

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is the driver of the vehicle or watercraft and the victim does not have a valid license or the victim's license has been revoked or was under suspension at the time of the crime.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.

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*”.)

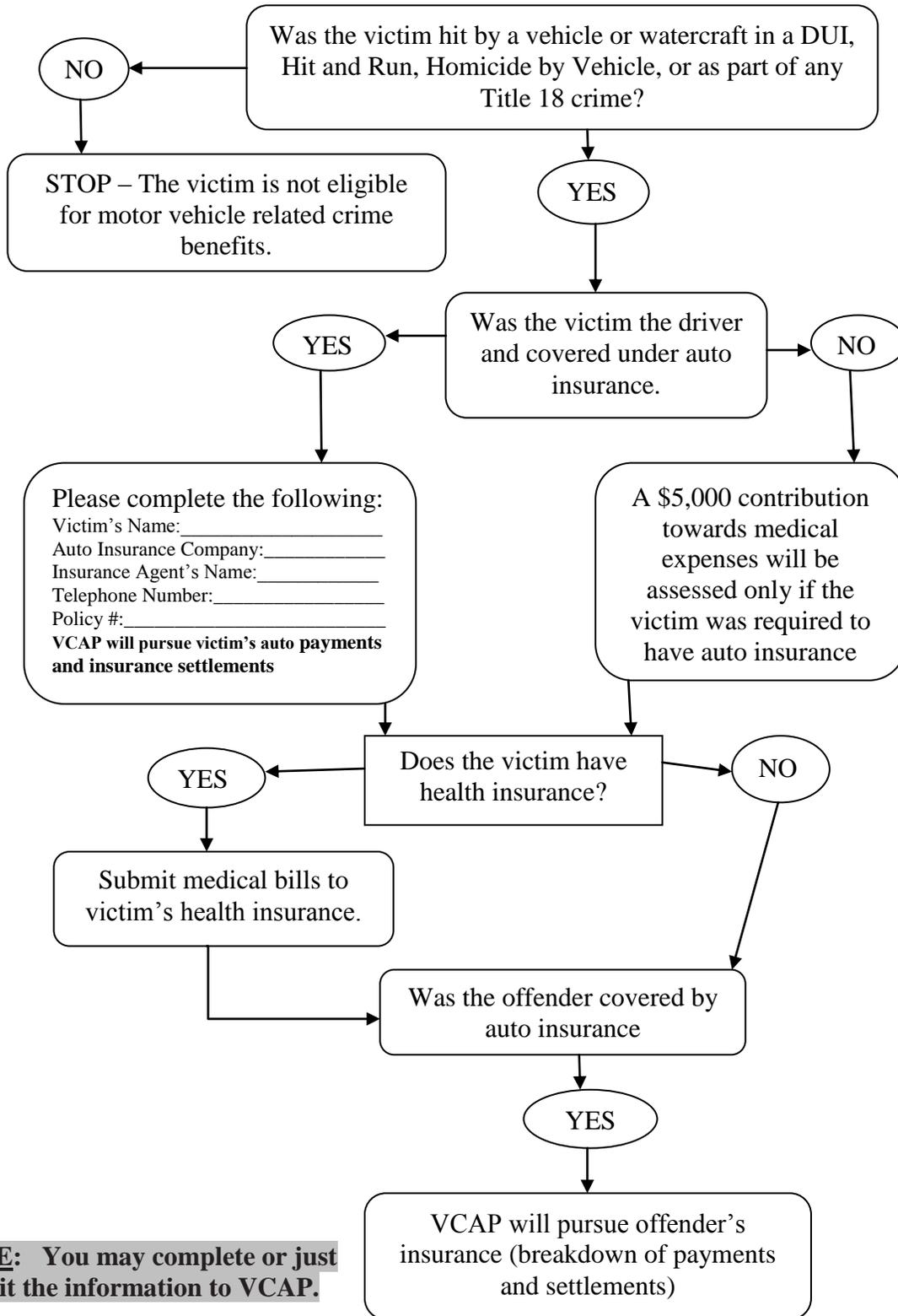
Please note: Act 6 of the Motor Vehicle Financial Responsibility Law specifies that when an injury is the result of a motor vehicle incident and such injury is covered by liability or first-party benefits, including Under/Insured and Uninsured Motorist coverage, a provider may not request payment in 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



NOTE: You may complete or just submit the information to VCAP.

Helpful Information: What Insurance do I file with?

