. If VCAP staff become aware of the fact that the direct victim has no financial means to order the needed services or equipment that exceed \$5,000 then VCAP will assist the claimant by first reviewing the claim to determine that it is an eligible claim and that an award is imminent and then notifying the potential provider and advising that if all issues relating to the claim remain as they were when the claim was reviewed, the VCAP will in all likelihood be making an award and payment will be sent directly to the provider if the service is rendered. (VCAP will not however guarantee payment.) **NOTE:** If the bill was paid by the claimant prior to submitting the bill or claim, VCAP will review those claims on a case by case basis to determine whether a second bid will be required.

How?

1. Itemized bills must be included. The bills must be in the name of the claimant and include the name, address, and telephone number of the provider of service, the date of service, the type of service provided and the amount charged for each service.
2. If the victim or claimant paid for any of the service, copies of paid receipts or cancelled checks are helpful. However, staff may also verify this directly with the provider by either sending a Provider Verification Form or making a telephone call.
3. If the supplies or equipment are needed as a result of the crime, a doctor certification indicating the purchase or rental of specialized equipment is medically necessary as a result of the crime injury. If equipment is rented, the VCAP must also have a doctor's certification indicating how long it is necessary to rent the equipment as a result of the crime.

Please Note: If the victim has no compensable out-of-pocket losses other than the need, or possible future need, for advance/unique rehabilitative services or equipment, a claim should be filed in order to preserve the victim's rights in meeting the claim filing time frame

Childcare/Babysitting Expenses

What?

The Program can reimburse for childcare/babysitting services, if a victim or claimant needs to attend a court appearance, a medical appointment, counseling session, or go to the pharmacy to pick up crime-related prescriptions. (Up to \$8 an hour for a non family member providing the service; or lost wages, within limits, for a family member or household member who takes time off work to provide the service.) If the victim is a child, then childcare/babysitting expenses can be considered for the child's siblings who need care while a parent takes the child victim for medical or counseling services, or interviews with police or prosecutors.

How?

1. Provide the name and address of the childcare provider or babysitter, and indicate the dates/hours of care provided and the amount paid. Copies of paid receipts or cancelled check are helpful. The Program will either call the provider or send a Provider a Verification Form to complete and verify that the service was provided and the amount paid.

Most often, if the babysitting/childcare service was **only required for one day**, a handwritten note from the claimant indicating who he/she paid and how much was paid will suffice.

2. If the service was required for a medical or counseling appointment, a copy of a bill should be included. If the claimant had a court appearance, then documentation of the appearance, i.e., a copy of the subpoena, a letter from a court official or the victim advocate who accompanied the victim, should be included.

Medical Expenses Q & A

Q If VCAP pays a provider bill, can that hospital or licensed healthcare provider bill the victim for any amount over and above what VCAP paid?

A *No, if VCAP accepts a claim, the hospital or other licensed health care provider shall accept such payment as payment in full and may not attempt to collect from the victim any amount exceeding the amount of reimbursement.*

EXCEPTION: *If the Program assessed contribution on the claim and could not pay the hospital or healthcare provider the full 65%, then the hospital or healthcare provider could bill the victim, but only for the difference between the assessed contribution rate and the VCAP percentage rate for medical expenses.*

EXCEPTION: *The hospital must accept the VCAP rate of 65%, even if the hospital bill is greater than VCAP's \$35,000 maximum.*

EXAMPLE: *If the hospital bill were \$100,000, VCAP can reimburse up to \$35,000. 65% of \$100,000 is \$65,000. VCAP could pay the first \$35,000 and the claimant is only eligible for the remaining \$30,000.*

Q What if a provider writes off a bill? Can they send the bill to VCAP?

A *No, providers who write off bills to a victim may not at any point following the write off seek reimbursement from the VCAP, the victim, or the claimant.*

Q Will VCAP reimburse a victim who paid to obtain his/her medical records?

A *Yes. Costs for obtaining medical records for the VCAP can be reimbursed if paid by the victim/claimant but VCAP will not reimburse a provider for the costs. However, medical records are only requested when VCAP determines they are necessary to verify that injuries are crime related.*

Q Will VCAP pay for paternity tests?

A *Paternity tests may be considered for reimbursement on a case-by-case basis.*

Q A hospital keeps adding late fees to the victim's bill. Will those charges be reimbursed along with the bill?

A *No. The VCAP does not reimburse for late fees that the providers add to unpaid medical bills. However, the Program will reimburse any late fees already paid by a victim/claimant.*

Q Will VCAP pay for a missed appointment?

A *VCAP does not normally reimburse charges for missed appointments. However, VCAP may consider a good reason, such as an emergency, for why someone missed an appointment and will review on a case by case basis.*

- Q** The victim was billed for TV charges while in the hospital. Will VCAP pay for those charges?
- A** *Yes. VCAP can reimburse the daily rate for TV and telephone charges for victims who are hospitalized but not the long distance charges.*
- Q** The victim had property, including medications, taken by the police for the investigation. Can VCAP reimburse?
- A** *No. The VCAP can only pay to replace medication if it is stolen or damaged as a result of the crime.*

HOME HEALTHCARE AND REPLACEMENT SERVICES (18 P.S. §11.103 and 37 Pa Code §411.42(i))

Who?

A victim or eligible claimant who incurs expenses related to home healthcare or replacement services necessary as a result of the crime.

Family members or anyone residing in the victim's or claimant's household who lose pay as a result of providing the homecare or replacement service:

When a *family member* or anyone residing in the victim or claimant's household, loses pay from his/her job as a result of providing home healthcare or replacement services, *the VCAP may pay their net loss of earnings*. The person providing the care must not have been otherwise reimbursed for their lost earnings and the amount reimbursed by VCAP will not exceed the average weekly wage as determined annually by the Department of Labor and Industry.

Definition of Family Member—For the purposes of home healthcare and replacement services, family means anyone related to the victim within the third degree of consanguinity or affinity (includes step) or anyone residing in the same household.

1st degree child or parent

2nd degree sister, brother, grandchild, or grandparent

3rd degree niece, nephew, uncle, aunt, great-grandchild or great-grandparent

Please Note: **Unemployed family members** that fall within the definition of family **are not eligible** for compensation for home health care or replacement services

Non-family members providing home healthcare or replacement services:

If someone other than a family or household member provides these services, the maximum rate is \$8 per hour.

Home healthcare or replacement services provided by professional:

If home healthcare services are provided by a healthcare professional, VCAP can consider the actual amount charged.

Remember: A claim must be filed by an eligible claimant. If the provider of service is not an eligible claimant, they may be paid as a provider under the eligible claimant's claim.

What?

- Reasonable expenses for home healthcare services required as a result of the crime.
- Reasonable expenses for obtaining ordinary and necessary services (replacement services) that the direct victim would have performed, not for income but for personal benefit or for the benefit of the family, had the victim not been injured as a result of the crime. Examples of replacement services may include laundering, housekeeping, taking victim to medical appointment, childcare, grocery shopping, meal preparation or lawn care.

Home healthcare and replacement services fall under the \$35,000 cap.

How?

1. The name and complete address of the doctor to whom VCAP may send a Health Care Practitioner Certification of Services Form to verify the homecare/replacement services. (Must be a physician, psychiatrist, or psychologist.)

Note: A victim may submit a doctor's note certifying the need for homecare/replacement with his or her claim. The certification must state the duration of the home healthcare/replacement service (from – to –) as well as the number of hours required daily, and that the service is medically necessary as a result of the crime. If the certification submitted with the claim form is not sufficient VCAP will send out for verification.

PLEASE NOTE: Normally a doctor's certification verifying the need for homecare is not required when homecare is only being requested for one or two days, especially when the victim is a child.

2. The name and address of the individual or company who provided the home healthcare services.
3. An itemized bill showing dates of service, hours worked, type of service provided along with the amount charged. If the bill submitted with the claim is not sufficient, VCAP staff will send out the Home/Childcare/Transportation Services/Replacement Services verification form to the provider of the service to complete.
4. Copies of receipts or cancelled checks are helpful. However, staff may verify with provider of service as described in #3 above.
5. If the provider of service is a family member or someone living in the victim's or claimant's household who lost wages as a result of providing the service, the following information is also required:
 - The name, address and telephone number of the family or household member's employer.
 - Copies of the family or household member's two paystubs for periods immediately prior to the leave of absence or a printout from the employer covering these pay periods. If

unable to provide this information, provide copies of the most recent W-2 statements or signed and filed IRS tax returns or state tax returns.

- Documentation of any paid leave the claimant received.

If the family member or person in victim's household is **self-employed**, the following is required:

- Copies of the family or household member's most recently signed and filed tax return including all schedules and 1099 forms, if applicable.
- If the family or household member was self-employed for less than a year at the time of the crime, and tax records are not available or do not accurately reflect income, wage earnings for the period immediately preceding the start of the business may be used as a basis for the loss.
- If, due to the crime injury, the family or household member is unable to fulfill a contract which was negotiated and signed prior to the crime, the VCAP may consider the lost net income. Copies of full signed contract is required.
- If the business continues to operate during the period of disability, VCAP may consider the amount paid to others hired to perform services that were normally performed by the family or household member. Documentation needed would include the pay records for the entire period that the replacement worker(s) was hired for.

Home Healthcare and Replacement Services Q & A

Q The victim's mother travels from her home to provide home healthcare to the victim in their home, does the VCAP reimburse the mother's travel expenses to the victim's home?

A *No, the VCAP does not reimburse travel between the health care providers home and the victim's home.*

Q Can a counselor or nurse practitioner verify the need for home healthcare or replacement services?

A *No, only a physician, psychiatrist, or psychologist can verify the need for home healthcare or replacement services.*

Q A mother of a victim is not working, however, she took the victim to a medical appointment. Can the VCAP reimburse her \$8.00 an hour for her services?

A *No, family members and members of the victim's household who provide such services are only eligible for their lost wages. However, in this instance, mom could be reimbursed her travel expenses. (See "[TRANSPORTATION & TRAVEL EXPENSES](#)".)*

Q Can a victim receive compensation for childcare for when he/she goes to court?

A *Yes, family members and members of the victim's household who provide such services are only eligible for their lost wages. For anyone else, VCAP can reimburse up to \$8.00 an hour for the services.*

Q A mother of an adult victim takes time off work to be at the hospital while her 16 year old son is in intensive care. Can mom receive lost earnings for homecare while the victim is in the hospital?

A *No. The Program is not able to pay lost earnings for homecare while the victim is in the hospital. However, once the victim is released from the hospital, if mom provides homecare, she can be compensated.*

Q Same as above however mom is needed to make medical decisions for her son while he is in the hospital. Can mom receive lost earnings for being at the hospital to make the medical decisions?

A *Yes. Mom would be eligible for her lost earnings for the period of time she was needed for medical decisions for her son, as certified by the treating physician.*

FUNERAL/BURIAL EXPENSES

(18 P.S. §11.701 and 37 Pa Code §411.42)

Who?

Any person who assumes the obligation or who pays for the funeral/burial expenses incurred as a direct result of the crime.

What?

The maximum reimbursement for funeral/burial expenses may not exceed **\$6,500**. **There are no sub caps.**

For **crimes occurring prior to December 12, 2009** the maximum reimbursement for funeral/burial expenses may not exceed **\$5,000**.

Some examples of unacceptable items are: postage to mail thank you cards or other items; thank you gifts; alcoholic beverages; newspapers articles or paid advertisements (obituaries are eligible).

Funeral related costs for *automated memorial displays* or *professional memorial boards* may be eligible for reimbursement. These expenses are reviewed for reasonableness. Included under the funeral cap.

NOTE: Transportation costs in connection with transporting the deceased and making funeral arrangements are over and above the funeral cap. However, these expenses are part of the overall \$35,000 cap. (See **“TRANSPORTATION & TRAVEL EXPENSES”** for details.)

How?

As part of normal verification, a death certificate is not required. However, there may be instances when a copy will be requested.

1. VCAP will require a funeral contract (Statement of Funeral Goods and Services will suffice) that is signed by both the funeral home director and the person responsible for making the arrangements. If another person pays a portion of the funeral bill, and their name is not on the original contract, VCAP will need a copy of their cancelled check or a receipt from the funeral home showing their payment. VCAP will continue to send a funeral verification form to the funeral home to verify all payments received and confirm the current balance due.
2. If a funeral home submits a claim to the Program on behalf of the claimant and attaches a funeral bill, VCAP staff will notify the funeral home that the person responsible for paying the bill must file the claim. However, if the funeral home incurred the costs on behalf of the victim and no other responsible person is listed on the funeral contract, VCAP will review

the claim on a case by case basis to determine if the funeral home is eligible to file as a claimant.

NOTE: A funeral director who assumes the obligation to pay for funeral expenses may not seek reimbursement from the direct victim's family.

3. If the claimant paid for any funeral/burial expenses, copies of paid receipts or cancelled checks or verification from the provider that the bill(s) were paid by the claimant. The Program can only pay for services rendered. Therefore, if a bill for a memorial monument is still due the Provider, as part of the verification process, staff will call the provider to verify that the monument has been inscribed.
4. If the claimant received any monies as a result of the death of the victim, such as life insurance, social security, or veteran's benefits, copies of these benefit statements must be included. These statements must include the name, address, and telephone number of the insurance/benefit provider, the policy number, the amount of the benefit and to whom the benefit was paid.
5. If a memorial meal is prepared by the claimant, the original receipt(s) from the grocery store must be submitted. Receipts must have the name of the store, date of purchase, and must be within a reasonable time frame related to the funeral. The receipts should provide a detailed listing of the items purchased. If the receipt does not list what the purchased items were, then you the advocate may write in what was purchased according to the claimant. VCAP staff will review on a case by case basis for reasonableness.
6. If the memorial meal is catered or held at a restaurant, the caterer's or restaurant's name, address, telephone number and invoice/receipt must be provided. If the memorial meal is contained in the funeral bill, the same documentation is required.

Please Note: Charitable donations specifically designated for a funeral expense or which appear on a funeral bill or any eligible expense will be used as an offset.
37 Pa. code §411.16(c).

Example: *Scholarship Fund was established at time of victim's death. This would not be an offset.*

Example: *Memorial Fund established to help family "with expenses." This would not be offset. Memorial Fund established to help family "with burial expenses." This would be offset.*

Example: *Funeral bill reflects payments "from memorial fund" in the amount of \$500. This would be an offset.*

If more than one claimant files a claim for funeral related expenses, the award will be divided proportionately among the claimants when filed within the same time frame. Otherwise, awards are considered as they are received.

Funeral Expenses Q & A

- Q** If the only expense submitted is for the memorial meal that cost \$1,200, can the claimant utilize the entire funeral/burial expense maximum?
- A** *Yes, if the crime occurred on or after 12/12/09 when the sub caps were eliminated from the law.*
- Q** The claimant who paid the funeral bills of a victim is not the beneficiary of the victim's life insurance. Does the claimant need to submit a copy of the victim's life insurance policy?
- A** *No. The claimant is only required to submit a copy of the victim's life insurance policy or proof of payment, if the claimant is the beneficiary; or if specifically requested by VCAP.*
- Q** A family of a homicide victim received private cash donations from their church group and friends to help with the expenses. Will those charitable donations be deducted from the award?
- A** *No. Only charitable donations specifically designated for funeral expenses or donations that appear on a funeral bill as a direct payment to the funeral home will be used as an offset.*
- Q** Are "donations" paid by a claimant for funeral/burial services eligible for reimbursement?
- A** *Yes. If documentation exists that the claimant made a donation to a church or other non-profit organization for services such as, payment to the minister or church who performed the service or provided the food.*
- Q** If a direct victim dies while their non-homicide claim is being processed, does a separate claim need to be filed for the funeral expenses?
- A** *Yes. In this case, VCAP may substitute the surviving spouse, the executor or administrator of the direct victim's estate to complete the processing of the original claim. However, a new claim form must be submitted by the person who assumed the obligation to pay or paid the funeral expenses.*
- Q** Can a funeral director submit a claim?
- A** *Yes, any person who assumes the obligation or who pays for the funeral or burial expenses incurred may submit a claim for reimbursement. However, if there is a responsible person listed on the bill, that person should file the claim as they may be eligible for other benefits such as counseling, crime-scene cleanup, loss of support, loss of earnings, transportation expenses, etc. VCAP staff will follow-up with the funeral director to inquire whether a responsible person exists.*

- Q** Can a funeral director who assumes the obligation to pay for funeral expenses seek reimbursement from the victim's family?
- A** *No. For example, a funeral director assumes the obligation for \$9,500 in funeral expenses and VCAP awards \$6,500. The funeral director may not seek reimbursement for the remaining \$3,000 from the victim's family or VCAP.*
- Q** Are the relatives of the deceased eligible for counseling if a claim for funeral expenses was denied because of illegal activity that resulted in the crime?
- A** *Yes. By law, if the crime involved is a homicide, the conduct of the direct victim will not be considered for claims filed by certain relatives (and any other eligible claimants) for counseling. (See "COUNSELING".)*
- Q** Will a claimant who paid part of the funeral bill, but still has over \$6,500 remaining due to the funeral home, be reimbursed what they have already paid?
- A** *No. By law, VCAP must reimburse providers of service before claimants. If the entire maximum is not used after the service provider is reimbursed, the claimant is awarded any money already paid.*
- Q** A victim was shot in 1980 and filed a claim for medical expenses. The claim was paid in the amount of \$25,000, which was the maximum amount payable at the time. In 2011 the victim died as a result of the injuries. Can the Program pay funeral expenses?
- A** *No. Since the maximum was paid out at the time of the injury, the VCAP is unable to make further payments. If the maximum had not been reached, VCAP could pay up to the \$25,000.*

LOSS OF SUPPORT

(18P.S. §11.707 and 37 Pa Code §411.44)

Who?

LOSS OF SUPPORT CAN ONLY BE PAID IN DEATH CLAIMS.

An eligible person who, as a result of the death of the direct victim, is deprived of the financial support that the victim had been required by court order to provide or had actually been providing at the time of the injury that caused the death. The loss of support must be verifiable by official documentation, normally in the form of either tax returns in which the victim claimed dependents or court-ordered child/spousal support.

Surviving spouses, dependent children, and surviving parents can all be considered for loss of support if they can provide documentation that verifies that the deceased was financially supporting them. Any **other individual** is eligible if they can provide documentation that verifies that the deceased was providing his or her **principal support** (50% or more of claimant's living expenses).

Definition of Support: Includes the gross earnings less estimated tax obligations multiplied by 80%. Gross earnings include all taxable and nontaxable income that terminated at time of death such as wages, business income, retirement payments, Social Security payments and other benefits.

Definition of Dependent Child: The child of a direct victim, or intervenor, on whose behalf regular payments are received for the purpose of whole or partial support and who is one of the following:

- Under 18 years of age including an unborn child.
- 18 years of age or older but under 23 years of age and currently attending secondary school or is a full-time student in a post-secondary education institution.
- 18 years of age or older but unable to provide for his/her own support due to a physical or mental disability.

If the victim was the parent of an unborn child, the surviving parent or guardian may be eligible upon documentation of paternity and evidence that the victim would have provided support (copies of joint mortgages, rental agreements, bank accounts, utilities, etc.) Will be reviewed on case by case basis.

PLEASE NOTE: By law, **VCAP can only make an award for loss of support when documentation exists that the victim had been providing regular support, or was required by court order to provide.** The fact that a victim was the biological parent does not automatically make a child eligible for loss of support under VCAP. Gifts of property or money provided by the victim on special occasions may not be considered as support.

What?

