

# CRIME VICTIM COMPENSATION PROGRAM POLICY MANUAL

First Judicial District  
Colorado

## Table of Contents

Legislative Declaration	Page 2	Board Travel	Page 20
Application	Page 3	Mass Critical Incident	Page 22
Law Enforcement Reports	Page 4	Annual Review	Page 23
Claim Files	Page 5	Civil Rights	Page 25
Claim Review	Page 6	Restitution	Page 25
Conflicts of Interest	Page 6	Motor Vehicle Claims	Page 26
Administrative Approvals	Page 7	Law Enforcement/ Military	Page 26
Administrative Denials	Page 7	DCJ Reporting	Page 28
Cold Cases	Page 8	Fiscal Policies	Page 29
Denials	Page 8	Mental Health	Page 29
Reconsiderations	Page 10	Medical	Page 34
Payment Policies	Page 11	Lost Wages	Page 37
Collateral Sources and Sub.	Page 13	Funeral	Page 38
Emergency Claims	Page 15	Loss of Support	Page 39
Records Retention	Page 16	Property (DLW)	Page 40
Confidentiality	Page 17	Relocation & Storage	Page 42
Meeting Procedures	Page 18	Misc	Page 44
Outreach/Education	Page 19	Signature	Page 44

# Legislative Declaration

C.R.S. 24-4.1-101 et al.

**Legislative declaration:** "The general assembly hereby finds that an effective criminal justice system requires the protection and assistance of victims of crime and members of the immediate families of such victims in order to preserve the individual dignity of victims and to encourage greater public cooperation in the apprehension and prosecution of criminal defendants. The general assembly hereby intends to provide protection and assistance to victims and members of the immediate families of such victims by declaring and implementing the rights of such persons and by lessening the financial burden placed upon victims due to the commission of crimes. This article shall be liberally construed to accomplish such purposes."

These policies govern the crime victim compensation program of the First Judicial District, State of Colorado. They apply to victims within Jefferson and Gilpin Counties who are eligible for compensation funds under the Colorado Crime Victim Compensation Act. Residents of this jurisdiction who may be victims of international terrorism or other crimes outside this country also may be eligible for compensation funds within the same policy and statutory limits as those victimized within this jurisdiction if funds are unavailable through another source.

# Application and Claim Files

## APPLICATION

The Board will use an application based on a common statewide application that contains standardized information for all Crime Victim Compensation (CVC) claims. The Board, at its discretion, may require additional information, but shall not omit information from the statewide application.

The application will include the following elements:

- A. Clear and concise instructions as to how to complete the application form, a program telephone number and address for additional assistance or information;
- B. General victim/claimant identification, including name, address, phone number, date of birth, gender, physical or mental disability, race/ethnicity, and source of referral;
- C. The date, location and type of crime, information about the crime report and agency to which the crime was reported, and information about the perpetrator, if known;
- D. Itemized documentation of compensable expenses, if known. If compensable expenses are not known, instructions as to the process for submission at a later date;
- E. Disclosure of insurance coverage and other collateral sources of reimbursement;
- F. The claimant's or claimant's legal guardian's written authorization for release of information from service providers, creditors and employers;
- G. Attestation to the truthfulness of the information contained in the application;
- H. Signature of the claimant or claimant's legal guardian;
- I. A subrogation agreement;
- J. A statement that there is an alternative process available if there is a conflict of interest between the victim and one or more board members;
- K. A statement advising the victim they have a right to request reconsideration (appeal) of the Board's decision and information regarding the process for reconsideration;
- L. A statement advising the victim of the statutory right to have the Board's final decision reviewed by the district court after denial of reconsideration (appeal); and,
- M. Authorization for release of funds directly to a service provider for approved services provided.

The Board will consider applications for compensation that are complete and signed by the victim/claimant or claimant's legal guardian.

## **COMPLETE APPLICATION**

The CVC Board will maintain a standard and equitable process for the receipt, verification and review of all compensation claimants and application requests as well as for the approval, denial and disbursement of compensation funds. The CVC Board delegates authority to the CVC Program Staff to determine if an application is complete. This process shall include the following elements:

- A. Applications will be taken to the CVC Board when complete. A complete application includes:
  - 1) An application signed, initialed and dated by the claimant or claimant's legal guardian;
  - 2) The application indicates, or is submitted with, written bills or estimates, or specific compensable loss(es) are identified and can be verified either verbally or in writing;
  - 3) Insurance information including any private source or public aid that the claimant or victim is entitled;
  - 4) A law enforcement offense report that states the date, location and type of crime and includes basic narrative information about the crime from the law enforcement agency responsible for the investigation of the alleged criminal act(s).

