

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.*