- Maximum allowable award for Loss of Support is **\$20,000 per crime** (not per dependent.)
- Surviving spouses and dependent children will be allocated up to 80% of the net annual earnings of the victim. The 80 percent cap is because it is reasoned that at least 20 percent of what a victim was earning would have gone toward costs not associated with supporting his/her dependents.
- A surviving parent will be allocated the actual amount of support provided by the direct victim not to exceed 80% of the net annual earnings.
- Any other person dependent on the victim for his or her principal support will be allocated the actual amount of support provided not to exceed 80 percent of net annual earnings.
- For dependents whose support was based on a court order of child/spousal support, the allocation will be the amount of the court order including any arrears due the claimant.
- All awards will be offset with other benefits received by the claimant as a result of the crime such as Social Security benefits, survivor pension/annuity benefits, insurance benefits, civil action recovery, Workers' Compensation benefits, and paid restitution.
- Awards may be paid in a lump sum or scheduled over a three- to five-year period depending on the amount of the annual uncompensated loss.
- After the first award, a Protracted Application will be sent to the claimant each year to complete and return to VCAP, prior to each annual award. If an award is paid on an annual payment basis and the claimant receives a new source of support or receives a new benefit that was not introduced at the time of the initial award, payments may be reduced or terminated effective the date the new resource was obtained. The most common example of the claimant receiving a new source of support is through remarriage.
- In cases with multiple claimants, an award for each claim is calculated and allocated according to the amount of financial support that had been provided to each dependent.
- Post Secondary Education/College costs may be considered for loss of support.

How?

When calculating loss of support, VCAP considers the life expectancy or work force expectancy, of the direct victim, as well as the age of the dependent(s). If the victim was not employed at the time of the crime, employment history up to three years immediately preceding the crime may be used to determine support.

NOTE: If a victim has enough work credits, certain family members will most likely be eligible for Social Security benefits:

- **An unmarried child of the deceased who is younger than age 18 or up to age 19 if a full-time elementary or secondary school student;**
- **A spouse who is caring for the deceased's child under the age of 16;**
- **A spouse age 60 or older (age 50 or older if disabled);**
- **Parents age 62 or older who were dependent on the deceased for at least half of their support.**

Application must be made to Social Security for the above benefits as applicable, and either documentation of monthly payments or notification of denial submitted to VCAP prior to VCAP making an award for loss of support.

***Required documentation for COURT-ORDERED SUPPORT:**

1. A copy of the Court Order showing the amount of support ordered, as well as the amount of arrears due the claimant. If not readily available, VCAP will obtain from the Department of Human Services' Bureau of Child Support. To do this, VCAP will need the docket number and case number.
2. Statements for benefits received as a result of the death of the direct victim, such as life insurance, Social Security benefits, or pension/annuity survivor benefits.
3. Guardianship papers, where applicable

Please Note: Even if the victim never paid any child support, as long as there was a current Court Order for Support, an eligible claimant may still be eligible for a loss of support award.

***Required documentation for ALL OTHER SUPPORT:**

1. If the victim was a wage earner, the full name and complete address of the victim's employer.
2. Federal tax returns showing formal dependency, including schedules if applicable, for the years requested, or a written statement that no Federal tax returns were filed. If unavailable, pay stubs, withholding statements or other earnings records for periods immediately prior to the injury. (If providing documentation other than tax returns, documentation must clearly demonstrate that the victim was providing financial support to the dependent.) If the claimant is unable to provide a federal tax return, a state tax return may be substituted (authorization forms are available from VCAP for securing state returns).
3. Statements for benefits received as a result of the death of the direct victim, such as life insurance, Social Security benefits, or pension/annuity survivor benefits.
4. Birth certificates for dependent children. **Note:** If current IRS tax returns list the minor as a dependent of the victim as well as date of birth, in most cases, a birth certificate is not necessary. If needed, VCAP will request.
5. Guardianship papers, where applicable.

6. Evidence that the victim provided financial support through cohabitation can be verified with the victim's name on a lease, mortgage, or utility bills, etc. Reviewed on a case by case basis.
7. If the support is based on a loss of Social Security, Retirement, Disability, etc. income, documentation showing the amount of benefit the victim was providing as well as documentation indicating what amount of the benefit may continue to the claimant.

***Additional Required documentation for College Costs/Post Secondary Education:**

A letter from the dependent child's college registrar verifying that the dependent child is a full time student and the amount paid. Costs considered include tuition, room and board, and books.

NOTE: When loss of support is based on Court Ordered Support, in order for college costs to be considered, the VCAP also requires a copy of divorce decree or other official documentation verifying that the deceased was financially responsible, whole or in part, for dependent child's post secondary education.

****Please Note:** If none of the required documentation is available but the **victim was paying for childcare services** at the time of his/her death, payment for these services may be considered in lieu of support until the child reaches elementary school age (not to exceed the \$20,000 maximum). Considered on a case by case basis depending on documentation provided and reasonableness.

If the victim had been providing childcare services at the time of death, such as a stay-at-home parent, the VCAP may consider in lieu of support costs to continue these services until the child reaches elementary school age (not to exceed the \$20,000 maximum). Considered on a case by case basis depending on documentation provided and reasonableness.

Loss of Support Q & A

- Q If the victim and claimant were in a same sex relationship, and living together with shared expenses, could the claimant be eligible for loss of support?
- A *Yes. The claimant would need to submit income tax documentation to show that the victim listed the claimant as a dependent, or the claimant would need to verify the victim was responsible for 50 percent or more of the bills, finances, and cost of their living together. This can be demonstrated with joint bank accounts, both names on a lease or mortgage, both names (or just the victim's name) on utility bills, etc. Case-by-case.*
- Q In a domestic violence crime when the offender kills the victim and is then sent to jail or kills himself, if the victim did not provide support, would the guardians who obtain custody of the children be able to file a claim for loss of support?
- A *No. Loss of support is based on the monetary support provided by the victim to his or her dependents. Since the victim had not provided financial support, the dependents would not be eligible for loss of support. VCAP could not consider the loss of support that was being provided by the offender because his illegal activity caused the crime. However, if the victim had been taking care of the children at home and now the guardians of the children must pay for childcare, VCAP could consider a claim for replacement of childcare services.*
- Q If the victim had a biological child to his first wife and a second child that is his current wife's son, adopted by the victim, would either child be eligible for a loss of support award?
- A *Yes. Both children could be eligible as long as the mothers were able to show the victim was providing support. Loss of support is based on court-ordered support in effect at the time of death, or on actual support that the victim provided at the time of the crime. Support is generally substantiated through court documentation and tax records. An award for each claim is calculated and allocated according to the amount of financial support that was being provided to each family.*
- Q If a victim is injured in a crime and slips into a coma, would his/her family be eligible for loss of support?
- A *No. Loss of support is only awarded in death claims. However, the spouse or person who has Power of Attorney over the victim could file for the victim's loss of earnings. Or, if the victim was providing child care services, such as a stay at home parent, VCAP may be able to reimburse for replacement services.*
- Q A deceased victim was in arrears and not making payments on a child support order at the time of his/her death. Could the claimant be eligible for loss of support for the child?
- A *Yes. VCAP would need a copy of the Court Order of child support and also verification indicating the total amount the victim was in arrears at the time of the victim's death.*

- Q** If the victim was not employed at the time of death can the claimant still be eligible for loss of support?
- A** *Yes. VCAP can look at work history three years prior to the crime to determine support.*
- Q** The victim and claimant were not married, however, were involved in a relationship and cohabitated for over ten years. They had two children together. Is the claimant eligible for loss of support? Are the children?
- A** *Yes. The VCAP could substantiate dependency for the children with their birth certificates, as well as documentation showing that the victim and claimant co-habitated. The children would be eligible for up to 80% of the victim's earnings. The claimant would need to show that the claimant provided his/her principal (50% or more) support in order to be eligible for loss of support.*
- Q** The victim's two children were the beneficiaries of her life insurance policy and the policy stipulated that the money would go into a trust for each child until each turned 18 years of age. Will the Program offset this from a loss of support award?
- A** *No. The VCAP will not offset the award because the claimant was not the beneficiary.*
- Q** A man was a victim of homicide. The mother of his four-year-old son filed a claim for compensation. They did not live together, there was no court order of support, no tax returns showing dependency, and no other documentation that the victim provided financial support to the child. Would the claimant be eligible for a loss of support award.
- A** *No. A loss of support award is to compensate an eligible person who is deprived of the financial support that the direct victim had been required by court order to provide or had actually been providing at the time of injury.*
- Q** A 70 year old man was murdered. He was not employed, however, he was receiving a monthly pension in the amount of \$5,500. Is his surviving wife eligible to file for loss of support?
- A** *Yes. Retirement is viewed as income. If the amount stops or reduces due to the victim's death, that is considered a loss of support.*
- Q** Same as above, however, the victim was only receiving Social Security in the amount of \$1,100 a month. Is his surviving wife eligible to file for loss of support?
- A** *Yes. Social Security is viewed as income. If the amount stops or reduces due to the victim's death, that is considered a loss of support.*
- Q** A victim was receiving food stamps and cash assistance, which ceased upon her death. Can a claim for loss of support be filed for her survivors?
- A** *No. Benefits from the Department of Human Services are considered benefits, not income, and are not a basis for loss of support.*

LOSS OF EARNINGS IN HOMICIDES (18 P.S. §11.103 and 37 §411.42 & §411.43)

Who?

1. A spouse, parent, or child of the deceased victim for trauma.
2. The individual who assumes the financial obligation to pay for the funeral home/burial expense for trauma. (For crimes occurring on or after 12/12/09.)
3. An eligible claimant who makes the funeral/burial arrangements and/or accompanies the body/remains to an alternate location for interment.

An eligible claimant in homicides is a parent, child, spouse of victim; person who assumed financial obligation to pay/paid funeral and burial expense.

What?

1. Up to two weeks of lost wages for trauma for each *spouse, parent* or *child* of the direct victim. (Does not have to be consecutive days.)
2. Up to two weeks of lost wages for trauma for the *individual* who assumes the *financial obligation* to pay the funeral home/burial expense. (For crimes occurring on or after 12/12/09.) (Does not have to be consecutive days.)
3. Up to two days (not to exceed five days depending on circumstances) of lost wages for an eligible claimant to make the funeral/burial arrangements.
4. Up to two days (not to exceed five days depending on circumstances) and (minus any days used in #3 above) for an eligible claimant to accompany the body/remains to an alternate location for interment.

NOTE: The total for #1 + #2 + #3 + #4 cannot exceed two weeks and #3 + #4 cannot exceed five days.

EXAMPLES: If Gene receives the full two weeks lost wages for #1 (trauma), he cannot also receive loss earnings for #3 and/or #4 (arrangements/accompanying).

If Marge receives five days of lost earnings for #4 (accompanying the body), she cannot also receive loss of earnings for #3 (making arrangements).

Remember: Only if the individual making arrangements or accompanying the deceased for burial is an eligible claimant, are they eligible lost earnings.

The general guideline used by the Program for making funeral arrangements is two days. However, if a claimant travels from another country to make the arrangements or has extenuating circumstances that require more than two days, include this information when filing or contacting the VCAP staff member assigned to the claim after filing. Up to three additional days (five days total) can be considered on a case-by-case basis in special circumstances.

Please Note: Surviving family members of a deceased homicide victim are not eligible for lost earnings to attend court proceedings.

How?

1. The full name, complete address and telephone number of the claimant's employer.
2. Copies of two pay stubs or other earnings records for period immediately prior to the crime, or a printout from the employer covering these pay periods. If not available, W-2 forms or most recently filed Federal IRS tax returns as filed, including schedules, if applicable, for the years requested, or a written statement that no Federal tax returns were filed.
3. If the eligible claimant was unable to begin a new job due to the trauma, VCAP may consider loss of earnings based on earnings that would have been received in the new position. The VCAP would require a letter on company letter head stating the beginning date of employment, the hours per week to be worked, and the pay rate. The letter must also state the employer's federal identification number.
4. If the eligible claimant is self-employed, the following is required:
 - Copies of the claimant's most recently signed and filed tax return including all schedules and 1099 forms, if applicable.
 - If the claimant was self-employed for less than a year at the time of the crime, and tax records are not available or do not accurately reflect income, wage earnings for the period immediately preceding the start of the business may be used as a basis for the loss.
 - If the business continues to operate during the period of disability, VCAP may consider the amount paid to others hired to perform services that were normally performed by the claimant. Documentation needed would include the pay records for the entire period that the replacement worker(s) was hired for.
 - If, due to trauma, the claimant is unable to fulfill a contract which was negotiated and signed prior to the crime, the VCAP may consider the lost net income. Copies of the full signed contract(s) is required.

PLEASE NOTE: A doctor's certification is NOT required for lost earnings in homicide.

The loss of earnings awarded cannot exceed the average weekly wage (as determined annually by the Department of Labor and Industry) for the year in which the crime occurred. The official average weekly wage determined at the time of the crime will be used to determine loss of earnings. If the loss of earnings continues into a new rate period, it can be increased at that time. For example, if a claimant files a claim for loss of earnings in 2011 for a crime that occurred in 2010, VCAP will reimburse for the year 2010 average weekly wage.

Loss of Earnings in Homicides Q & A

- Q** If a mother of a homicide victim received two weeks lost earnings because of trauma from the homicide, is she also eligible for additional days to make the funeral arrangements?
- A** *No. The maximum for loss of earnings resulting from a homicide is two weeks.*
- Q** Is a claimant required to use all of his/her available bereavement, sick, annual, or vacation leave to be eligible for lost wages?
- A** *No. VCAP does not require that a claimant utilize available leave, however, if a claimant chooses to use the leave, VCAP will offset it from the award.*
- Q** The mother of a homicide victim was off work for one month after her son's death. How much lost earnings is she eligible to receive from VCAP?
- A** *As a parent, she is eligible for up to two weeks for trauma. VCAP can pay no more than two weeks loss of earnings to eligible claimants in homicide claims. (Can be paid for sporadic leave of absences up to the two weeks.)*
- Q** The spouse and adult child of a homicide victim are unable to work as a result of the crime. Are they both eligible for two weeks?
- A** *Yes, the Program can pay up to two weeks of lost wages for trauma for each parent, child, or spouse of a homicide victim.*
- Q** The husband of a homicide victim was paid in full for his time off after the death of his wife. When he returned to work, he missed one day a week without pay to go to counseling appointments. Is he eligible for his lost wages? How much?
- A** *As the spouse of a homicide victim, he is eligible for up to two weeks lost wages for trauma. The two weeks does not have to be continuous. In this scenario, the claimant would be eligible for each day he missed for counseling up until he reached the two weeks maximum (10 work days).*
- Q** The father of a homicide victim assumed the obligation and paid for funeral expenses. His sister, the victim's aunt, paid for the funeral flowers. Is she eligible for two weeks lost earnings for trauma?
- A** *No. The Program is unable to pay lost earnings to every person who may have contributed or paid a portion of funeral related expenses. The intent is for the person who assumes the obligation for the funeral home and burial costs.*
- Q** Same scenario as above, however, the aunt is the one who accompanied the deceased back to his home state of Virginia for burial. Is she eligible for lost earnings?
- A** *No. In homicides, the Program can only pay lost earnings to an eligible claimant. An eligible claimant is: Parent, child, or spouse of victim; or person who assumed the obligation to pay the funeral home expense. However, since the aunt is the person designated by the family to accompany the deceased, she is eligible for transportation costs up to five days.*

Q A claim filed by a mother after the murder of her son was denied due to illegal conduct by the victim that directly caused the crime. Because VCAP is paying for her counseling, can she also apply for loss of earnings?

A *No. If a homicide claim is denied because of illegal activity, counseling is the only expense that can be paid to eligible claimants.*

LOSS OF EARNINGS IN NON-HOMICIDES (18 P.S. §11.103 and 37 Pa §411.42 & § 411.43)

Who?

Victim:

- An employed victim who loses income from work as a result of the mental or physical injuries sustained in a crime;
- A victim whose Unemployment Compensation benefit terminated due to the crime injury;
- A victim who takes time off of work to attend or participate in criminal justice, court, or protection from abuse proceedings, and in efforts that aid the investigation ;
- A victim who is unemployed at the time of the crime but had been hired for employment or signed a contract for employment prior to the crime and is unable to start work due to his/her crime injuries.

Persons other than Direct Victim:

A family member or member of the victim's household who takes time off from work to accompany a minor victim or incapacitated adult victim to medical/counseling appointments or court proceedings and/or efforts to aid the investigation.

A family member or member of the victim's household who takes time off from work to provide the victim home healthcare or replacement services, such as child care, housekeeping, meal preparation, etc. (*See the ["HOME HEALTHCARE AND REPLACEMENT SERVICES"](#) for more information.*)

Remember: A claim must be filed by an eligible claimant. If the provider of service is not an eligible claimant, they may be paid as a provider under the eligible claimant's claim.

Note: Criminal justice proceedings will include: trials (preliminary, sentencing, PFA, juvenile justice, and parole hearings, etc.) Efforts to aid the investigation will include: to report the crime; police interviews; police line-ups; and mug shots supported by the police report or advisement from official police personnel. Preparation for trial may also be considered if verified by an appropriate court official or advocate.

What?

- Up to \$15,000 for an employed victim who loses income as a result of the mental or physical injuries sustained in a crime. This \$15,000 falls under the \$35,000 cap.
- Loss of earnings paid to family members providing home healthcare or replacement services falls under the \$35,000 cap.
- Up to 10 days loss of earnings are allowable due to court appearances, filing a police report, PFA or a private criminal complaint, etc., and may incorporate both partial and full days lost. Exceptions may be considered. The maximum weekly award for loss of earnings may not exceed the weekly wage. This amount is determined annually by the Pennsylvania Department of Labor and Industry. The official Labor and Industry average

weekly wage determined at the time of the crime will be used to determine loss of earnings. To find the weekly wage:

- Go to this link [L&I Average Weekly Wage Information](#)
- Open the Average Weekly Wage By Calendar Year document
- Find the Calendar Year in which the crime occurred
- Take the average weekly wage listed for that calendar year and multiply that by 20% (.20) for taxes
- Subtract the 20% for taxes from the average weekly wage to get the average weekly wage VCAP will reimburse.

EXAMPLE: *A claimant files a claim for loss of earnings in March 2016 for a crime that occurred in December 2014. VCAP will reimburse at the 2014 rate. If the loss of earnings continued into a new rate period, it can be increased at that time.*

How?

1. The full name, address and telephone number of the victim's/claimant's employer.
2. Copies of two pay stubs or other earnings records for period immediately prior to the crime, or a printout from the employer covering these pay periods. If not available, W-2 forms or most recently filed Federal IRS tax returns as filed, including schedules, if applicable, for the years requested, or a written statement that no Federal tax returns were filed.
3. Documentation of any reimbursements received, such as sick, vacation, personal or disability pay, Unemployment Compensation or Workers Compensation. If unavailable, VCAP will attempt to verify with employer.
4. If the victim/claimant was unable to begin a new job due to the injury, VCAP may consider loss of earnings based on anticipated earnings that would have been received in the new position. The VCAP would require a letter from the employer, on company letter head, indicating the beginning date of employment, the hours per week to be worked, and the pay rate. The letter must also indicate the employer's federal identification number.
5. **If the claimant is self-employed**, the following is required:
 - Copy of the victim/claimant's most recently signed and filed tax return including Schedule C, E,F, or IRS 1099 Form, whichever is applicable. If unavailable, copies of all 1099s issued for the crime year and year immediately preceding the crime year.
 - If the victim/claimant was self-employed for less than a year at the time of the crime, and tax records are not available or do not accurately reflect income, wage earnings for the period immediately preceding the start of the business may be used as a basis for the loss.
 - If the business continues to operate during the period of disability, VCAP may consider the amount paid to others hired to perform services that were normally

- performed by the victim/claimant. Documentation needed would include the pay records for the entire period that the replacement worker(s) was hired for.
- If due to the crime injury, the claimant is unable to fulfill a contract which was negotiated and signed prior to the crime, the VCAP may consider the lost net income. Copies of full signed contract is required.

