

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.*