## **LAW ENFORCEMENT REPORTS**

The CVC Board will utilize only written documentation from a law enforcement agency to establish a compensable crime. The fact that the identity of the perpetrator is unknown, or that the perpetrator has not, or will not, be prosecuted or convicted shall not raise a presumption that a compensation claim is invalid. The written documentation will be submitted in a report style format or on official agency letterhead and is to include:

- A. Location of alleged crime;
- B. Date of alleged crime, or date of outcry;
- C. Date alleged crime was reported to law enforcement;
- D. Type of crime;
- E. Name of victim;
- F. Relationship of victim to alleged perpetrator, if any, and if known at the time that the written documentation is being prepared;
- G. Name of responding officer and/or assigned investigating officer; and
- H. Agency case or report number.

The Board may accept a memo from the lead detective or investigator, at the discretion of the CVC Administrator, with the information listed above when a law enforcement report is not obtainable due to an active investigation or due to sealed records. The Board may consider an investigative report from the Department of Human Services as an offense report. And the Board may consider a letter from the Ralston House in lieu of a police report, when the Department of Human Services has not forwarded an allegation to the a local police department.

## **CLAIM FILES**

The Crime Victim Compensation claim file shall include the following:

- A. Documentation of a compensable crime, which must be in the form of a crime report from the appropriate law enforcement agency or Human Services.
- B. A completed application, signed by the victim or claimant.
- C. Written documentation of crime related expense.
- D. A treatment plan from the provider for mental health claims.

# Claim Review

## **AREAS OF CONSIDERATION FOR AWARDING COMPENSATION:**

The Crime Victim Compensation Board (CVC Board) will maintain a standard and equitable process for the receipt, verification and review of all compensation claimants and application requests as well as for the approval, denial and disbursement of compensation funds. The CVC Board conducts a fair and equitable application and award process for compensation claims, including but not limited to, the following areas of consideration:

- A. Eligibility based on criteria set forth in C.R.S. §24-4.1-108;
- B. Determination of a compensable loss as defined in C.R.S. §24-4.1-109(1);
- C. Where compensable losses were incurred during a compensable crime as defined by C.R.S. §24-4.1-102; and
- D. The Board may waive any of the requirements set forth in C.R.S. §24-4.1-108, or the limitations set forth in C.R.S. §24-4.1-109(1), or order a denial or reduction of an award if, in the interest of justice, it is so required.

## **CONFLICT OF INTEREST – CLAIM REVIEW**

If the victim believes that the Crime Victim Compensation (CVC) Board is unable to fairly review the victim's claim due to a personal or professional relationship with one or more board or staff members, the claim will be sent to another district for review, as decided by the CVC Board or the Administrator.

If a conflict is determined to exist, the Administrator will transfer the claim information to another Victim Compensation Board that has agreed to review the application. If necessary, staff may request assistance from the Division of Criminal Justice to identify an alternate compensation board.

The victim's request must be made before the Board makes a decision on the claim. The legal advisor may assist in determining if a conflict of interest exists.

A request for an alternative application process does not guarantee approval of the request.

The alternate Board will honor the written payment policies of the 1<sup>st</sup> Judicial CVC Board. The victim has the same right to request reconsideration of the decision by the alternate Board.

The 1<sup>st</sup> Judicial CVC Board will accept the decision of the alternate Board. If the claim is approved, bills will be paid through the 1<sup>st</sup> Judicial CVC Board.

The alternative CVC Board will notify the claimant and the 1<sup>st</sup> Judicial CVC Administrator of the Board's decision. If the claim is denied, the Administrator from the alternate program will send the denial letter, including information regarding reconsideration of the Board's decision. The alternate Board will hold the reconsideration hearing, and the reconsideration criteria from the alternate Board will be used. If the denial is upheld after the reconsideration hearing, the Administrator from the alternate Board will send the denial letter, including language directing the applicant to District Court to appeal the Board's decision.

## **NOTIFICATION OF DECISIONS**

Each victim/claimant or legal guardian shall be notified in writing of the Board decision regarding their respective claim requests. Written notification will also be sent to mental health providers following review of mental health treatment plans or mental health extensions. All such notification will be made within 10 days of the monthly board meeting, and will include information about the circumstances under which a victim may request a reconsideration of the Board's decision.