6. **Certification from a medical doctor, psychiatrist, psychologist (or dentist as appropriate) certifying the time the victim was unable to work due to the injury.** If a certification letter is not available, provide the full name, complete address and telephone number of a medical doctor, psychiatrist, or psychologist or dentist (as appropriate) and VCAP will send out a verification form to them.

Please Note: Certification for Loss of Earnings can only be accepted from a medical doctor, psychiatrist, psychologist or dentist.

EXCEPTION: At VCAP's discretion, up to two weeks may be paid without a physician verification in personal injury cases for physical or mental injury.

EXAMPLE: *A person suffered from a gunshot wound and missed three weeks of work and files for loss of earnings. Given the injury, VCAP can pay the first two weeks without a doctor's certification. However, a certification would be required to process the additional week.*

When filing for loss of earnings to attend scheduled court proceedings, in addition to the employer verification required, a copy of the subpoena for eligible individuals who took time off work to attend scheduled court proceedings **or** a letter from an appropriate court official or advocate who accompanied the victim to the scheduled court proceedings. A doctor's certification is not required for verification of court attendance.

Loss of Earning in Non-Homicides Q & A

Q A victim's cousin who does not live with the victims takes time off of work to administer her medications. Is her cousin eligible for her loss of earnings?

A *No. A cousin would only be eligible if the cousin lived with the victim. In this scenario, the cousin does not fall under the definition of family in the Crime Victims Act. However, VCAP could pay the cousin the \$8.00 hourly rate.*

The definition of family as stated in the Crime Victims Act is—Anyone related to the victim within the third degree of consanguinity or affinity (includes step) (child, parent, sibling, grandchild, grandparent, niece, nephew, uncle, aunt, great-grandchild, great-grandparent). It also includes anyone residing in the same household with that individual.

Q If both parents accompany their child to court, are they both eligible to receive loss of earnings?

A *Yes. VCAP will consider reimbursing both parents who lost time from work (if not reimbursed by their employers).*

Q Is a victim who was hired for a position but due to the crime-related injuries was unable to begin employment eligible for loss of earnings?

A *Yes. Submit an affidavit from the employer on company letterhead stating the beginning date of employment, the hours per week to be worked, and the pay rate along with the employer's federal identification number (FEIN#) certifying that the claimant was unable to begin because of the injury. VCAP may measure loss of earnings based on anticipated earnings that would have been received in the new position.*

Q Can lost overtime be considered?

A *Yes, if the claimant demonstrates a history of regular overtime pay.*

Q Is a victim required to use all of his/her vacation or sick leave benefits before being eligible for compensation for lost wages?

A *No. VCAP does not require that a victim utilize available leave, however, if a victim chooses to use the leave, VCAP will offset it from the award.*

Q A victim was injured in a crime while on the job and as a result receives Workers' Compensation. Can he/she be compensated for the difference between his/her regular pay and the Workers' Compensation payment?

A *Yes. Workers' Compensation pays 66 2/3 percent of the victim's regular salary and the Program will pay the difference (up to the average weekly wage as determined by the Department of Labor & Industry) if documentation is received from Workers' Compensation documenting the amount the victim receives on a weekly basis.*

- Q** A woman is receiving Unemployment Compensation at the time of the crime. It is terminated because of the crime, as she cannot work. Is she eligible for compensation?
- A** *Yes. A victim whose Unemployment Compensation benefit terminated due to the crime injury would be eligible to file for LOE to replace the suspended benefits, since an individual must be physically able to work in order to be eligible for Unemployment Compensation.*
- Q** Is someone “paid under the table” eligible for LOE?
- A** *They are eligible as long as they are paying taxes and their employer is willing to verify employment and any offsets received. A tax return must be submitted in order to consider LOE since they are not provided with a W-2 Form. A letter from their employer verifying the amount the victim was receiving prior to the crime cannot be accepted in place of a tax return. The tax return is needed to verify that the victim is reporting the income they received.*
- Q** The mother of a victim missed work to be at her 15 year old daughter’s bedside while her daughter was in the hospital as a result of her crime injuries. Is mom eligible for lost wages?
- A** *No, the Program is unable to pay lost wages in this case. However, once the victim is released and if mom provides homecare, she would be eligible at that point for her lost earnings.*
- Q** Same as above however mom is needed to make medical decisions for her daughter while she is in the hospital. Can mom receive lost earnings for being at the hospital to make the medical decisions?
- A** *Yes. Mom would be eligible for her lost earnings for the period of time she was needed for medical decisions for her daughter, as certified by the treating physician.*

COUNSELING

(18 P.S. §11.707 and 37 Pa §411.42)

Who?

ELIGIBLE PERSON:	MAXIMUM PAYMENT
Direct victim—adult	\$5,000
Direct victim—minor	\$10,000
Witness—a person who is physically present at the crime scene and who witnesses a violent crime.	\$1,500
Relative of direct victim—anyone related to the direct victim within the second degree of consanguinity or affinity. This includes spouses, children, parents, siblings, grandparents, grandchildren, and in-laws (including mother, father, sons, daughters, brothers or sisters-in-law). Also includes step-relations as listed above.	\$2,500 \$5,000 for homicide
Anyone engaged to be married to the direct victim.	\$2,500 \$5,000 for homicide
A person who discovers the body of a homicide victim.	\$1,500
Shared Household—anyone residing in the same household with the direct victim.	\$2,500 \$5,000 for homicide
An individual responsible for the direct victim's welfare. (This would include Legal guardians and foster parents.)	\$2,500 \$5,000 for homicide
COUNSELING IS OVER AND ABOVE THE \$35,000 CAP.	

What?

Counseling is eligible only if it is performed by, or under the supervision of, a psychiatrist, psychologist, licensed professional counselor or licensed social worker. Medications prescribed in conjunction with counseling can be reimbursed in full. For certain persons, mileage for the visits can be reimbursed in full at the state rate. *(Please see below as well as **"TRANSPORTATION & TRAVEL EXPENSES"**.)*

Equine (Horse) Therapy: Is an eligible benefit under VCAP for a direct victim, as well as any other person who would be eligible for counseling as a result of the crime. The expense is part of the individual's counseling cap and must be performed by or under the supervision of a psychiatrist, psychologist, licensed professional counselor or licensed social worker.

Medication and Transportation

Direct Victim:

- A direct victim is eligible to be reimbursed for prescribed medications that are related to the crime. The medications are not deducted from the counseling cap.
- A direct victim is eligible to be reimbursed for travel expenses to counseling, including to a victim service program (may include a driver or other type of public transportation costs).

Person other than the direct victim:

- VCAP will only reimburse for prescribed medications related to the crime and that are prescribed in conjunction with and are an intricate part of the counseling session. In these cases, the medications fall under the counseling cap for the eligible person. If the counseling visits stop, VCAP will not continue to pay for the medications. (Exception for homicide—see below.)
- Not eligible for travel expenses. (Exception for homicide—see below.)

Exception: In homicide cases, the parent, child, or spouse of the direct victim; or the individual who pays or assumes obligation to pay funeral home expenses; or any other person dependent for principal support is eligible to be reimbursed for counseling and medications related to the crime as well as travel expenses to the counselor. Medications prescribed related to the crime are eligible even if counseling may cease.

EXAMPLE: *A mother of a homicide victim filed a claim for reimbursement of funeral and counseling expenses. Her daughter (victim's sibling) also filed a claim for counseling and medications. The victim's grandmother went to her primary care physician and was prescribed an anti-anxiety medication due to the trauma of losing her grandson.*

*In this scenario, the **mother** would be eligible for reimbursement of her medications, counseling, and travel expenses. Remember, in homicide cases, the parent, child or spouse of the direct victim; or the individual who assumes the responsibility for the funeral expenses; or any other person dependent for principal support is eligible to be reimbursed for counseling plus medications related to the crime and travel expenses to the counselor.*

*The **daughter** would be eligible for counseling expenses up to \$5,000. Prescribed medications in conjunction with her counseling are included and may be reimbursed under the counseling cap. The daughter's travel expenses to counseling are not eligible because the daughter was not eligible for the full \$35,000 award, as her mother was.*

*Medications that were prescribed for the **grandmother's** anxiety attacks are not eligible because she was not receiving counseling nor did the \$35,000 cap open up to her. She*

would only be eligible for reimbursement for counseling expenses and for medications that are an intricate part of counseling.

Missed Appointments: VCAP does not usually reimburse for charges for “missed” appointments. However, if the claimant provides a reasonable explanation for missing the appointment, such as being physically unable to keep the appointment due to a hospital stay or illness, VCAP may consider the charges. These circumstances will be looked at on a case-by-case basis.

Mileage to a victim service program is a compensable expense. For example, a victim’s mileage to the county domestic violence program for counseling or to attend a support group is eligible. A letter from the victim service program verifying the dates is required.

How?

1. Copies of itemized bills, in the claimant’s name showing the name, address and telephone number of the provider, dates of service, type of service performed and the amount charged for each service.
2. If the claimant paid for any counseling expenses, copies of paid receipts or canceled checks are helpful. If not readily available, staff will obtain from the provider during the verification process.
3. If applicable, copies of insurance benefit statements showing payment and/or rejection of payment for all service dates.
4. If a claimant is filing for counseling for multiple dependents, the dependents or minor siblings of the victim need to be listed in the Counseling Section of the Claim Form. It is not necessary to file a claim for each dependent; VCAP will assign a new claim number and separate claim for each dependent once the claimant’s claim is received.
5. Victims and claimants must utilize any available insurances and participating providers. This includes HMOs, Blue Cross, Highmark Blue Shield, Major Medical, Medicare, Medical Assistance, Auto Insurances, etc. Victims and claimants also need to comply with any referral requirements of their insurance plan. Co-pays and/or deductibles can be considered as long as the minimum loss requirement is met.

Many insurances only cover a certain number of visits per year. In addition to reimbursing copays, VCAP can reimburse additional counseling costs after the allotted insurance sessions have been exhausted.

If the victim or claimant is covered by insurance or medical assistance but utilizes a non-participating provider, VCAP will require an explanation from the claimant. (Cannot come from advocate—either written or verbal from claimant.) Examples of instances where the Program may waive the requirement that a victim or claimant use their insurance are:

- The victim needs specialized care. An example of this would be for a child sexual assault victim who would most benefit from seeing a counselor that has experience working with children who have been sexually victimized.
- The victim has an already established relationship with a counselor and would like to maintain that counseling relationship even though the counselor is not in his/her insurance network.
- Travel to a participating provider is not feasible for a victim or claimant.

OUT OF NETWORK INSURANCE REIMBURSEMENT: Effective May 1, 2013(service date) – Victims who have health insurance and go to an out of network provider will need to submit those bills to their insurance company since their insurance may pay a portion of the bill. However, VCAP will continue processing the counseling bills without the explanation of benefits statements. The claimant will be advised that once they submit those bills to their insurance company, the Program will need a copy of the explanation of benefit statement from the insurance showing payment or denial. If the payment is received from insurance the victim will need to reimburse the Program the amount paid by insurance. If the claimant submits to their insurance and is denied and the claimant continues with the service, VCAP would only need to see the denial one time for payments to continue.

If a victim or claimant utilizes a non-participating provider but is unable to provide justification for doing so, VCAP may consider reimbursement of what the copays or deductibles would have been had they used a participating provider. Documentation must be submitted which verifies the amounts.

FOR EXAMPLE:

\$100 Counseling charge.

\$ 75 Insurance would have paid if utilized.

\$ 25 Co-pay that is the victim's responsibility to pay

The VCAP may consider reimbursing the victim the \$25 co-pay, upon receipt of proper documentation.

6. Provide any information that documents the claimant's relationship to the direct victim, the claimant witnessing the crime or the claimant's discovery of the homicide victim. Examples of supporting documents required to process the claim are outlined in the following chart.

Victims Eligible for Counseling	Supporting Documents That May Be Required to Verify the Relationship of the Claimant to the Victim
Witness physically present at the crime scene & witnesses a violent crime.	A police report, which the VCAP will obtain. If the witness is not listed in the police report, a written statement provided by someone who could substantiate that the witness was at the scene. It would be preferred if the person preparing the written statement appears in the police report.
Relative of Direct Victim	Copy of a birth certificate, if applicable, or other identifiable information acknowledging the relationship to the direct victim.
Anyone Engaged to the Direct Victim	An engagement announcement or a copy of the application for a marriage license. If neither is available, a written statement from the engaged individual plus a written statement from a family member acknowledging the intent of the union.
Shared Household	A copy of any type of documents, such as bills or lease/mortgage agreement that indicates the same address for the direct victim and the victim/claimant filing for counseling expenses.
Discovers Homicide Body	A police report that the VCAP will obtain.
Responsible for the Direct Victim's Welfare	Foster parent documentation, guardianship papers or any other documentation that would show that the victim filing for counseling is an individual responsible for the direct victim's welfare.

7. The Program sends out a verification form to the identified counselor, known as the Mental Health Treatment Estimate Form. This form asks for information such as the:

- Mental health practitioner's name and degree
- License number
- Estimated length of continuous treatment
- Estimated cost of treatment
- Percentage of the treatment provided as a direct result of the crime, and
- If the patient is not the direct victim, their relationship to the victim.
- Whether the therapist, having reasonable cause to suspect abuse, has complied with the duty to report pursuant to the Child Protective Services law.

If a counselor certifies that less than 100% of the service provided is related to the crime, then VCAP will only pay the percentage certified as being crime related. This applies to any amount paid by the victim, or any amount due and owed to the provider.

Example: A victim of an assault is receiving counseling and the charge is \$100 for each visit. The victim's insurance requires a \$25 co-pay per visit. The counselor certified that 50% of the counseling is related to the crime. The Program will apply the percentage to the \$25 co-pay and reimburse the claimant \$12.50. **NOTE: Mileage will be paid in full regardless of what percent of the counseling is related to the crime.**

If the crime involved is a homicide, the conduct of the direct victim will not be considered for claims filed by eligible claimants for counseling. In other words, even if the deceased victim was involved in illegal activity that caused the crime, such as a drug deal, and the claim was denied, eligible family members are still eligible to file for counseling.

Counseling Q & A

- Q** A man is shot and later dies as a result of the gunshot wound. A claim filed by his mother for funeral expenses was denied because of illegal activity deemed to be causally connected to his death. Is the mother eligible for counseling?
- A** *Yes. By law, in homicide cases, the conduct of the direct victim will not be considered for claims filed for counseling.*
- Q** A 25-year-old woman is murdered in her apartment. Her roommate had taken the victim's child with her to the store at the time and the victim's fiancé, who did not live with her, was at work. Who is eligible for counseling?
- A** *Anyone related to the victim within the second degree of consanguinity or affinity is eligible for counseling regardless of whether they resided in the same household. The roommate and fiancé are also eligible for counseling.*
- Q** As a follow-up to the above answer. If the victim's mother, father, child, roommate and fiancé all decide to go to counseling, will their expenses impact the reimbursement of funeral expenses and the loss of support payments for the child?
- A** *No. If each person exhausted the \$5,000 limit for counseling, it will have no impact on the other benefit expenses/losses. Costs associated with counseling are over and above the \$35,000 maximum award.*
- Q** A victim chose to seek treatment for mental health counseling from a provider who does not participate with his/her insurance. Is the victim eligible for compensation for the counseling expenses?
- A** *These circumstances are handled on a case-by-case basis. The Program would require the victim/claimant to provide as much information/documentation up front as to why he/she did not seek treatment through their insurance plan. Some examples of why someone wouldn't seek treatment from a provider in their network might be as follows:*
- *There wasn't a skilled counselor in their area who deals with minor children who have been sexually abused.*
 - *The counselor they sought treatment with was highly recommended because he/she specializes in the treatment of sexual assault victims.*
 - *The claimant did seek treatment from a participating provider, however the provider felt that they had exhausted all of their available resources and was no longer able to help the victim. The provider then decides it is necessary to seek treatment from another counselor who specializes in this type of therapy. Verification of this information is then investigated by the Program.*
 - *If the victim does not use a participating provider, regardless of the reason, the Program may still consider payment for the amount that **would not** have been paid by the insurance, such as deductibles or co-pays. The victim would still need to check with their insurance for possible out of network insurance reimbursement. (See earlier in this Chapter.)*

- Q** Two sisters split the cost of funeral home and burial services for their mother, who was a victim of a homicide. They each file a claim for the costs. Are the sisters eligible for mileage to their counseling appointments?
- A** *Yes, since each sister paid for funeral expenses, they are eligible to file for the costs of these expenses and are both eligible for mileage reimbursement to counseling. This is only intended for those paying for funeral home and burial benefits. If the mother's sister paid, for example, funeral flowers, he/she would not be eligible for mileage to counseling.*
- Q** The 19 year old sister of a homicide victim has recently started counseling due to the death of her sister. However, the homicide occurred five years ago, and the funeral arrangements were taken care of by the victim's father, who previously filed a claim for these expenses. Is the sister now eligible to file for counseling?
- A** *Unfortunately, no. By law, a claim must be filed by a claimant within two years of the occurrence of the crime. Had the sister made the funeral arrangements or paid for funeral related expenses and had filed within the two year timely time, then she would be eligible for counseling.*
- Q** The 6 year old brother of a homicide victim has recently started counseling due to the death of his sister. However, the homicide occurred three years ago, and the funeral arrangements were taken care of by the victim's parents who previously filed a claim for these expenses. Are the counseling expenses for the victim's brother eligible under VCAP?
- A** *Yes, since the claimant for the brother's claim will be the same who timely filed previously for funeral benefits, the Program is able to consider a claim for the brother's counseling.*
- Q** A 9 year old victim was sexually assaulted by his grandfather. A claim was filed by mom on his behalf and the Program paid maximum for his counseling. Four years later, mom files a claim for her own counseling, however, it is now beyond two years of the discovery of the crime. Is mom's claim eligible for counseling reimbursement?
- A** *Yes, as in above, since mom was the claimant for the direct victim's claim-which was filed by mom within required time period-the Program is able to consider a claim for her counseling.*

STOLEN CASH

(P.S. §11.103 and 37 Pa Code §411.11 & §411.43)

Who?

An individual who suffers a cash loss as a direct result of a crime and who derives his or her primary source of income (50 percent or more) from one or more of the following sources:

- Social Security Retirement
- Social Security Disability
- Social Security Supplemental
- Social Security Survivor Benefit
- Railroad Retirement
- Pension Plan
- Retirement Plan
- Disability (includes Workers' Compensation payments)
- Veteran's Retirement
- Court-ordered child support or court-ordered spousal support payments

What?

Up to one month's worth of the qualifying benefit(s) may be paid.

Example: *A victim who receives \$1,000 a month from Social Security is defrauded of \$7,000. The victim would be reimbursed \$1,000.*

Example: *Same scenario as above, however, the victim receives \$800 a month from Social Security and also receives \$1,500 in retirement. The victim would be reimbursed \$2,300.*

Please note: The money stolen does not have to be from one of the qualifying benefits. The intent is to help individuals who are on a fixed income, regardless of the source of the actual money stolen as long as their primary source of income is a qualifying benefit.

Example: *If the victim has a part-time job but the primary source of income is one of the qualifying benefits and the victim was robbed after cashing his/her paycheck, the VCAP may compensate even though the money was derived from the part-time job.*

Example: *If after playing bingo, the victim was robbed of winnings while walking home, the VCAP may compensate if his/her primary source of income is from an eligible benefit.*

Other losses may be eligible in certain circumstances:

ATM CARDS: If the offender gains access to the victim's bank account and withdraws money, the claim may be eligible. Federal regulation limits the amount of loss to \$50 per card if the victim notifies the financial institution within two business days after learning of the loss or theft. The victim could be liable for as much as \$500 if he/she failed to notify the bank within two business days after learning of the loss or theft. Therefore, documentation is required from the financial institution indicating the amount reimbursed before the claim can be processed for payment.

NOTE: If a victim willingly gives his or her Personal Identification Number (PIN) to another, who then makes unauthorized withdrawals, it is not necessary for a victim to submit documentation from the financial institution regarding reimbursement—the financial institution does not have liability in these cases. VCAP does require, however, a letter from the victim explaining how the individual gained access to their PIN number.

MONEY ORDERS: If a victim purchased a money order and it was stolen, the victim must inquire of the place where they purchased the money order to find out if they are entitled to reimbursement.

FORGED CHECKS: If an offender forges the victim's signature on the check and cashes it, the victim should first make a claim against the paying and issuing bank before a claim can be processed for payment to see if they are eligible for reimbursement.

GIFT CERTIFICATES/CARDS: Gift Certificates/Cards are NOT eligible for compensation. They are considered property and are not eligible under VCAP.

How?

1. A police report indicating the specific amount of cash stolen. The amount stolen must be listed on the police report and any changes or amendments to the amount stolen must be made within **two weeks** of the crime.
2. If the victim has homeowner's or renter's insurance and received payment toward the loss, the Program requires either a copy of their policy declaration page or other proof of payment amount.

NOTE: A claimant does not have to access his or her homeowner's or renter's insurance. If it is not accessed VCAP will apply as an offset any amount that the claimant would have been paid by the insurance company. Proof of that amount is required.

3. Benefit statement(s) which apply to the month of the crime. Bank statements with direct deposit indicators for an eligible benefit or a copy of the benefit check are acceptable.

If a monthly benefit statement for the month of the crime is not available, VCAP will accept a statement from any month during the same calendar year of the crime.

4. If the victim is required to file income taxes, a copy of the most recently filed and signed IRS tax returns (including all schedules) should be submitted. The tax return is needed to verify that the benefit is the primary source of income.

Example: *If on the 1040 Form, line 7, the victim indicated that their wages were \$20,000 (income) and on line 16b indicated that their pension was \$10,500 (benefit), this victim would not be eligible because their main source of income was from wages and not an eligible benefit.*

If the victim is not required to file taxes, the applicable check box on the claim form must be checked. Otherwise, staff will send a request to the victim for a signed statement indicating that he/she is not required to file taxes.

If a victim also has glasses broken or stolen, or certain personal health items or prescriptions stolen (i.e., a purse snatching), the loss of the item(s) may be compensable. Please see **"MEDICAL EXPENSES"** for further information.

Large print Stolen Cash Claim Forms are available at www.pccd.state.pa.us or upon request from the Program

Stolen Cash Q & A

Q What if the victim's primary source of income is a combination of eligible benefits and a single benefit does not represent 50 percent or more of his/her income?

A *If a victim receives multiple eligible benefits, the **combination** of these benefits must represent 50 percent or more of their gross annual income. For example, a victim is robbed of \$800. His primary source of income is a combination of eligible benefits: Social Security \$400, Pension \$300 and Veteran's retirement \$200. The victim will be eligible for \$800.*

Q What if an individual is cashing a benefit check for another individual and is robbed of that individual's cash?

A *In cases where victim #1 is robbed of the cash benefit proceeds of another person (victim #2), either victim may apply for compensation. In these cases, the preferable claimant is the individual to whom the benefit belonged or who suffered the loss (victim #2). If for any reason this is not possible, the claimant may be the individual who was the victim of the actual crime (victim #1); however, the award check will be made payable to the individual whose benefit was stolen or designated recipient of the entitlement (victim #2).*

Q Are food stamps covered as an eligible benefit?

A *No, they are considered property. The victim may wish to contact the Department of Human Services (DHS) or their DHS caseworker to inquire on replacement.*

Q What if the claimant lists a different amount of money stolen on the claim form than is indicated in the police report?

A *The lesser of the two amounts will be used. As an example, if a claimant indicates \$500 was stolen but the police report indicates \$550, \$500 would be used.*

Q What if the police report lists a range (say \$300–\$400) of cash stolen?

A *The lower amount is used. If a range of \$300–\$400 were listed, \$300 would be used.*

Q What if the money taken was part of a "pigeon drop"?

A *Stolen cash claims resulting from a "pigeon drop" that are received by the VCAP and are eligible will have a minimum 10% contribution assessed if it is determined that the victim was advised by the offender(s) that it was "found money" and they fall under the definition of Pigeon Drop. A Pigeon Drop is the act of approaching a person and asking that person if he would like to share an amount of found money. In order to share the money, the person shows a good faith effort by willingly providing a specified amount of money with the expectation of receiving a part of the "found" money.*

Q Can a victim file another claim for stolen cash if they have already received an award for a separate stolen cash crime in the past?

A *Yes. However, in crimes involving stolen or defrauded money, failure to implement personal crime prevention techniques recommended by the local police department, victim service program or crime prevention programs at the VCAP's request when crimes*

are similar in nature and repeated may result in the claim being denied or the amount of the award reduced.

Q If a victim paid a Western Union (or other such agency) fee to send the stolen money to the perpetrator(s) of the crime, can that fee be reimbursed along with the money sent?

A *Yes.*

Q. A woman who receives Social Security Disability in the amount of \$960 is robbed while walking home from the grocery store. Her husband is employed as a teacher and makes \$60,000 a year. Is the woman eligible for compensation?

A. *Yes, when money is taken directly off a victim receiving an eligible benefit the income of his/her spouse is not considered when determining primary source of income.*

Q If a home of a married couple who both receive an eligible benefit as their primary source of income is burglarized, are both eligible for compensation?

A *Money taken out of the home is considered joint household money. If the victims are married and the primary source of income for both parties is from an eligible benefit(s), then the primary source of income for the household is the combined benefits and could be considered. As an example, a husband and wife are both 68 years old and their home is burglarized. Included in the stolen items was \$4,200 in cash. The wife receives \$340 per month in Social Security and her husband receives \$700 per month from a Pension and \$500 in Social Security. The wife would be entitled to \$340 for her one-month's entitlement and her husband would be entitled to \$1,200 for his one-month's entitlement. This couple could receive a total maximum payment of \$1,540. (Can file one claim.)*

Q Similar to above, the home is burglarized, however, only the husband receives an eligible benefit—a pension in the amount of \$1500 a month. The wife is employed and makes \$40,000 a year. Can the husband file for the stolen cash?

A *Money taken out of the home is considered joint household money. As such, the Program considers the primary source of income for the household. In this case, the husband would not be eligible for compensation because although he receives an eligible benefit, the primary source of income for the household is the wife's earnings.*

Please note: *There may be instances where the Program could pay when the money is taken from the house and only one spouse receives an eligible benefit. Such instances may be considered when it is identified that the source of the cash stolen was an eligible benefit and derived from only the victim. The income of the spouse will not be considered in figuring the victim's primary source of income since the spouse's income is considered support and not income. These are considered on a case by case basis depending on reasonableness, documentation, and police report.*

EXAMPLE: Home is burglarized and along with stolen items, \$500 from a safe and \$100 to \$150 in loose change that the husband had been saving in milk jug for years. This is specifically indicated in the police report. The wife is employed and makes \$40,000 a year. In this case, the husband would be eligible since the request is reasonable and documented in the police report.

Relocation

18 P.S. §11.103 and 37 Pa code §411.11 & §411.42

WHO?

A direct victim and individuals living in their households who as a result of an eligible crime or who is threatened by any change of circumstances or indicator of danger needs to immediately relocate to protect their health and safety. The relocation can be either temporary or permanent.

Immediate Need is 120 days from the date of the crime or 120 days from the date the victim is threatened by any change of circumstance or indicator of danger.

Please Note: VCAP may consider a delay past the prescribed immediate need time period to be justified when the direct victim or claimant is mentally or physically incapacitated, there is fear of retaliation, or other circumstances where good cause is shown by the claimant and is deemed appropriate by VCAP. These claims are reviewed on a case-by-case basis. ***If you believe good cause exists to consider the claim, attach a letter on your letterhead outlining the justification(s) for the relocation past 120 days.***

WHAT?

The maximum payable is up to \$1,000 per direct victim per household.

1. New Rent Cost.
2. Storage.
3. Professional Moving Company Charges and Van Rental at cost.
4. Mileage — Mileage reimbursed at the rate Pennsylvania state employees were reimbursed in effect at the time of travel.
5. Common Carrier Fares.
6. Lodging while in transit — up to \$75 per night.
7. Utility Connection Fees.
8. P.O. Box set-up and Monthly Rental Fees up to one year.
9. Childcare.
10. Tolls/Parking.
11. Rental of passenger vehicle — up to \$30 per day.
12. Gas Reimbursement for Official Rental Vehicles, i.e., U-Haul.
13. Rental Application Fee.

HOW?

1. Copy of New Lease listing victim/claimant as the Lessee.
2. Copies of all itemized bills and receipts related to the relocation in the name of the claimant that include the name, address and telephone number of the provider, the date of service and the type of service provided.
3. A verification letter explaining the immediate need for relocation from a representative of a *human service agency, law enforcement, or medical provider*. If a letter cannot be furnished, identify an individual and the agency they are from so VCAP may contact to verify this need. **Advocates who file claims online can simply check the radial button in DAVE to indicate that they are verifying the need.**

Law enforcement includes a district attorney or other prosecutorial agency and eligible *human service agencies* include social workers, children and youth caseworkers, area agency on aging, victim service providers (system and community based advocates), and other social service professionals, including mental health, substance abuse and medical social work.

4. If relocation is needed as a result of a homicide, and the claimant received monies because of the death of the victim, such as life insurance, a copy of the benefit statement must be included. The statement must include the name, address and telephone number of the provider, the policy number, and the amount of the benefit and to whom the benefit was paid.
5. If the claimant has homeowner's or renter's insurance which covers this type of expense, documentation indicating the amount covered or paid must be included.

Q & A

Q Are other crimes besides domestic violence eligible for this benefit?

A Yes, any Title 18 Crime (e.g., arson and homicide) or other eligible crime where the safety and health of the victim is threatened.

Q Does the relocation have to be permanent?

A No, a claim may be filed for temporary or permanent relocation expenses for the victim and individuals residing in their household. For instance, a victim and his family stay in a motel while the offender is on the run. When the offender is apprehended, the family goes back to their home. This temporary relocation to the motel would be eligible.

Q Can a victim receive payment in advance for any of the benefits?

A No, VCAP will not advance payments for any eligible benefit; out-of-pocket expenses must have been incurred, meaning the victim has already paid for the services, or the service has been provided and payment is due.

Q Are security deposits reimbursable by VCAP?

A No. However, VCAP may consider the security deposit if the victim lost the deposit due to the breaking of the lease in order to relocate to become safe. Verification is required, most often in the form of letter from prior landlord.

Q Is a victim who first goes into a domestic violence shelter for a period of time before moving into a new apartment eligible for relocation expenses?

A Yes. As long as the victim moves into his/her new apartment within 120 days from the crime.

Q Are P.O. box rental charges covered?

A Yes. VCAP does cover the cost to set up a P.O. box as well as the monthly fees up to one year.

Q What utility hook-ups are included?

A Telephone, electric, heating, cooling and other utilities that are needed to maintain and sustain a family are included. Luxury utilities such as cable, satellite dishes, and newspaper/magazine subscriptions are not included.

Q Does a victim need to apply to TANF (Temporary Aid to Needy Families) first and are these benefits taken off as an offset if a victim receives TANF funds?

A No, to both questions. The two relocation programs can work together. For instance, a family facing a relocation bill of about \$2,000 could apply to VCAP after receiving \$1,000 from TANF (or vice versa).

Q In the case where a PFA is filed and a report is not made to the police, when does the 120 days start?

A It is the same for crimes reported to the police, so 120 days from the date of the crime or 120 days from the date the victim is threatened by any change of circumstances or indicator of danger and a move or relocation is necessary to become or remain safe. The date a PFA is filed or granted does not affect the 120 days.

Q An intruder broke into an apartment shared by two women. Both screamed and the intruder ran away. Both women are scared for their safety and want to relocate. Are they both eligible for relocation, and for how much?

A *They are both a direct victim of the break-in and would therefore each be eligible for \$1,000 to relocate.*

Q A husband and wife were robbed and assaulted one evening in their home. They are in fear and want to put their home up for sale and relocate. They owned their home, which was paid off. Will the Program consider rental for new apartment? Will the sale of the home be an offset?

A *Yes, the Program will consider rental costs for victims to relocate. No, the Program will not use any proceeds from the sale of the home as an offset.*

Q A woman invited a male over for an evening. Later in the evening, this male assaulted the woman. Her two children were upstairs sleeping and were unaware of the assault. Who is eligible for relocation and for how much?

A *In most cases, the woman would be determined the only “direct” victim of the assault. However, there may be rare instances where others may be eligible as well. Reimbursement would be dependent on VCAP determination of direct victims.”*

Q Are costs for gasoline eligible for reimbursement associated with Relocation?

A *For official rental vehicles, the VCAP may reimburse gas expenses. For personal vehicles, VCAP may reimburse mileage.*

NOTE: *If a victim you are working with does not qualify for relocation benefits from VCAP or has expenses exceeding \$1,000, check with the domestic violence program in your county about applying for TANF. If you don’t know who the domestic violence program is in your county, please check the Victim Service Program Referral Handbook from PCCD or go to www.pccd.pa.gov. The Pennsylvania Coalition Against Domestic Violence also maintains a listing at their web site (www.pcadv.org).*

CRIME SCENE CLEANUP

(18 P.S. §11.103 & 18 P.S. §11.107 and 37 Pa Code §411.11)

Who?

Anyone, including a landlord or a property manager, who assumes the responsibility to pay for the cleanup of the crime scene.

NOTE: The person who assumes the obligation for crime scene clean up may not seek reimbursement from the direct victim's family.

What?

The award amount is \$500 for each crime-scene. This amount is over and above the \$35,000 maximum award. Multiple crime scenes could be considered for crime-scene cleanup if each of the sites are identified in the police report.

This benefit is intended to compensate for the reasonable and necessary costs for cleaning a *private residential crime scene*. A private residence includes a house, apartment, condominium, mobile home or other personal living space.

Cleaning means to remove or attempt to remove blood and stains caused by bodily fluids, food, paint or other materials used to deface property within a private residence, or other dirt and debris caused by the processing of the crime scene. **NOTE: It does not include costs to replace damaged property.**

Eligible expenses:

- The cost of cleaning supplies purchased for cleaning the scene.
- The cost of any necessary equipment purchased or rented.
- The cost of professional labor for cleaning the crime scene. The Program cannot compensate to reimburse a friend, family member, or other individual for clean-up labor.
- Painting may only be considered if it is used to “remove” bloodstains. Reviewed on a case by case basis.

Ineligible expenses:

- Motor vehicles and locations other than a private residence are not eligible.
- Repair or replacement of damaged property is not reimbursable.

How?

If the claimant is filing for crime scene cleanup the following information must be provided:

1. Copies of all itemized bills and receipts related to the crime-scene cleanup. These must be in the name of the claimant and include the date(s) of service, the name, address and telephone number of the provider of the services and/or products.
2. In a homicide, if the claimant received any benefits as a result of the death of the victim, such as life insurance, a copy of the benefit statement must be included. The statement must include the name, address, and telephone number of the company, the policy number, and the amount of the benefit and to whom the benefit was paid. Such benefits may be offset from an award.

Please Note: A victim or claimant filing for crime scene cleanup is *no longer required to file with their homeowners or renters insurance.*

Crime Scene Cleanup Q & A

- Q** A man is stabbed in his apartment. The landlord agrees to take care of the cleaning of the crime scene. Can he file with VCAP for crime scene clean up?
- A** *Yes. A landlord or any other individual who assumes the obligation or who pays for the crime-scene cleanup may be eligible for reimbursement. Since a person who assumes the obligation for crime scene cleanup may not seek reimbursement from the direct victim's family, they must accept VCAP's payment as payment in full. However, if the claim was denied by the Program, then they could seek reimbursement from the victim or family.*
- Q** A husband and wife are murdered in their home. Is the claimant eligible to apply for the \$500 crime scene cleanup for each victim?
- A** *No. The entire residence is considered one crime scene. Therefore, the VCAP would pay a maximum of \$500.*
- Q** A woman is stabbed in her home and runs across the street to her neighbor's home for help. Both homes require crime-scene cleanup to remove blood stains. Are the victim and the neighbor eligible for crime-scene cleanup expenses?
- A** *Yes. Both homes are considered crime scenes. Each would be eligible for the reimbursement for crime scene expenses up to \$500 per crime scene, given that both scenes were listed in the police report.*
- Q** A victim is raped in her car. Is she eligible for crime-scene cleanup benefits?
- A** *No. This benefit is intended to compensate for the reasonable and necessary costs for cleaning a private residential crime scene. A car is not considered a private residence, even if the victim is homeless.*
- Q** A man's mailbox was vandalized and defaced with racial epitaphs. Is the man eligible to file a claim for compensation?
- A** *No. The crime scene clean up benefit is intended to compensate for the costs of cleaning a private residential crime scene. The mail box is considered personal property, which is not covered under VCAP and it is not within the private residential residence.*
- Q** A family's house is egged. Can the owner apply to VCAP for the costs to have the house power washed by a professional?
- A** *No. The crime scene clean up benefit is only to clean the inside of a private residential crime scene.*
- Q** A woman is raped and assaulted in her apartment by her ex-boyfriend. After committing this crime, the offender goes into the victim's kitchen and smears food on the walls, cabinets, and floors. Is the cost to clean the kitchen of the food stains an eligible expense under crime scene clean up?
- A** *Yes.*

Q A man's home is burglarized. Before leaving the home, the offender spray paints derogatory words on the victim's living room walls. Can the victim apply to VCAP for the costs of paint he purchased to paint over the words?

A *Most likely, yes. Claims submitted for the purchase of paint to "clean" a stain are reviewed on a case by case basis.*

FORENSIC RAPE EXAMINATIONS (18 P.S. §11.707 and 37 Pa Code §411.42)

Who?

A hospital or licensed healthcare provider may be eligible for compensation.

Forensic Rape Exam (FRE) services provided by SAFE/SANE nurses are eligible. However, SAFE/SANE nurses are not eligible to file a claim individually. The claim must be submitted through a hospital or licensed health care provider.

What?

Up to \$1,000 for the FRE or other physical examination conducted for the purpose of gathering evidence or for medications prescribed, as a direct result of a sexual offense.

Please Note: By law, a provider cannot bill the victim for the costs associated with a FRE. Payment by VCAP is to be considered by the provider as payment in full. If it is brought to your attention that a hospital is billing a victim for the costs associated with a FRE, please contact VCAP immediately. 18 P.S. §11.707(h)

Several possible scenarios where a victim might be unlawfully billed are:

- A hospital charges \$1,800 for a FRE and medications. They receive \$1,000 from VCAP and bill the victim for the remaining \$800.
- A hospital performs a FRE, does not file with VCAP, and bills the victim.
- A victim agrees to have their insurance used to cover the FRE and medications. However, the insurance only covers \$300 of the \$1,400 charge. The hospital files a claim for compensation and receives \$1,000 and bills the victim the remaining \$100.
- A FRE claim is rejected for payment because it was filed past the deadline. The hospital then bills the victim.

****The victim should not be billed in any of these scenarios or at any other time.****

Please Note: For crimes occurring on or after 12/12/09, VCAP will reimburse a direct victim who is erroneously billed and subsequently pays the cost of the forensic rape examination or medications directly related to the sexual offense. The reimbursement will be subject to the \$1,000 monetary limitations, §411.42B)(3)(1v).

The victim, or a person responsible for the victim, has the right to choose if their insurance should be accessed for a FRE and related medications. To ensure that victims are being notified of this right, the signature is required on the claim form of the person who has the authority and affirms that the request is for the reimbursement of only eligible expenses for the forensic rape examination and medications provided. Their signature certifies that the victim was informed of

Option #1, #2, and #3, and that only eligible forensic rape examination expenses, as described in Billing and Protocol Procedures, are being submitted to VCAP for reimbursement. In addition, that the victim was informed that they may still be billed directly for expenses not related to the forensic rape examination.