If the Board is aware that a claimant is mono-Spanish speaking notification letters will be mailed in Spanish. If the Board is aware that a claimant speaks a language other than English or Spanish, notification will be attempted via the Language Line or alternative phone interpretive service.

## **CLAIM MAXIMUM**

Colorado state statute limits the total claim maximum to \$30,000. In cases where the victim's bills total an excess of \$30,000, payment may be made in the order bills are received, or the staff may disburse funds as indicated by the victim.

## **ADMINISTRATIVE APPROVAL**

The CVC Board delegates authority to the CVC program staff to make an approval determination after review of a completed application, law enforcement report and/or request for payment from the fund according to statutory eligibility criteria when:

- A. The claim meets all eligibility requirements per statute and board policy.
- B. The claim is for three initial mental health sessions or residential property only, or a combination of both.
- C. The claim has previously been approved by the Board and a request has been made for Court Support sessions, MDT sessions or Clarification sessions.

The CVC Board will review, by a list of claims, and confirm all claims administratively approved at the next available Board meeting. All administrative approvals will be documented in the meeting minutes.

## **ADMINISTRATIVE DENIAL**

The Board has given the CVC Administrator the authority to administratively deny a claim based on the following:

- A. There is no offense report available from a law enforcement agency that documents a criminal incident has occurred pursuant to Colorado Revised Statutes.
- B. Claim does not involve an eligible expense as per statute and/or board policy.
- C. Crime was committed outside of the jurisdiction of the First Judicial District, but did occur in Colorado.
- D. Crime occurred prior to July 1, 1982.
- E. The application is not complete (unsigned).

A letter will be sent to the crime victim or claimant from the Administrator with notification that the claim has been denied and detail one or more of the above listed factors. This letter will contain

information that claim could be reviewed again, if the factor that directly contributes to the reason for denial has changed. The applicant will be informed that they have a right to seek review of the Board's decision according to Colorado rules of civil procedure. All administrative denials will be reviewed by the Board and will be documented in the minutes of the Board meeting.

### **TIME LIMITS FOR SERVICES**

Based on the facts of the individual claim, the Board will determine what will be considered a reasonable timeframe within which a victim may request medical or mental health services to be reimbursed by Crime Victim Compensation.

If the Board or CVC staff is unable to establish a nexus between the requested services and the crime due to time, or other mitigating factors, the Board may limit or deny an award.

### **COLD CASES**

The Crime Victim Compensation Board recognizes that changes in science and evidence collection have improved the ability of law enforcement to identify and charge suspects in "cold cases", and further recognizes the trauma that this may cause the victim(s) in these cases. The Board will consider an application for victims of cold cases, and similar to any other application, may waive the statutory eligibility requirements.

### **REASONS FOR DENIAL**

Pursuant to Colorado Revised Statute §24-4.1-108, Crime Victim Compensation may be awarded to a victim of a compensable crime when they have a compensable loss and meet specific eligibility criteria. The Board will base their claim decisions upon the law enforcement or Human Services report and when facts of the case are unclear or unsubstantiated the Board may approve a claim in the interest of justice and in the best interest of the applicant.

The Board will base their reasons for denial upon the eligibility requirements, in accordance with C.R.S. 24-4.1-101 et al. The Board may waive these requirements in the interest of justice, or in the best interest of the applicant/victim.

#### **A. REPORTING & APPLICATION TIMELINES**

For crime that occurred after July 1<sup>st</sup>, 1982, in order to be eligible for compensation, the victim must report a compensable crime to law enforcement within 72 hours. In addition, the victim must submit their application for compensation within one year of the date of the crime, and within six months for physical property claims. The Board understands that circumstances exist under which it may be appropriate to waive these requirements (e.g. sexual assault incidents, crimes against children).

#### **B. FAILURE TO COOPERATE**

Statute requires that the victim cooperate with law enforcement officials in the investigation and/or prosecution of the case. However, when reasonable grounds exist for a victim's failure to cooperate, such as serious threats of physical harm or death, fear of safety or shame, the Board may choose to make its awards "in the interest of justice".

#### **C. WRONGFUL ACT & CONTRIBUTORY CONDUCT**

If a victim's injury, or the death of a family member is the result of personal wrong act or

contributory conduct, their application may be denied. The Board will base their decisions on information obtained from law enforcement or Human Services reports. Uncorroborated statements by a suspect in a crime will be viewed with caution by the Board, and generally will not be considered in the denial of a claim.

Denial based on the “wrongful act” of the victim is based on the victim actually taking part in the illegal activity that was the cause of the injury or death; furthermore, the Board may find that the victim was a participant in a criminal event or wrongful act even when charges were not filed against them (e.g. mutual combat, gang fights, traffic-code violations, drug-related activity).