How?

1. The Victim Does Nothing.

The sexual assault victim does not apply for the reimbursement of the expenses related to a FRE and related medications. **Therefore, the regular VCAP claim form cannot be used to file a claim for a FRE. A separate claim form exists specifically for the FRE and is only filed by the hospital or licensed healthcare provider who performed the FRE.**

***Exception:** When the victim is erroneously billed by a hospital or licensed health care provider and pays the costs of an FRE and the medications provided, the victim then can submit a request on the standard claim for reimbursement on the VCAP standard claim form up to the \$1,000 monetary limitation.*

Eligibility requirements that apply when a victim is filing for the reimbursement of the costs associated with an FRE and medications provided are that:

- the crime occurred in Pennsylvania
- the claim is filed within one year from the date of the crime or one year from the date of discovery of the crime

If a victim submits the standard VCAP Claim Form because they were erroneously billed and paid the costs associated with an FRE and medications provided, VCAP eligibility requirements do not need to be met. VCAP will reimburse the victim directly for the costs associated with the FRE.

If a victim submits the standard VCAP Claim Form because they incur costs for other crime related expenses, other than the FRE, (counseling, loss of earnings, etc.), all VCAP eligibility requirements will then need to be met.

A sexual assault victim does not have to apply for any other type of compensation or meet the minimum loss requirements in order for the forensic rape expenses to be considered.

In instances where the victim has additional expenses beyond the date of the exam (i.e., HIV testing, HIV Cocktail or the “morning after pill”), refer to the VCAP Claim Form and the specific benefit chapters in this manual for information on additional expenses related to the crime, i.e. additional medical bills, prescriptions, counseling, loss of earnings, relocation, etc.

2. The hospital or healthcare provider:

Providers must file a Forensic Rape Examination Claim Form online on behalf of the patient. Please visit the website www.dave.pa.gov to submit FRE claims to the Program. **As of January 1, 2016 all FRE claims are required to be submitted electronically with invoices uploaded in this system prior to submission.**

Please note: It is not necessary for a victim of a sexual assault to cooperate with law enforcement or proceed with the prosecution of the case for the FRE to be considered for an award.

Hospitals may sign up to file claims online after completing proper DAVE training. Hospitals may contact the VCAP for more information.

MOTOR VEHICLE-RELATED CRIME

(18 P.S. §11.103; 37 Pa Code §411.16)

Who?

A victim who is injured or an eligible claimant when a victim is killed as a result of one of the following crimes:

18 Pa. C.S	relating to crimes and offenses.
30 Pa.C.S. § 5502	relating to operating watercraft under influence of alcohol or controlled substance.
30 Pa C.S. § 5502.1	relating to homicide by watercraft while operating under influence.
Former 75 Pa. C.S. §3731	relating to driving under the influence of alcohol or controlled substance
75 Pa. C.S. §3732	relating to homicide by vehicle
75 Pa. C.S. §3735	relating to homicide by vehicle while driving under the influence
75 Pa. C.S. §3735.1	relating to aggravated assault by vehicle while under the influence
75 Pa. C.S. §3742	relating to hit and run
75 Pa. C.S. Ch. 38	relating to driving after imbibing alcohol or utilizing drugs

75 Pa C.S. § **3742.1** - relating to Accidents Involving Death or Injury While not Properly Licensed **is not** an eligible crime through the VCAP.

Please Note: Multiple charges may be filed that include at least one qualifying charge. However, VCAP may still consider the claim if the qualifying charge(s) is dismissed due to plea agreements.

What?

The maximum award for motor vehicle-related claim expenses is under the \$35,000 claim maximum.

An award may be reduced or denied if any of the following apply in a motor vehicle-related crime:

1. The victim knowingly and willingly entered a vehicle or watercraft operated by a driver under the influence - 25 % reduction.
2. VCAP will assess up to a \$5,000 contribution for an award for medical expenses only, or the current amount of medical benefits coverage required under Pennsylvania law at the time of the crime, if a direct victim or intervenor who was injured, was driving his own vehicle without insurance (**motorcycles are excluded from this requirement**).
3. The VCAP may assess a contribution amount or deny auto and watercraft-related crimes when the victim is the driver of the vehicle or watercraft and the victim does not have a valid license or the victim's license has been revoked or was under suspension at the time of the crime. VCAP will use discretion in assessing contribution.

How?

Claims involving a motor vehicle or watercraft are often considered the most difficult because of all of the insurances that may be involved and the VCAP's need for a substantial amount of information and documentation. In an effort to help alleviate the burden on advocates, as well as victims in gathering this information, once the VCAP staff member receives the Vehicular Claim Addendum Form or the information requested on the form, the staff member will attempt to contact the insurance agent directly to obtain the required information necessary to process the claim.

The victim must file a claim with their own auto insurance, as well as the offender's. Additionally, if a victim's policy has uninsured/underinsured motorist coverage, the victim must file for those benefits also. (Claim will not be held up while uninsured/underinsured is pending.)

The chart at the end of this section may be helpful when determining which insurances must be utilized when a victim has been injured by a vehicle or watercraft.

In addition to filing a VCAP claim form and the documents needed for each expense that is filed please submit the following for all claims involving a motor vehicle or watercraft:

1. A completed Vehicular Claim Addendum Form (a copy is provided at the end of this chapter). **Or, submit the requested information to VCAP:** the victim's name; auto insurance name; agent's name and phone number; and policy number.
2. Copies of any insurance settlement papers or any information regarding civil suits filed or to be filed against the offender or a third party (e.g. a bar or club).

3. When auto insurance benefits have been exhausted, the victim must utilize his or her own health insurance benefits, if available. In this case, copies of the benefit and/or denial statements must be submitted. (See “[MEDICAL EXPENSES](#)”.)

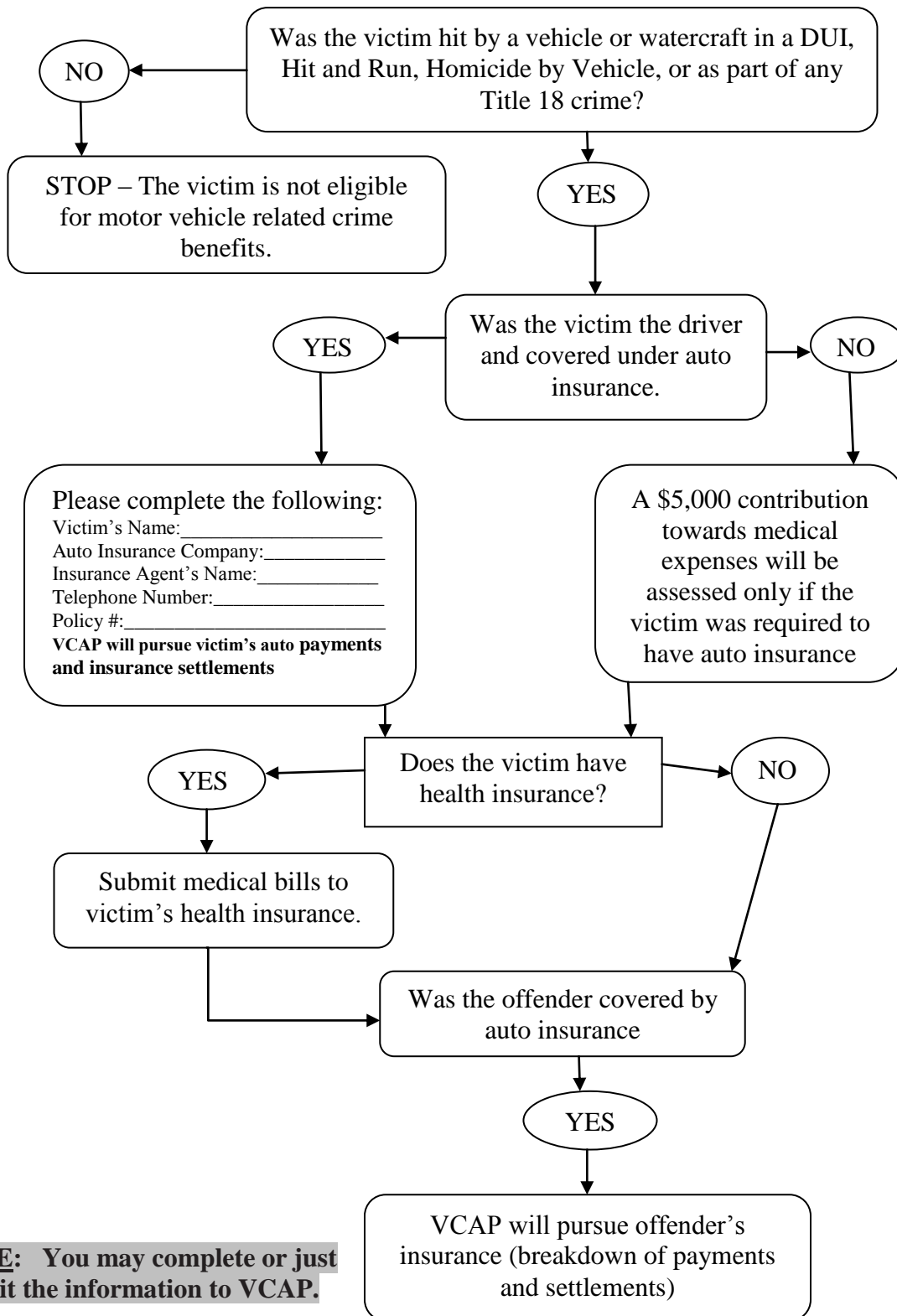
Please note: Act 6 of the Motor Vehicle Financial Responsibility Law specifies that when an injury is the result of a motor vehicle incident and such injury is covered by liability or first-party benefits, including Under/Insured and Uninsured Motorist coverage, a provider may not request payment in excess of reimbursement allowances in Pennsylvania under the Medicare Program or their usual and customary charges, whichever is less [75 Pa. C.S. §1797(a)]. This does not apply if the hospital is a trauma center (see www.ptsf.org/hospitals.htm for a list of trauma centers in Pennsylvania).

It is important to note that a provider may not bill the victim or the responsible party the difference between the full charge and the amount paid under these guidelines. *Although not required, advocates may be able to save processing time by asking non-trauma hospitals to submit their bill(s) in compliance with Act 6 guidelines. Bills are usually significantly lower when Act 6 is applied. Therefore, more compensation is available to the claimant.*

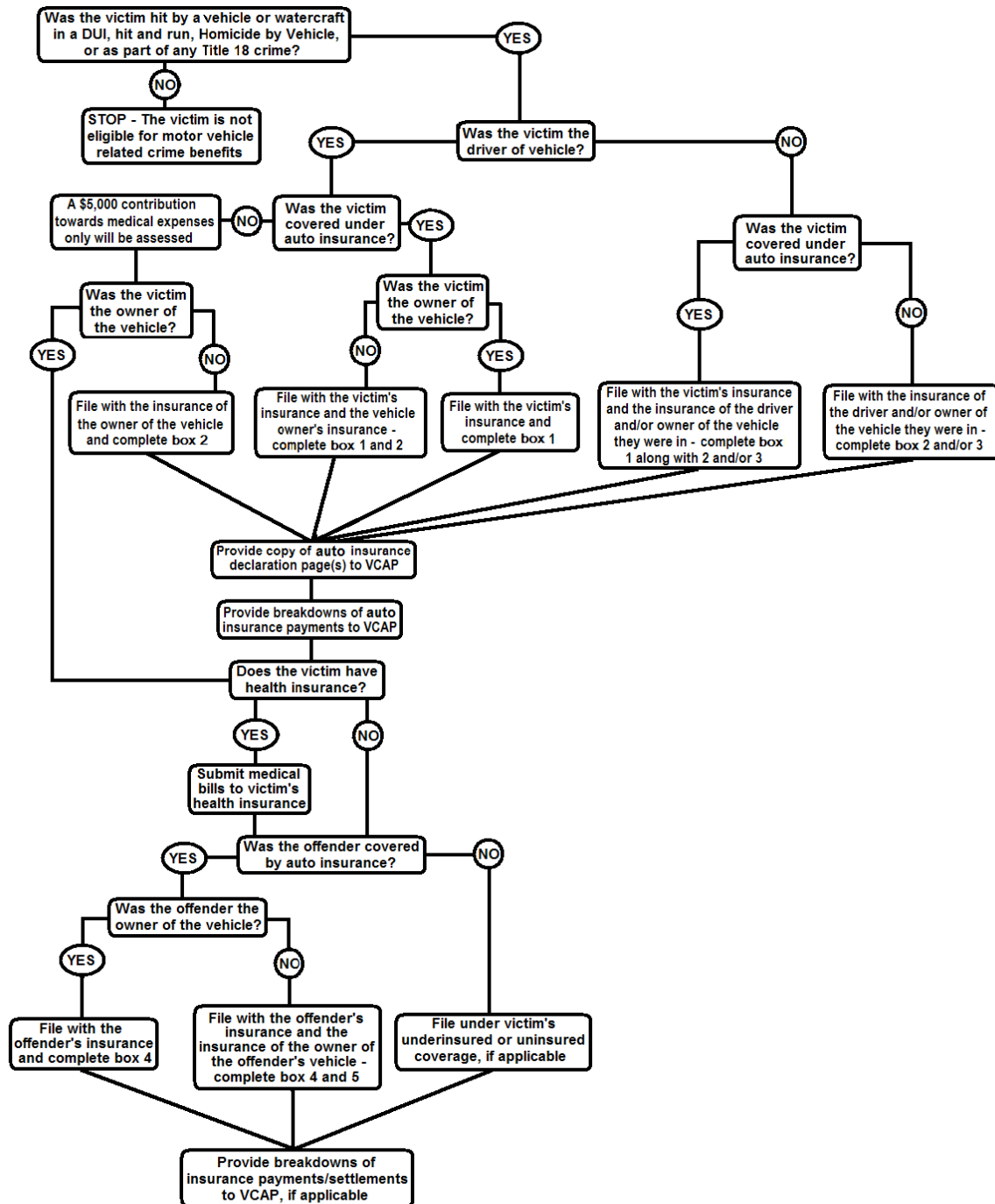
Motor Vehicle Related Crime Q & A

- Q** Can an award ever be made before all insurance benefits have been received?
- A** *If it can be shown that auto insurance benefits may not be immediately forthcoming and there is no available health insurance, an award may be made. However, the VCAP retains subrogation rights up to the amount of its award.*
- Q** Does a pedestrian hit by a vehicle have to file with auto insurances?
- A** *Yes, the pedestrian may be covered under his/her own policy as a pedestrian. If the pedestrian is not covered under any auto insurance policy, he/she must file with the offender's insurance.*
- Q** Is a swimmer hit by a watercraft eligible for compensation?
- A** *A swimmer would be eligible if an eligible crime was committed, such as DUI, hit and run, or any Title 18 crime. For instance, a swimmer hit by an intoxicated driver of a boat would be eligible.*
- Q** Is it true that hospitals in Pennsylvania must reduce the amount they can charge in motor vehicle incidents?
- A** *Act 6 of the Motor Vehicle Financial Responsibility Law specifies that when an injury is the result of a motor vehicle incident and such injury is covered by liability or first-party benefits, including Under/Insured and Uninsured Motorist coverage, a provider may not request payment in excess of reimbursement allowances in Pennsylvania under the Medicare Program or their usual and customary charges, whichever is less [75 Pa. C.S. §1797(a)]. This does not apply if the hospital is a trauma center (see www.ptsf.org/hospitals.htm for a list of trauma centers in Pennsylvania).*
- Q** Can a VCAP award be made if an insurance action against an offender's auto insurance is still pending?
- A** *Yes, The VCAP only needs verification that the action has been filed against the insurance. However, the VCAP retains subrogation rights up to the amount of its award in the event that benefits are paid out.*
- Q** Can a victim who was injured while driving his automobile without auto insurance still file a claim with VCAP?
- A** *Yes, However the first \$5,000 in medical bills will not be paid because that is the minimum amount of medical coverage required under Pennsylvania law. Had the victim had the required insurance, that insurance would have covered the first \$5,000 in medical expenses. This does not pertain to motorcycles.*
- Q** Why is auto insurance information required by VCAP when a victim is killed as a result of an auto crash?
- A** *Many individuals elect to have a funeral coverage benefit (normally \$3,000 – 5,000) on their auto policy. This would be applied toward the victim's funeral bill and can be mailed directly to the funeral home from the insurance company. Additionally, if the victim had uninsured or underinsured coverage, a settlement may be awarded to spouse or next of kin.*

Vehicular Claim Addendum Form



Helpful Information: What Insurance do I file with?



TRANSPORTATION & TRAVEL EXPENSES (37 Pa Code §411.11; §411.16 and §411.42)

Who?

For Crimes Occurring on or After 12/12/09:

- A victim or eligible claimant who incurs expenses traveling to or from a place for medical care, counseling, or to a pharmacy to fill a prescription.
- A victim or eligible claimant who incurs travel expenses to attend or participate in criminal justice or protection from abuse proceedings, and for efforts that aid the investigation.* ONLY FOR CRIMES ON OR AFTER 12/12/09.
- In homicides, an eligible claimant who incurs travel related expenses in connection with the transporting of the body and making funeral home arrangements, and attending the funeral services, or to attend criminal justice proceedings.
- Special circumstances that are reasonable and directly related to the crime.

***Note: Criminal justice proceedings will include: trials; (preliminary, sentencing, PFA, juvenile justice, and parole hearings, etc.) Efforts to aid the investigation will include: to report the crime; police interviews; police line-ups; and mug shots supported by the police report or advisement from official police personnel. Preparation for trial may also be considered if verified by an appropriate court official or advocate.**

For Crimes Occurring Prior to 12/12/09:

- A victim or eligible claimant who incurs expenses traveling to or from a place for medical care, counseling, or to a pharmacy to fill a prescription.
- In homicides, an eligible claimant who incurs travel related expenses in connection with the transporting of the body or making funeral home arrangements.

Example: A child victim and her mother are receiving counseling as a result of the crime against the child. The transportation expenses for the mother to take her child to counseling would be eligible. However, the transportation expenses for the mother to take herself to counseling would not be eligible.

Example: Same as above, however, child was killed. Mom would be eligible for her mileage to counseling. In homicides, an eligible claimant includes the parent, child, or spouse of deceased.

Example: A witness to a crime is eligible for counseling, however, the witness is not eligible for transportation expenses because they would not be eligible for any other expenses under the \$35,000 cap.

Example: A grandmother of a homicide victim is eligible for up to \$5,000 in counseling. She would also be eligible for her transportation costs to the counseling **if she paid for funeral/burial expenses, since the \$35,000 cap opens up to her.**

What?

The maximum award for transportation expenses falls under the \$35,000 cap.

Limitations Exist:

- Up to two (2) days (not to exceed five days depending on circumstances) travel reimbursement to attend the funeral service to an eligible claimant.
- Up to two (2) days (not to exceed five days depending on circumstances) travel reimbursement to make funeral arrangements to an eligible claimant.
- Up to ten (10) days travel reimbursement to attend court to a direct victim or an eligible claimant. (Exceptions may be considered depending on circumstances.)

NOTE: An Eligible Claimant in homicide is the parent, child or spouse of the deceased, or the person who assumed the financial obligation to pay for the funeral or burial expenses.

No more than two persons, including a person designated by the family or person who pays for the funeral, for transport of the body, or making funeral arrangements.

Transportation expenses are paid as follows:

1. Round-trip mileage: If the private car of the victim is used then the mileage is paid to the victim. If the private car of the driver is used then the mileage is paid to the driver. The rate paid per mile is the same rate as state employees were paid at the time of the service.
2. Round-trip driver reimbursement: A **non-family** member is eligible for up to \$8 per hour **or** the mileage rate in effect. A **family member** or **member of the victim's household** is eligible only for their lost wages (not the \$8.00 hourly rate) **and** mileage if they use their own vehicle. If they use victim's car, then the mileage is paid to the victim.
3. Public transportation, reimbursed in full.
4. Gas Reimbursement for Official Rental Vehicles, i.e., U-Haul, Rental Car, etc..
5. Car rental, up to \$30 a day. (NOTE: \$30 daily rental rate only. Mileage will not be paid.)
6. Taxi fares in full.
7. Parking expenses in full.

Remember: A claim must be filed by an eligible claimant. If the provider of service is not an eligible claimant, they may be paid as a provider under the eligible claimant's claim.

Additionally, if travel to a provider is 50 miles or more (one way) from the eligible person's home, the following is eligible for reimbursement:

- Meals. Up to \$28 a day, with no more than \$6 for breakfast, \$6 for lunch and \$16 for dinner. Receipts are required.
- Hotel, up to \$75 a night. Receipts are required.

NOTE: The VCAP is only able to consider travel expenses for someone other than the direct victim when the victim is a minor or an incapacitated adult and it is necessary that another individual accompanies the victim to medical appointments, counseling, court proceedings, or for efforts that aid the investigation. As well as those instances specific in homicide.

How?

1. A corresponding itemized medical, pharmacy, counseling bill showing the name and address of the provider for the date of transportation. If a bill is not submitted, a letter from the provider on letterhead listing the dates of service including a statement verifying all services are directly related to the crime. For trips to pharmacy, the actual prescription receipt or printout from pharmacy.
2. For reimbursement of travel costs to attend a court proceeding, to include in-person parole testimony (crimes occurring on or after 12/12/09 only) attendance can be verified by providing a copy of a subpoena or a letter from an appropriate court official or victim advocate who accompanied or can verify that the claimant attended the proceeding.
3. If public transportation or a taxi is used, the receipts, including date of service, must be submitted.
4. For travel over 50 miles, an itemized bill for overnight accommodations must be submitted for hotel reimbursement. For meal reimbursement for travel over 50 miles, the date/time of return home must be indicated for meal reimbursements, along with receipts..
5. Expenses incurred for the employment of a driver if the victim is unable to operate a vehicle will not exceed reimbursement of \$8 per hour. The following information must be provided:
 - The name and address of the individual who provided the service.
 - A statement from the driver listing dates of travel, the name and address of provider(s) where the victim was taken, and the number of hours incurred for each medical or pharmacy visit.
 - If the victim paid for the services, copies of receipts or cancelled checks must be submitted.
 - If a bill was not submitted from the provider, the Program must have a letter from the provider verifying the dates of treatment

Note: If the driver was a victim's family or household member, who missed work as a result of driving victim, they may be eligible for their lost wages. (Refer to "**LOSS OF EARNINGS IN NON-HOMICIDES**"). They are not eligible for the \$8.00 hourly rate.

To assist in the processing, you may (although not required) print out a copy of the mileage from the victim/claimant's home to the service provider from MapQuest, MapPoint or similar program.

Transportation and Travel Expenses Q & A

- Q** May a victim be compensated for travel expenses to court?
- A** *Yes, however, only for crimes occurring on or after 12/12/09. Travel to court was not an eligible benefit under the Program prior to 12/12/09. This includes in-person parole testimony.*
- Q** Should gas receipts be submitted?
- A** **Gas reimbursement is eligible for official rental vehicles only, i.e., U-Haul, car rental, etc. Receipts are required.**
- Q** Can transportation expenses be paid for counseling that is not 100 percent related to the crime?
- A** *Yes. If any percentage of the counseling is verified to be related to the crime, travel expenses will be paid in full. For example, a couple is seeking marital counseling before their home is burglarized. They continue counseling after the crime and the counselor verifies 50 percent of the counseling is directly related to the crime, their transportation expenses will be reimbursed at 100 percent (copays at 50%).*
- Q** Are the transportation expenses of someone driving to and from the victim's home to provide home health care or replacement services eligible for reimbursement?
- A** *No.*
- Q** Are victims who attend counseling or a support group at a local victim service program eligible for transportation expense reimbursement even though there is not a psychiatrist, psychologist, licensed professional counselor, or licensed professional social worker employed by the program?
- A** *Yes, transportation expenses may be paid to the claimant for counseling at a victim service agency. Simply submit a list of the dates and locations of service on your letterhead.*

- Q** What transportation expenses may be paid in homicides?
- A** *In the case of a homicide, eligible expenses include the air tray casket or shipping container and fees for transporting the deceased, as well as airline tickets for individuals accompanying the deceased, and transportation charges for individuals to pick up the deceased at the airport and transport to the funeral home. These expenses are not included in the funeral/burial cap. No more than two individuals may be reimbursed for all of these expenses. Additionally, each parent, child or the spouse, as well as the person who assumed the financial obligation for the funeral home expense are eligible for transportation costs to attend the victim's funeral.*
- Q** Can a spouse of a victim be paid driver reimbursement as well as mileage to take her husband to medical appointments.
- A** *If she has to take off work to take the victim to an appointment, she is eligible for her lost wages. If she is unemployed, she is not eligible for the \$8.00 hourly rate. She is also eligible for mileage reimbursement and, if she uses her car, mileage is paid to her. If she uses the victim's car, mileage is paid to victim. If it is joint car, it can be paid to victim.*
- Q** The sister of a homicide victim lives in Colorado. She did not pay any funeral/burial expense. Is she eligible for her transportation expenses to come to Pennsylvania for the funeral?
- A** *No, only a parent, child, or spouse of a homicide victim or the person who assumes the obligation or pays for the funeral home/ burial expenses is eligible for transportation expenses to attend the funeral.*
- Q** Same scenario as above, however, the sister paid for flowers for the funeral. Is she eligible?
- A** *No, the intent is to pay transportation costs to attend the funeral for the person who assumed the obligation and/or paid for the majority of the funeral home and burial expense.*
- Q** Are transportation expenses covered for a claimant to travel for a hearing if a VCAP decision is appealed?
- A** *With preapproval by VCAP, mileage, public transportation, and lodging the night before or the night after a hearing (to a daily maximum of \$75) may be paid as well as \$20 per day for attendance.*
- Q** A man is murdered in Pennsylvania. His wife paid for the funeral. Are the victims parents, who live in Arizona, eligible for their transportation costs to come to Pennsylvania to attend the funeral?
- A** *Yes, each parent or child, or a spouse of a direct victim is eligible for transportation expenses to attend the funeral.*
- Q** Can the girlfriend of a victim who lives with the victim be paid the hourly rate to drive the victim to his medical appointments necessary as a result of the crime?

- A** *No. Family members as well as individuals who reside in the victim's household are not eligible for the hourly rate. They are only eligible for any lost earnings they may incur as a result of driving the victim. However, if she uses her own car, she can be paid the mileage rate (as a provider under the victim's claim).*
- Q** *A woman was raped and moved to Florida several months later. She had to return to Pennsylvania to attend the trial, and brought her sister with her. Can the Program reimburse the sister's travel expenses to accompany the victim to court.*
- A** *No. In personal injury claims, VCAP can only reimburse a direct victim for travel expenses to court. Additionally, if the victim is a minor child or an incapacitated adult, VCAP can reimburse travel expenses for the individual who accompanied them.*
- Q** *A minor child victim was required to testify at court. His mother drove him (more than 50 miles one way). The hotel room was \$125 for the night. Can VCAP reimburse for the hotel room?*
- A** *Yes. Since the victim is a minor and needed a parent to accompany him to court, the victim and mom are both eligible for \$75 a night for lodging. VCAP will reimburse the actual cost, up to \$150—which in this case is \$125.*

APPEALS PROCESS

(37 Pa Code §411.18, §411.31 & §411.32)

Outlined below is an overview of the Appeal process that the VCAP uses when a claimant disagrees with the VCAP's decision and seeks to appeal the decision. Some of the steps described are mandated by law; others are within the discretion of the VCAP.

Request for Reconsideration

What the claimant must do:

When the VCAP issues an award decision or a denial on a claim to the claimant, a "Request for Reconsideration" form is attached. **If the victim/claimant disagrees with the VCAP's decision, he/she must complete and return the form to the VCAP within 30 days from the date of the decision** (exception outlined below) **along with the check that may have accompanied the decision.** This form will instruct the claimant to list each decision that the claimant feels the VCAP made in error and the reason why. Any additional information that the claimant would like the VCAP to consider should also be included.

NOTE: A Request for Reconsideration must be completed and signed by the claimant. An advocate may assist the claimant in writing the appeal, however, the claimant must sign.

Exception: If a request for reconsideration is not filed within the time required, the decision becomes final. A delay past the prescribed time period may be considered to be justified when one of the following circumstances exist:

- The direct victim or claimant is mentally or physically incapacitated.
- Other circumstances where good cause is shown by the claimant and deemed appropriate by VCAP. (Reviewed on a case by case basis)

NOTE: A claimant may not accept a portion of an award determination and reject another portion of the same determination. If a claimant desires to contest a portion of the determination, no payments can be made and the claimant shall contest the entire determination.

Reconsideration or Reaffirmation

What the VCAP will do:

Upon receipt of a "Request for Reconsideration" the file will be given to the Claims Review Officer who worked on the claim to review for the following:

1. If the claimant is rejecting the decision because he/she is requesting that a new bill be considered, the VCAP staff member may by telephone give the claimant the option to withdraw the "Request for Reconsideration" and process the bill as a supplemental award, thereby not affecting the award already in process.
2. If a Request for Reconsideration is received (based on the postmark date, not the date of receipt) past the 30-day time period and the delay is not justified, the VCAP decision becomes final.

3. If the claimant submits a Request for Reconsideration within the 30-day time period, but indicates that supporting documents have been requested and will be provided, the Claims Review Officer will hold the claim for 30 days. If the additional information is not received within the additional 30 days, the VCAP will reaffirm the original decision.
4. If a Request for Reconsideration of a contribution assessment or a denial is received, the claim is forwarded to the Claims Review Officer who made the decision to determine whether sufficient information exists to make a change or warrant further investigation by the VCAP.
5. If a Request for Reconsideration is received because the claimant believes that the VCAP made an error in the award amount (e.g. proven error in calculations or an incorrect deduction in either provider expenses or loss of earnings), the Claims Specialist will review and determine whether the new information is sufficient to effectuate a change.
 - a. If sufficient information has been received and the Claims Specialist determines that the decision should be changed, he/she will update the DAVE system with the additional information and initiate the appropriate paperwork to inform the claimant that the claim has been reconsidered and an award will be made. The decision is mailed to the claimant and a copy is mailed or faxed to the victim service program or attorney, if applicable.
 - b. If no new or substantive information is received, the VCAP will reaffirm the original decision.
 - c. The VCAP may issue the reconsidered determination as a final decision of the agency if it determines that the facts developed in the claims determination process establish that a particular determination is warranted as a matter of law.

Request for a Hearing

What the Claimant must do:

When the VCAP reaffirms a decision, the “Reaffirmation” is mailed along with a cover letter that outlines what the claimant must do if he/she still disagrees with the VCAP’s decision. An enclosed “Request for a Hearing,” form must be completed and returned to the VCAP within 30 days from the date of the decision (Exception outlined below). This form will instruct the claimant to list each decision that the claimant feels the VCAP has made in error and the reason why. Any additional information that the claimant would like the VCAP to consider should be attached to the “Request for a Hearing.” If the request for a hearing is not filed within the time required, the reconsidered decision becomes a final decision.

Exception: A delay past the prescribed time period may be considered to be justified when one of the following circumstances exist:

- The direct victim, intervenor or the claimant is mentally or physically incapacitated.
- Other circumstances where good cause is shown by the claimant and deemed appropriate by VCAP. (Reviewed on a case-by-case basis)

Requests for Hearings are reviewed by the Claims Review Supervisor, Program Manager, and Legal Counsel.

Consultative Session

What the VCAP will do:

Informal Consultative Sessions may be held with the victim and/or claimant under the following circumstances:

When a victim/claimant requests a hearing but fails to provide documentation or other evidence to substantiate the facts asserted, the VCAP may conduct a consultative session. The VCAP also may use this procedure at the “Request for Reconsideration” stage. In these circumstances, the purpose of this session is to:

1. Provide an opportunity for the claimant to discuss the circumstances surrounding his/her victimization and filing of the claim with the VCAP.
2. Provide an opportunity for the claimant to introduce any type of information or documentation that he/she has that may have an impact on the original decision made by the VCAP.
3. Provide an opportunity for the VCAP to review documents and discuss the reasons for the denial or contribution with the claimant. When it is the claimant’s intention to proceed with a formal hearing, the session can provide the opportunity to review with the claimant the requirements and procedures of the hearing.
 - At any stage of the claims process, the VCAP may determine that a Consultative Session would assist the Claims Review Officers in the preparation of a decision.
 - The VCAP will attempt to conduct the Consultative Session at a convenient location that is mutually agreed upon by the VCAP and the claimant. However, in some instances, a telephone conference call may be appropriate.
 - The attendees of the Consultative Session may consist of the claimant, VCAP staff, a facilitator, and if applicable, a victim advocate.

Hearings

If VCAP is unable to determine if a claim is justified based upon supporting documents, it may proceed with a hearing.

Hearing Schedule:

The hearing officer, who is an independent party with no previous involvement in any aspect of the claim, will conduct the hearing.

1. At least 30 days before the date of the hearing, the claimant, the claimant’s attorney (if one has been designated), and the victim’s advocate will be provided written notice of the time, place and purpose of the hearing.
2. The claimant must provide written confirmation to OVS of the claimant’s intent to attend the hearing, including documentary exhibits to be presented and a list of witnesses which must be received by OVS at least 10 days prior to the hearing date. Failure to comply with the confirmation requirements may result in the cancellation of the hearing.

3. A cancelled hearing may be rescheduled if the claimant shows good cause for failure to comply with the confirmation requirements. A hearing will not be rescheduled more than once, unless OVS deems it necessary.
4. The claimant may subpoena for attendance of witnesses or for production of documentary evidence.
5. Upon a showing of relevancy and materiality, the hearing officer may issue subpoenas for both the OVS and the claimant for attendance of witnesses or for the production of documentary evidence.
6. The hearing officer will liberally allow the admission of evidence that may not conform to the strict rules of evidence under common law or court rules. A stenographer or court reporter shall record the proceedings. Witnesses shall testify under oath.
7. The claimant shall have the burden of proving entitlement to compensation by a preponderance of the evidence.
8. Both OVS and the claimant may present testimony in support of their respective positions and cross-examine the opposing party's witnesses.
9. Hearings generally will be open to the public except that the hearing may be held by camera in any of the following circumstances:
 - Prosecution against the alleged perpetrator of the crime is pending.
 - The welfare and safety of the direct victim, intervenor, or his family or community may be adversely affected by a public hearing.
 - To protect the rights and interests of a minor.

A claimant may have support persons or victim advocates, or both, accompany them. The number of advocates and support persons may be limited by the hearing officer. It is recommended that a victim advocate accompany the claimant to the scheduled hearing.

10. Upon adjourning the hearing, the hearing officer will offer the claimant and OVS an opportunity to file post-hearing briefs, to be filed after the transcript is issued, on a schedule to be determined by the hearing officer.
11. Upon receipt of the transcript from the stenographer, notification will be sent by certified mail to the claimant that the transcript is available and can be purchased at the claimant's own expense.

12. OVS will reimburse claimants \$20 per day for attendance at a hearing. Additional expenses will be reimbursed as follows:

- Private vehicle usage at mileage rate currently paid by the Commonwealth to its own employees for travel.
- Common carrier fares when pre-approved by OVS.
- Lodging the night before or the night after a hearing session, to a daily maximum of \$75, if the claimant must travel at least 50 miles from home for the hearing.

NOTE: *At any point in the hearing stages, VCAP may reverse its decision under appeal by the claimant in order to pay the claim as sought by the claimant.*

Post hearing:

1. The hearing officer will issue a report and recommendation which will be delivered to a designated Commission official acting on behalf of OVS who has no previous involvement in the claim.
2. The designated Commission official will review the report and recommendation, the hearing transcript and the documentary exhibits. The designated Commission official may not have access to information not in the hearing record.
3. The designated Commission official may not be advised in the hearing process by an attorney or any OVS staff member who has previous involvement with any aspect of the claim that is being heard. The designated Commission official may request the General Counsel of the Commonwealth to appoint an attorney who has no prior involvement to provide advice on the matter.
4. Upon completing the review of the hearing officer's report and recommendation, the designated Commission official will do one of the following on behalf of OVS:
 - Adopt the hearing officer's report and recommendation as written as a final decision.
 - Modify the report and recommendation and issue the modified document as the final decision.
 - Reject the report and recommendation in its entirety and prepare and issue a final decision for OVS.
5. The designated Commission official will distribute the final decision to the claimant, the claimant's attorney, the victim's advocate, and to OVS.
6. The claimant shall have the right to appeal to Commonwealth Court.

ATTORNEY FEES

(18P.S. §11.312 and 37 Pa Code §411.52)

Who?

A private attorney who assists a claimant in the actual filing and processing of a claim.

What?

The attorney is eligible for no more than \$75 per hour, however under no circumstance may the award to the attorney exceed 15 percent of the total award made to the victim. If a claim is not awarded, the attorney will not be paid by VCAP, nor can the attorney bill the victim or claimant.

The victim or claimant can never be billed by an attorney for assisting in the filing of a claim. This not only includes when a claim is not awarded, but also if the attorney charges an amount higher than that paid by VCAP. If a victim or claimant you are working with receives a bill for these fees, please contact VCAP immediately.

Attorney fees are in addition to the award the claimant receives and are not included as part of the \$35,000 maximum. Therefore, an award a claimant will receive or be eligible for will not be reduced by payment of attorney's fees.

How?

The claimant:

Completes the attorney information section on the signature page of the claim form and indicates yes in response to the question "Are you represented in this matter by an attorney in filing a claim?" If the claimant obtains attorney representation after the claim is filed, please contact the VCAP staff member assigned to the claim to provide the name and address of the attorney.

The attorney:

1. Files a notice of appearance with the VCAP on behalf of the claimant. This means that the attorney is formally declaring he/she is representing the claimant in the case.
2. Files an affidavit of services with VCAP after an award is made, listing the nature of each service rendered and the amount of time spent in rendering the service, plus an itemized list of costs incurred in the preparation, procuring, and filing of record papers regarding the claim.

Attorney Fees Q & A

Q Are District Attorneys or other prosecutorial authorities eligible to receive attorney fees?
A *No.*

Q Are attorneys who work in a victim service provider agency (e.g., a Domestic Violence Legal Clinic) eligible to receive attorney fees?

A *Yes, as long as **no part of their salary is paid through PCCD funding** (VOCA, VOJO, RASA, STOP, JAG , etc). The agency the attorney works for may receive PCCD funding as long as those funds are not used to pay the salary of the individual attorney. For instance, “Crime Victims Legal Center” is funded by PCCD and other funding sources. One attorney receives 5 percent of their salary through STOP funds, while the salaries of the other four attorneys contain no PCCD funding. In this case, those four attorneys would be eligible to receive attorney fees, while the other attorney would not.*

Q Can attorney fees be billed for services provided by paralegals and legal assistants?

A *Yes, as long as they are done in conjunction with the attorney representing the claimant for that particular claim.*

Q Can attorney fees be billed for services provided by victim advocates for the attorney?

A *No. While victim advocates may certainly assist an attorney who is representing a claimant, their time is not billable.*

Q Can representation by an attorney be revoked?

A *Yes. If an attorney has filed a notice of appearance on behalf of the claimant, the notice shall remain in effect until 1) the claimant files with OVS a written revocation of the authority of the attorney, 2) the attorney files with OVS a written statement of withdrawal from the case, 3) the attorney makes a statement of withdrawal from the case on the record at a hearing, or 4) OVS receives notice of the license suspension or revocation or the death of the attorney.*

Q Will VCAP communicate with the attorney instead of the claimant?

A *VCAP may communicate with the attorney instead of the claimant if a notice of appearance has been filed with VCAP. Service upon the attorney shall be deemed effective service upon the claimant. This means that any information VCAP provides to the attorney is considered the same as VCAP providing the information to the claimant (even if VCAP does not actually provide the information to the claimant).*

Q What factors does VCAP use to evaluate applications for attorney fees?

A *VCAP will consider 1) the time and labor required, 2) the novelty and difficulty of the questions, 3) the skill needed to perform the legal service properly and 4) previous awards on similar claims.*

- Q** Can VCAP deny or reduce the amount an attorney who assists in the filing of a claim is eligible for?
- A** *Yes, VCAP may deny or reduce an award for attorney's fees if an attorney asserts a false claim as to the time spent on a matter concerning VCAP or asserts a false claim as to the services rendered to a claimant. OVS may refer the matter to the Disciplinary Board of the Pennsylvania Supreme Court, the Attorney General, or other appropriate authorities.*
- Q** What if the attorney does not file a "Notice of Appearance" with the VCAP? Is the attorney still eligible to request payment from VCAP?
- A** *No.*

HELPFUL INFORMATION - CHILD VICTIMS:

Who can file?

For a child under the age of 18, his/her parent or guardian must file on the child's behalf. If the parent or guardian is unavailable or fails to provide financially for the child's care, then the person who pays for eligible services provided to the child may file a claim for compensation for those expenses. Although this excludes service providers, such as Children and Youth agencies, insurance companies and other state agencies, service providers can serve an important role by helping their clients with completing a claim form and sending in their bills for crime-related expenses. (*Exception: Hospitals or licensed health care providers may file a compensation claim for **"FORENSIC RAPE EXAMINATIONS"** expenses.*)

To be eligible:

- The crime must be a Title 18 Crime as defined in the Pennsylvania Crimes Code, or may be among a few specified Title 30 or Title 75 crimes which involve injuries inflicted while driving under the influence. Additionally, crimes committed under the Controlled Substance, Drug, Device and Cosmetic Act are also eligible crimes. Title 18 crimes can include, but are not limited to, homicide, physical and sexual abuse, incest, corruption of a minor, neglect, and endangering the welfare of a child.
- The crime must have occurred in Pennsylvania.
- The crime must be reported to the proper authorities, such as law enforcement. There may be a reasonable delay in reporting because the child is mentally or physically impaired (or disabled), there is fear of retaliation, or it isn't obvious that a crime occurred.
- If a Protection From Abuse Order (PFA) that preferably includes the child is filed within three days of the crime, there does not need to be a report to law enforcement.

Preponderance Standard:

For a majority of VCAP claims filed for child victims of sexual abuse or assault, there is sufficient information contained in the police report to meet the preponderance of evidence standard. If the child did not disclose to either law enforcement as part of the investigation or during the forensic interview, VCAP wants to ensure that its verification process compliments the requirements of the Child Protective Services Law as outlined below.

The Child Protective Services Law mandates that therapists who suspect that a child has been a victim of abuse make an immediate report to Child Line. This report triggers both a child welfare response as well as a report to the district attorney. In order to assure that VCAP meets the preponderance of evidence standard required by law, the Program has a check-off block on the Mental Health Verification Form. The therapist will indicate that he or she, having reasonable cause to suspect abuse, has complied with the duty to report pursuant to the Child Protective Services Law.

In those cases where the child did not disclose to either law enforcement or during the forensic interview, VCAP may use the check-off block to assist in determining if the claim has met the preponderance of evidence standard.

Compensation for drug endangered children:

For a child who has suffered physical and psychological harm from being exposed to illegal drugs, i.e., meth labs, financial compensation may be able to help drug endangered children and their families.

Eligible Crime

The crime must be charged under the Controlled Substance, Drug, Device and Cosmetic Act or Title 18 of the Pennsylvania Crimes Code. These crimes include (but are not limited to):

- The unlawful manufacture of methamphetamine or phencyclidine in a structure where any child under the age of 18 years of age is present or where the manufacturing causes any child under 18 years of age to suffer bodily injury [35 P.S. §780-113(a)(38)]
- Corruption of minors [18 Pa C.S. §6301]
- Recklessly endangering another person [18 Pa C.S. §2705]
- Endangering the welfare of a child [18 Pa C.S. §4304].

Eligible Expenses

Medical expenses, which may include hospital and doctor bills, ambulance fees, and medications (or **any procedure** needed as a direct result of the crime and ordered by a physician, such as a medical assessment/screening, toxicology and blood testing, Hepatitis B/C panel, dental examination, neurological and respiratory status check, developmental and mental health evaluation, and/or medical follow-up appointments).

Helpful Information – Child Victims Q & A

- Q** A child victim is molested by a visiting relative but does not tell his/her parents until three years later. Are the parents eligible to file for counseling expenses for the child?
- A** *Yes, provided all eligibility requirements are met, the parents can file on the child's behalf for counseling.*
- Q** A 16-year-old was at a party with some friends who were drinking. They left the party to drive home and were involved in a one-car crash. The victim, who was a passenger in the car, was injured. Can he receive compensation for his medical bills?
- A** *Yes, his parents or guardian would need to file the claim on his behalf. In this circumstance, it is likely that he would be assessed contribution for knowingly and willingly entering the vehicle of a DUI operator.*
- Q.** A child was molested by a friend of his older sibling while visiting the sibling. The child does not disclose until four years later when he is 13 years of age. Can a claim be filed on his behalf? What is he eligible for?
- A.** *Yes, a claim may be filed. However, since the perpetrator was not a parent, paramour of a parent, someone living in the same household, or a person responsible for his welfare, the victim would only be eligible for counseling and any medications prescribed in conjunction with the counseling.*
- Q.** Same as above, however, victim disclosed within 8 months.
- A.** *A claim may be filed and the victim would be eligible for all benefits. Only when a claim is filed for a child past two years does it become important who the perpetrator was.*
- Q** A mother of an adult victim takes time off work to be at the hospital while her 16 year old son is in intensive care. Can mom receive lost earnings for homecare while the victim is in the hospital?
- A** *No. The Program is not able to pay lost earnings for homecare while the victim is in the hospital. However, once the victim is released from the hospital, if mom provides homecare, she can be compensated.*
- Q** Same as above however mom is needed to make medical decisions for her son while he is in the hospital. Can mom receive lost earnings for being at the hospital to make the medical decisions?
- A** *Yes. Mom would be eligible for her lost earnings for the period of time she was needed for medical decisions for her son, as certified by the treating physician.*

HELPFUL INFORMATION - FILING TIME REQUIREMENTS:

- **A claim for a child direct victim can be filed up to two years from the discovery of the occurrence of a crime for a full range of benefits.**

Extension:

- **Additionally, the filing time is extended for child direct victims as follows:**

- ***IF the person that committed the crime is any of the following:**

The child's parent

The parent's paramour

A person responsible for the child's welfare

Or any person living in the child's home

THEN the child/family has until the age of 23, or the statute of limitations on the eligible crime(s) expires to file a compensation claim for a full-range of benefits.

***IF the person who committed the crime was not any of the above relationships to the child:**

THEN the child/family has until the child reaches the age of 23, or the statute of limitations on the eligible crime(s) expires to file a compensation claim but the child is only eligible for counseling and related medications.

Eligible crime

The crime must be a Title 18 Crime as defined in the Pennsylvania Crimes Code, or may be among a few specified Title 30 or Title 75 crimes which involve injuries inflicted while driving under the influence. Additionally, crimes committed under the Controlled Substance, Drug, Device and Cosmetic Act are also eligible crimes. Title 18 crimes can include, but are not limited to, homicide, physical and sexual abuse, incest, corruption of a minor, neglect, and endangering the welfare of a child.

Eligible expenses

Child victims may be eligible for the following benefits, after any applicable insurance, including medical assistance, is utilized:

- Insurance deductibles and co-payments.
- Medical expenses, which may include hospital and doctor bills, ambulance fees, and medications.

- Reimbursement to allow the child to go outside a network to a provider who has the expertise necessary to properly treat the child.
- Counseling for the child, non-offending parent and certain family members.
- Physical therapy/chiropractic treatment.
- Transportation to medical providers, counseling and pharmacy, attend or participate in criminal justice or court proceedings.
- Loss of earnings for a parent to take the child to court or medical providers, or for a working parent to stay home to care for a child, administration of medication, meal preparations, etc.
- Daycare/babysitting fees for the child and/or siblings.
- Home schooling or special tutoring for the child.
- Relocation/lodging expenses.
- Home healthcare services.
- Hotel costs and subsistence for two individuals if the medical provider is more than 50 miles from home. (Receipts required.)
- Funeral expenses including, but not limited to, funeral home, cemetery, transportation and accompaniment of the deceased.
- When the deceased is a minor child, medical expenses (incurred as a result of the crime) may be considered if no other payment means are available.

HELPFUL INFORMATION - CONTRIBUTIONS AND DENIALS

The law requires that VCAP determine whether the direct victim because of conduct contributed to the infliction of the injury. In determining the amount of an award, the VCAP will determine whether, due to his/her conduct, the direct victim contributed to the injury. The VCAP shall reduce the amount or deny the claim altogether in accordance with its determination.

How contribution and/or a denial is determined:

Conduct

VCAP, upon review of a claim in its entirety, will make a decision on a case by case basis on whether contribution or denial is warranted. The following factors are taken into consideration:

1. Whether the direct victim initiated, provoked or prolonged a verbal or physical confrontation with the offender.

Note: *Consideration is given when there is a significant escalation of the fight, such as the introduction of a deadly weapon made by a person other than the victim or when a third party becomes involved resulting in more serious injury than the victim could have reasonably expected.*

2. Whether the victim participated in an illegal act that was causally connected to the injury.

Causal Relationship:

Means that the crime would not have occurred without the action of the victim. (A causal relationship exists if the actions of the victim result in a foreseeable injury, play a substantial role in the injury, or directly cause the injury.)

Some questions VCAP will consider:

- Is there substantial evidence to support the finding of causal connection (e.g. independent and credible witness statements, law enforcement information, court transcripts)?
 - Are there neutral and credible witness statements that support the finding of causal connection?
3. Whether the victim acted in a manner that placed himself or herself into a situation likely to result in injury.
 4. Whether the victim sought retaliation against the offender.
 5. Whether the victim entered into a physical altercation by mutual consent.
 6. Whether the victim was charged by law enforcement with criminal conduct as a result of the crime.

7. Whether the victim knowingly and willingly entered a vehicle driven by someone under the influence (25 % reduction). A reasonable person test will be applied in these circumstances. For example, if the driver and the passenger spend several hours drinking together in a bar, the passenger is presumed to know of the driver's inability to drive.
8. Stolen cash claims that are received and are eligible for an award will have a minimum 10 % contribution assessed if they fall under the definition of "pigeon drop" which is defined in the Regulations, as follows:

Pigeon drop: The act of approaching a person and asking that person if he would like to share an amount of "**found**" money. In order to share the money, the person shows a good faith effort by willingly providing a specified amount of money with the expectation of receiving a part of the "**found**" money.

9. VCAP will assess an award up to \$5,000 for medical expenses if the victim was injured in a vehicular related crime while driving his or her own vehicle without medical benefit coverage as required by Pennsylvania law. (Excludes motorcycles.)
10. An award may be reduced or denied in vehicle-related crimes when the victim is the driver and does not have a valid license or the victim's driver's license has been revoked or suspended at the time of the crime.

Cooperation:

The law requires that direct victim or claimant fully cooperate with law enforcement agencies and VCAP. A claim may be denied or an award may be reduced if it is found that the victim or claimant has not fully cooperated with law enforcement, prosecutors or VCAP as follows:

1. Failure to cooperate fully with a law enforcement agency in the investigation of the crime on which the claim is based.
2. Failure to cooperate fully in the prosecution of the alleged offender of the crime on which the claim is based.
3. Failure to provide truthful, complete and accurate information to VCAP to determine the eligibility or validity of a claim or amount of an award.
4. In crimes involving stolen or defrauded money, failure to implement personal crime prevention techniques recommended by the local police department, victim service program or crime prevention program at the VCAP request when crimes are similar in nature and repeated.

Failure to cooperate may be considered to be justified if one of the following circumstances exists:

- The direct victim, intervenor or claimant is mentally or physically incapacitated.
- There is a fear of retaliation.
- The victim is a minor.
- Other circumstances where good cause is shown by the claimant and deemed appropriate by the VCAP.

TIP: *If the claimant that you are working with has failed to cooperate for one of the above reasons, be sure to notify the Program member assigned to the claim of this in writing.*

Exceptions 18 P.S. §11.707(f):

1. By law, if the crime is rape or sexual assault, the conduct of the direct victim shall not be considered.
2. By law, if the crime is related to domestic violence, the conduct of the direct victim shall not be considered unless the direct victim was the primary aggressor. If the direct victim is determined to be the primary aggressor, the claim may be reduced or denied.
3. By law, if the crime involved is a homicide, the conduct of the direct victim shall not be considered for claims received by eligible claimants for counseling.

In cases of domestic violence the VCAP, in determining which party was the primary aggressor, may consider the following **{37 Pa Code §411.15(h)}**:

- Prior acts of domestic violence.
- The relative severity of the injuries inflicted upon the persons involved in those prior acts of domestic violence.
- The likelihood of future injury.
- Whether, during the prior acts, one of the parties acted in self-defense.
- The totality of the circumstances surrounding the crime.

In determining whether the conduct of a victim warrants a denial or reduction of an award, the VCAP may consider evidence indicating that a victim was acting with legal justification or other evidence of mitigation. Refer to the **“APPEALS PROCESS”** if the claimant disagrees with an assessment or contribution.

DAVE SYSTEM

The **Dependable Access for Victims' Expenses (DAVE)** System is the automated web-based computer system used by VCAP staff, victim advocates, medical providers, and victims/claimants to enter, process and check the status of victim compensation claims.

VCAP staff:

The Program staff use DAVE to process virtually every facet of each claim.

Victim Advocates:

Victim advocates are able to input compensation claims on behalf of victims directly into DAVE via the internet. They can enter additional bills, order compensation materials, generate reports, or check claim status. Advocates play a critical role in decreasing the claims processing time. Filing electronically saves time since a paper claim needs to travel through postal mail and then wait for VCAP staff to manually enter it into the system. Electronically filed claims are received and in the system the moment the advocate hits the "Send Completed Claim to PCCD" button.

Advocates wishing to file claims electronically through DAVE may do so upon completion of a **basic compensation training via web-ex**. To receive DAVE access or to receive DAVE training, please call 800-233-2339 and ask for the DAVE Administrator and Trainer.

IMPORTANT: *Trained users receive a password to access the DAVE system. Passwords are for your use only and are confidential. Do not share your User ID/password or information about how you access this system with anyone. Violations or abuse of the procedures may result in the suspension or termination of your access to the DAVE system.*

Victim Advocate - Helpful Information

Checking claim status

Advocates can check information concerning any claim filed by their agency on a real-time basis. This means that when the claimant changes their address or phone number, or VCAP updates or changes any information regarding the claim, that information is immediately available for review by the advocate. Advocates can also use this process to track a claim's status as well as when assisting a claimant with any questions about his/her claim.

Ordering Compensation Materials

On the DAVE log in page, you may order materials (such as claim applications, handout pads, posters, etc.) to be delivered to your agency. There is no charge for this service.

Statistical Reports

Advocates will have access in the System to generate reports for claims filed with the Program. Advocates will only see claim specific statistics for claims submitted by their program. Advocates will also be able to view statistics relative to those claims submitted by the county they operate in, however, no identifying information will be available. Advocates will be able to enter a specific timeframe and DAVE will generate the relevant information, such as number of claims filed, type of benefit, amount paid by benefit and the type of victimization for claims filed by your agency or county. Advocates will only be able to view information for your specific agency and county, which DAVE will automatically pre-fill for each report. You will be able to retrieve all information pertaining to a claim as far back as DAVE's inception in January 2002. This will be very helpful to you when submitting quarterly reports on your agency's activities.

Medical Providers:

Medical providers have the capability to check claim status updates for bills submitted for compensation. To gain access to DAVE, they use their FEIN (Federal Employer Identification Number), also known as a Tax ID number, and a Personal Identification Number (PIN) that is assigned by the Program. Providers can obtain their assigned PIN by contacting the Program. Medical providers also have the capability to submit Forensic Rape Examination claims directly through DAVE. Providers can obtain access to the DAVE System to by calling 800-233-2339 and ask for the DAVE Administrator and Trainer.

Victims and Claimants:

Victims and Claimants Helpful Information

Claimants have 24-hour a day, seven days a week access to information on their compensation claim(s) through DAVE on a secured site on the Internet. This allows claimants the opportunity to view a list of documents needed to process the claim, review the claim's payment history, check on the status of provider bills submitted, see summary information on the claim, and change their address/telephone number (excluding domestic violence crimes for security reasons). **If a victim or claimant asks you how they can access DAVE, the following steps are needed:**

1. Log onto our secure website at <http://www.dave.pa.gov>
2. Click the Victim/Claimant Login button.
3. Enter the Claim Number and PIN Number, which had been assigned to the claimant by the Program and then click the Log In button.

4. Read and agree to the Program's Privacy and Security Policy Summary.
5. The first time the claimant logs in, he/she will be required to change the PIN number assigned to him/her by the Program and to select a new PIN number. Remind the claimant to select a PIN number that is easy for him/her to remember containing 4, 5 or 6 digits.
6. He/she will be given an opportunity to complete an optional section, which will allow the Program to assist him/her in the future if he/she ever forgets the PIN number. If he/she forgets the pin in the future, he/she can click the Forget Your Pin link and the Program will automatically email the number to him/her.
7. By clicking on Claim Details he/she will now be able to view the Claim Summary Screen, Documents Screen, Expenses Screen and Payments Screen.
8. Information about this site and how to view more details can be found by clicking on the Using This Site link.
9. Additional information is also available to him/her by selecting a link in the dark blue area on the left side of the screen. He/she may select a link to view the steps in the Claims Process, Glossary of Terms Frequently used by the Program and Frequently Asked Questions.

THE DIRECT VICTIM SERVICES UNIT

The Direct Victim Services Unit, within the VCAP, is available to support local advocates with onsite compensation assistance in incidents of mass violence including crisis intervention, emotional support, assistance in completing a claim form and providing referrals. The Unit focuses on providing advocacy including landlord and creditor intervention as well as emotional support and referrals for victims who do not currently have the assistance of a local advocate. Other duties of the Direct Victim Services Unit include:

- Calling claimants in advance if a homicide claim is going to be denied and advise them of their appeal rights.
- Assist with walk in claimants.
- Conduct consultative sessions with crime victims and their families when they are requesting a hearing.

Call to find out if the Direct Victim Services Unit can help you.

Please call and ask to speak with the Direct Services Unit Supervisor at 800-233-2339 or 717-265-8728 for questions and assistance.

GLOSSARY OF TERMS

APPEAL—A claimant’s formal opportunity to challenge the decision made by VCAP regarding a claim. There are specific time frames within which a claimant can appeal VCAP’s decision.

AWARD—The money paid by VCAP for eligible crime related expenses.

BENEFIT STATEMENT—A document that shows income amounts and the source of income (such as social security, disability, retirement/pension, court-ordered spousal or child support, life insurance, etc.)

CLAIMANT—The person who filed the claim for compensation. (In most situations, the victim and the claimant are the same person; however, there are situations where someone else must file the claim on behalf of the victim. Examples: A parent must file as the claimant for a minor victim or a family member files as the claimant for a homicide victim.)

CLAIMS REVIEW OFFICER (CRO)—A VCAP staff member who reviews and makes recommendations on claims where an assessment or denial may be warranted in accordance with law.

CLAIMS SPECIALIST (CS)—A VCAP staff member assigned to work on a claim throughout the process.

COLLECTION/CREDIT CONCERNS—The Program can send a letter to a service provider at the victim/claimant’s request acknowledging that the victim or claimant was a victim of crime, and is responsible for an outstanding bill from the provider. This letter will provide information on the expected length of time for the claim to be processed and requesting that the provider give consideration to the victim/claimant to prevent additional trauma and stress to them. This is not a guarantee that VCAP will pay the claim.

COMPENSATION—A monetary reimbursement for expenses incurred or earnings lost as a result of an injury directly related to a crime.

CONSULTATIVE SESSION—A meeting between the Program and the claimant to gather additional information in order to make a decision on the claim. A consultative session is one of the steps in the Program’s appeal process.

CONTRIBUTION—The amount an award is reduced based upon the degree to which the victim’s conduct contributed to, provoked, or prolonged the infliction of the injury. Exceptions: in domestic violence cases, unless the victim is determined to be the primary aggressor, the conduct of the victim shall not be considered; in the case of sexual assault, the conduct of the victim may not be considered. In homicide cases, the conduct of the victim will not be a factor when determining counseling eligibility for certain family members

COUNTY VICTIM SERVICE PROGRAM—The agency or agencies in each county that can help a victim file a claim for compensation. These agencies also provide additional resources that

may be of help to a victim. To obtain a listing of these agencies, please go to www.pacrimevictims.org.

CRIME— An act which was committed:

- (1) In this Commonwealth by a person, including a juvenile, without regard to legal exemption or defense which would constitute a crime under the following:
 - (i) The act of April 14, 1972 (P.L.233, No.64), known as The Controlled Substance, Drug, Device and Cosmetic Act.
 - (ii) 18 Pa.C.S. (relating to crimes and offenses).
30 Pa.C.S. § 5502 (relating to operating watercraft under influence of alcohol or controlled substance).
30 Pa.C.S. § 5502.1 (relating to homicide by watercraft while operating under influence).
The former 75 Pa.C.S. § 3731 (relating to driving under influence of alcohol or controlled substance).
75 Pa.C.S. § 3732 (relating to homicide by vehicle).
75 Pa.C.S. § 3735 (relating to homicide by vehicle while driving under influence).
75 Pa.C.S. § 3735.1 (relating to aggravated assault by vehicle while driving under the influence).
75 Pa.C.S. § 3742 (relating to accidents involving death or personal injury).
75 Pa.C.S. Ch. 38 (relating to driving after imbibing alcohol or utilizing drugs).
 - (iii) The laws of the United States.
- (2) Against a resident of this Commonwealth which would be a crime under paragraph (1) but for its occurrence in a location other than this Commonwealth.
- (3) Against a resident of this Commonwealth which is an act of international terrorism.

CRIME VICTIMS COMPENSATION FUND—A fund established to assist victims and their families who have suffered a financial loss as the direct result of a crime. The Fund uses money collected from costs and fines assessed on convicted offenders.

CRIMINAL JUSTICE PROCEEDINGS—Includes trials, preliminary hearings, sentencing hearings, PFA hearings, Juvenile Justice hearings, Parole hearings, etc.

DENIAL—A decision by the Program to not pay compensation benefits. A claim is usually denied because of the victim's involvement in the crime, non-cooperation with authorities, or the claim did not meet statutory requirements.

DEPENDABLE ACCESS FOR VICTIMS' EXPENSES (DAVE)—The computer system used by the Program to process compensation claims. Many victim advocates use the DAVE System to input compensation claims on behalf of victims or claimants. Victims also use the system to file claims and to check claim status.

DEPENDENT CHILD (for loss of support purposes)—A Dependent Child is defined as the child of a direct victim, or intervenor, on whose behalf regular payments are received for the purpose of whole or partial support and who is one of the following:

- Under 18 years of age including an unborn child.
- 18 years of age or older but under 23 years of age and currently attending secondary school or is a full-time student in a post-secondary education institution.
- 18 years of age or older but unable to provide for his/her own support due to a physical or mental disability.

DIRECT VICTIM—An individual against whom a crime has been committed or attempted and who as a direct result of the criminal act suffers physical or mental injury, death, or the loss of earnings as defined in the Act.

DIRECT VICTIM SERVICES UNIT (DVSU)—Staff within the Program that provide a variety of services to assist victims and their families through the compensation process; handle claims that are received without a victim advocate's assistance; and may also respond on site when there are multiple victims needing compensation claim assistance.

EFFORTS TO AID THE INVESTIGATION—Includes reporting the crime to police; police interviews; police line-ups; and mug shots supported by the police report or advisement from official police personnel.

ELIGIBILITY—Specific legal requirements, which must be met for a claim to qualify.

EMERGENCY AWARD (EA)—A payment to a claimant for a loss that has created a financial hardship. For an EA to be awarded, one of the following must have occurred:

- Claimant has already paid for medical/funeral bills
- Claimant has lost wages
- Claimant is applying for money that was stolen or defrauded from them.
- Claimant was financially dependent upon a victim of homicide.

EXPLANATION OF INSURANCE BENEFIT STATEMENT (EOB)—This is a notice from a health/medical insurance company showing the amounts of coverage paid or denied for specific medical providers and services. These statements are needed to show the actual charges owed, if any, on itemized bills submitted to the Program. These statements are often referred to as EOBs.

FILING DEADLINE—The date by which a claim must be filed following a crime. A claim must be filed no later than two years after the discovery of the occurrence of the crime and the injuries must be as a result of the crime or no later than two years after the death of the direct victim or intervenor as a result of the crime or the discovery and identification of the body of a murder victim.

There are exceptions to this filing deadline when the direct victim is a minor.

HEARING—The formal review conducted by an independent Hearing Examiner that may occur when a claim decision made by the Program is appealed. The hearing will result in a recommendation to the Program from the Hearing Examiner to either reaffirm or pay the claim.

INTERVENOR—A person who goes to the aid of another and suffers physical or mental injury or death as a direct result of acting not recklessly to prevent the commission of a crime, or to lawfully apprehend the person reasonably suspected of having committed the crime or to aid the victim of the crime.

ITEMIZED BILL—Bills from medical providers, etc. showing the date(s) and type(s) of service provided. Itemized bills should also include the amounts charged.

MEDICAL CERTIFICATION—Verification from a physician, psychologist, psychiatrist or dentist that a specific amount of work was missed due to crime-related injuries.

MINIMUM LOSS—A loss of at least \$100 from cash, bills, wages or support needed to meet the minimum loss requirement. If the direct victim is age sixty (60) or older there is no minimum loss requirement.

OFFENDER—A person alleged to have committed a crime.

OFFICE OF VICTIMS' SERVICES (OVS)—The Office within PCCD that includes the Victims Compensation Assistance Program and the Victims' Services Program.

OUT-OF-POCKET LOSS—Bills that have been paid or are required to be paid by the claimant for eligible services provided as a result of the crime.

PAYOR OF LAST RESORT—The Program is considered the Payor of Last Resort or the last source of payment. The Program must ensure that all other resources (medical insurance, life insurance, etc.) are utilized prior to considering compensation for payment of crime-related expenses. Exceptions: With a Forensic Rape Exam, the claimant has the option of accessing their insurance or not, and for Stolen Benefit Cash claims, if the amount stolen is less than or equal to the deductible on his/her homeowner's or renter's insurance, then the claimant does not have to file with his/her insurance.

PENNSYLVANIA COMMISSION ON CRIME AND DELINQUENCY (PCCD)—The Commonwealth's primary criminal justice policy and programming agency with responsibility for enhancing the quality of justice through guidance, leadership and resources. To learn more about PCCD go to www.pccd.pa.gov.

PROGRAM—The Victims Compensation Assistance Program, also referred to as VCAP, within PCCD. The Program is responsible for determining eligibility, verifying claim information, approving or denying a claim and making payments for eligible expenses.

PROGRAM MANAGER—The individual within the Program who oversees the operation of the Program.

PROPERTY LOSS—No award shall be made if the only identifiable loss is property. For the purposes of compensation, property does not include prosthetic devices, wheelchairs, canes, walkers, hearing aids, eyeglasses or other corrective lenses or dental devices necessary as a result of the crime or stolen or damaged as a result of the crime.

REQUEST FOR HEARING—A formal request from the claimant that a hearing be granted.

REQUEST FOR RECONSIDERATION—A formal request for the Program to review its decision on a claim based upon new information provided by the claimant. This is the first step in the Program's appeal process.

REIMBURSE—To be paid back for money spent or to be compensated for losses incurred as a direct result of the crime.

REVIEW AND DETERMINATION—The decision by the Program when a claim has met eligibility and payments will be made.

STATUTORY REQUIREMENTS—The legal requirements that must be met to process a claim.

SUPPLEMENTAL CLAIM—Claims previously paid by the Program that are reopened because the victim or claimant has additional losses that are related to the original crime. A new claim form does not need to be filed, but the original claim number should be written on all bills submitted.

VERIFICATION—The process used by the Program to determine that all eligibility requirements have been met, and to ensure the accuracy of all information received on a claim. Verification may include contacting service providers, employers, etc. to receive proof that the medical expenses, loss of earning, etc. were a direct result of the crime.

Appendix A - BENEFITS AT-A-GLANCE

ELIGIBLE EXPENSES	DOCUMENTATION REQUIRED All require a police report or PFA.	PAYMENT MAXIMUMS (unless otherwise specified, all will fall under the \$35,000 cap.)
<p>Counseling Expenses</p> <p>Direct Victim-Adult</p> <p>Direct Victim-Minor</p> <p>Witness—a person who is physically present at the crime scene and witnessed a violent crime.</p> <p>Relative of a Direct Victim—anyone related to the direct victim within the second degree of consanguinity or affinity. This includes spouses, children, parents, siblings, grandparents, grandchildren, and in-laws. Also include step-relatives as listed above.</p> <p>Anyone engaged to be married to the victim.</p> <p>Shared household—anyone residing in the same household with the direct victim.</p> <p>Discovers Homicide—Anyone who discovers a homicide victim.</p> <p>Person responsible for the direct victim’s welfare (this would include legal guardians and foster parents).</p>	<p>Needed for all counseling claims:</p> <p>Copies of itemized bills in the claimant’s name, copies of paid receipts or canceled checks, copies of insurance benefit statements, if applicable.</p> <p>In addition to the above: Witness: A police report with the witness listed, or a written statement provided by someone who can substantiate the witness was present. Preferably the person preparing the written statement appears in the police report</p> <p>Engaged: An engagement announcement or copy of the application for a marriage license. If neither is available, a written statement may be accepted.</p> <p>Shared household: Bills or lease/mortgage agreements that indicate the same address.</p> <p>Discovers Homicide: VCAP will obtain a police report.</p> <p>Person responsible: Foster parent documentation, guardianship papers or other documentation that would show that the person filing for counseling is an individual responsible for the direct victim’s welfare.</p>	<p><i>Over and above the \$35,000 cap</i></p> <p>\$5,000</p> <p>\$10,000</p> <p>\$1,500</p> <p>\$2,500 \$5,000 for homicide</p> <p>\$2,500 \$5,000 for homicide</p> <p>\$2,500 \$5,000 for homicide</p> <p>\$1,500</p> <p>\$2,500 \$5,000 for homicide</p>

ELIGIBLE EXPENSES	DOCUMENTATION REQUIRED All require a police report or PFA.	PAYMENT MAXIMUMS (unless otherwise specified, all will fall under the \$35,000 cap.)
Crime-Scene Cleanup Reimburses any person who pays or assumes the obligation for the cost of crime-scene cleanup within a private residence. Includes landlords and property manager.	Itemized bills and receipts in the claimant's name.	<i>Over and above the \$35,000 cap</i> <i>\$500 per crime-scene</i>
Forensic Rape Examination and medications prescribed in conjunction with the exam.	The hospital or licensed healthcare provider bills VCAP directly for the charges related to Forensic Rape Examination and medications. The victim has the right to request that his/her insurance not be accessed for the costs.	Over and above the \$35,000 cap \$1,000 combined total for exam and medications prescribed.
Funeral Expenses Including funeral home, cemetery, marker/memorial, flowers, memorial meal, clothing for the deceased. Transportation expenses for transportation of body and making funeral arrangements for up to two persons-family members or someone designated by the family. For crimes occurring on or after 12/12/09 transportation is eligible for claimant (parent, child, or spouse of deceased or person who assumes obligation or paid funeral home bill) for attending funeral service, or criminal justice proceedings. Loss of earnings for an eligible claimant for trauma and/or making funeral arrangements and/or accompanying the body to the final destination. No lost earnings for homicide survivors for court.	Itemized bills for the funeral in the claimant's name, Statement of Funeral Goods and Services signed by the claimant and the funeral home director, receipts for related funeral expenses, copies of life insurance benefit statements, receipts for travel expenses, information requested for loss of earnings (if applicable).	\$6,500 for crimes occurring on or after 12/12/09. No subcaps. For crimes occurring prior to 12/12/09, \$5,000 maximum with the following subcaps: Funeral and Cemetery Combined: up to \$4,800 Marker/Memorial: up to \$900 Flowers: up to \$300 Memorial Meal: up to \$300 Clothing for Deceased: up to \$175 Loss of earnings: Maximum two weeks for trauma for eligible claimant. Up to 5 days for eligible claimant to make funeral arrangements and/or accompanying the body to the final destination. Two week overall maximum.

ELIGIBLE EXPENSES	DOCUMENTATION REQUIRED All require a police report or PFA.	PAYMENT MAXIMUMS (unless otherwise specified, all will fall under the \$35,000 cap.)
<p>Loss of Earnings – Non Homicide</p> <p>Victims or eligible claimants who lose time from work due to mental/physical injury as a result of crime, or to attend court proceedings.</p> <p>Also for employed family members providing home healthcare and replacement services. (Non-family members may also provide the home healthcare and replacement services, but will be reimbursed at an hourly rate.)</p> <p>Unemployed family members are not eligible.</p>	<p>Name and address of employer; copies of two pay stubs prior to crime (if not available, W-2's or IRS Tax Returns). If self employed, an IRS tax return and all schedules; documentation of any reimbursements received, such as sick or vacation pay. In addition a certification by a physician or psychologist, psychiatrist (or dentist, if applicable) of inability to work may be needed (if beyond two weeks.)</p> <p>For home healthcare and replacement services, in addition to the above information, a doctor certification that homecare and/or replacement services were necessary due to the crime, as well as the family member's employer contact information. If provided by a non-family member, then contact information for the individual providing the services, itemized bill for service and copies of cancelled checks or receipts in the claimant's name are needed.</p>	<p>\$15,000</p>
<p>Loss of Earning – Homicide</p> <p>May be considered for an eligible claimant for trauma, making funeral arrangements, and/or accompanying the deceased to the final resting place.</p> <p>No Lost earnings in homicide for court.</p>	<p>As above, documentation of the claimant's earnings and name and address of the employer, also documentation of any paid leave received.</p> <p>No doctor certification is required.</p>	<p>\$15,000</p> <p>In death cases, loss of earning may not exceed two weeks combined total for trauma, making funeral arrangements and/or accompanying the body to the final resting place.</p> <p>Max for making arrangements and/or accompanying deceased is 5 days.</p> <p>Non-family members providing home healthcare and replacement services will be reimbursed at a rate of \$8/hour.</p>

ELIGIBLE EXPENSES	DOCUMENTATION REQUIRED All require a police report or PFA.	PAYMENT MAXIMUMS (unless otherwise specified, all will fall under the \$35,000 cap.)
Loss of Support for anyone financially dependent on the deceased victim (spouse, child, or other legal dependent).	Needed for all loss of support claims: 1. Certified death certificate. 2. Documentation verification for lost wages. 4. Statements for benefits received as a result of the death of the direct victim or intervenor, such as life insurance, Social Security, veterans' benefits, or survivor benefits. 5. Birth certificates for dependent minors. 6. Guardianship papers, where applicable. For court ordered support (in addition to the above): 1. A copy of the Court Order showing the amount of support ordered. (Lost wages verification not needed for court ordered support.)	\$20,000
Medical Expenses Including hospital fees; physician charges; physical therapy; medications; dental expenses; medical equipment and supplies; ambulance; home healthcare and replacement services; and transportation to medical, pharmacy, and counseling visits.	Itemized bills, corresponding insurance benefit statements (if applicable).	\$35,000
Relocation Expenses Reimburses for temporary or permanent relocation expenses where there is an immediate need to relocate to protect the safety and health of the victim and those individuals residing in the victim's household.	Homeowner's/renter's insurance showing coverage or rejection, if applicable, itemized bills and receipts, and a verification letter from a human service provider, law enforcement, or medical provider explaining the need for immediate relocation.	\$1,000 per household for crimes occurring prior to 12/12/09. \$1,000 per each direct victim per household for crimes occurring on or after 12/12/09.

ELIGIBLE EXPENSES	DOCUMENTATION REQUIRED All require a police report or PFA.	PAYMENT MAXIMUMS (unless otherwise specified, all will fall under the \$35,000 cap.)
Replacement of Personal Health Items Stolen or Damaged Reimbursement for the costs for each prosthetic device, wheelchair, cane, walker, hearing aid, eyeglasses or other corrective lenses, dental device or prescription medication stolen or damaged in the crime.	Itemized bills in the name of the claimant and the name, address and telephone number of the provider and the date of service/purchase and the amount charged for each service. Copies of paid receipts or canceled checks, if applicable. The item stolen should be listed on the police report.	\$1,000 each with the following limitations: Eyeglass frames \$200 Canes \$100 Walkers \$250 \$1,000 for the replacement of all combined prescription medications stolen or damaged in a single crime.
Stolen benefit cash Reimbursement of cash stolen or defrauded if one of the following is the victim’s main source of income: Social Security, retirement plan, pension plan, railroad retirement, disability, veteran’s retirement, or court-ordered child or spousal support.	Homeowner’s or renter’s insurance showing coverage or rejection (if applicable) and verification of the victim’s monthly benefit entitlement statement(s). If required to file, then a copy of the victim’s signed and filed IRS Tax Return. The amount stolen must be listed in the police report.	Up to one month’s benefit entitlement.

ELIGIBLE EXPENSES	DOCUMENTATION REQUIRED All require a police report or PFA.	PAYMENT MAXIMUMS (unless otherwise specified, all will fall under the \$35,000 cap.)
<p>Transportation Expenses</p> <p>Traveling to or from medical care, counseling, to a pharmacy to fill a prescription, or in homicides, travel in connection with making funeral arrangements and transportation of the body.</p> <p><u>For direct victim only or if victim is a minor or incapacitated adult, the individual who transported them.</u></p> <p>For crimes occurring on or after 12/12/09 also includes travel expenses incurred for attending court proceedings or attending funeral. Paid for direct victim or eligible claimant.</p>	<p>An itemized bill showing the name and address of the service provider, the dates of service and the dates of travel. Receipts, including dates of service, if applicable.</p> <p>If using a driver: the name and address of the individual who provided the service, a statement from the driver listing dates of travel, the name and address of provider(s) where the victim was taken, and the number of hours incurred for each medical or pharmacy visit.</p> <p>Itemized bill for overnight accommodations if applicable.</p>	<p>\$35,000</p> <p>Roundtrip mileage, at the state rate.</p> <p>Driver reimbursement. Up to \$8 per hour or the mileage rate in effect if someone else drives the victim to services.</p> <p>Public transportation, reimbursed in full.</p> <p>Car rental, up to \$30 a day.</p> <p>Taxi fares in full.</p> <p>Tolls in full.</p> <p>Parking expenses in full.</p> <p>If travel to a provider is 50 miles or more (one-way) from the eligible person's home, then:</p> <p>Meals. Up to \$28 a day, with no more than \$6 for breakfast, \$6 for lunch and \$16 for dinner.</p> <p>Hotel, up to \$75 a night.</p> <p>Gas for official rental vehicles.</p>