Denial based on “contributory conduct” does not require the victim’s actual participation in the crime that caused the injury or death, but rather requires that their actions related significantly to, or were the proximate cause of, the occurrence that caused the victimization. Generally, for the victim to be ineligible for compensation due to “contributory conduct”, the Board must find that the victim clearly put themselves in a situation where the victimization was a reasonably expected result, or which a prudent individual would have avoided.

#### D. SUBSTANTIAL PROVOCATION

Denial based on “substantial provocation” requires that the victim’s behavior immediately preceding their victimization and significantly contributed to their victimization through the victim’s provocation of the suspect(s) (e.g. challenging the suspect(s) to a fight).

#### E. UNJUST ENRICHMENT

The Board will evaluate on a case by case basis whether the suspect will be unjustly enriched by any award made by the compensation program. If the suspect has direct access to a cash award, the portion of the award that may directly benefit the suspect will be denied.

The Board will not penalize the victim for the failure of an offender to meet legal obligations to pay for the costs of the victim’s recovery. Therefore, in domestic violence cases the Board will award payment for medical and mental health services regardless of concerns of unjust enrichment to the offender.

#### F. MISCELLANEOUS

Claims may also be denied for the following reasons:

1. Claimant requests an award unrelated to the crime under which the claim was submitted.
2. Claimant requests reimbursement for personal property only.
3. Crime under which claim was submitted is not a crime considered “compensable” per board policy and/or statute.
4. Due to obvious inconsistencies in the victim’s/witnesses’ statements, it is likely that a crime did not occur.

## **RECONSIDERATIONS (APPEALS)**

Upon the Board's denial of a claim, the Board Administrator shall send written notice to the victim/claimant of the denial and the statutory/policy reason for the denial. The notice will include instructions as to the Reconsideration (Appeal) Process:

- A. Written request is to be submitted to the Board Administrator within thirty (30) days of the denial letter. The Board will not extend this deadline. A good faith effort will be made to deliver a letter of denial to the claimant via regular mail at the address shown on the application, within ten days of the Board's decision. It is the claimant's responsibility, as outlined in the program's initial confirmation letter, to contact the program if they have a change of address, and failure to do so will not be a consideration in allowing an extension of this deadline. Extension of this deadline will not be considered if a documented effort was made to mail the letter to the correct address.
- B. An appointment will be scheduled to meet with the Board at the next possible regularly scheduled board meeting, usually within two months of receipt of the request for reconsideration (appeal). Or, the victim may provide a written statement of appeal to be reviewed by the Board at the next regularly scheduled meeting.
- C. The victim/claimant must bring any information (documentation, witnesses, etc.) that may clarify for the Board the victim's eligibility and/or evidence against the reason for denial. The victim must directly address why the reason for the denial is unsound.
- D. The burden of proof is upon the applicant to show that the claim is reasonable and is compensable under the terms of C.R.S. 24-4.1-101.

Decisions of the Board are final. If, after reconsideration, the claim is denied, the victim/claimant will be notified in writing, within ten days of the Board's decision that a review of the Board's decision may be made in accordance with the Colorado Rules of Civil Procedure.

If a scheduled applicant is a "no-show" at a reconsideration hearing, that applicant may reschedule an appointment only if staff was notified prior to the time of reconsideration, and only for good cause as determined by staff or Board. If the appointment was not rescheduled before the reconsideration, the denial will be upheld based on failure to appear.

Claim decisions made at a reconsideration (appeal) hearing shall be documented in board meeting minutes and shall include the reason for the Board's final decision(s).

# Payment Policies

## **PAYMENTS**

Payments for services provided on behalf of crime victims shall be made to original service providers. If the victim has paid the service provider, then reimbursement will be made to the victim upon submission of documentation from the provider indicating such payment. The fund may reimburse a victim for expenses paid through an HSA or FSA policy or account, or any policy which utilizes the victim's own funds for medical expenses. No payments will be made to collection agencies.

Written policies regarding specific documentation required for payment in each award category is available upon request.

Payment authorizations, including an original board chair signature, will be provided to the Court Administrator's office. A signature stamp bearing the Board chairperson's signature constitutes an original signature for these purposes.

If signing authority is delegated for the purpose of payment, the program must have written authorization, and a copy of the authorization must be in the custody of the Judicial District Administrator's and District Attorney's Offices.

All payment is subject to the availability of compensation funds.

## **RIGHT TO RESCIND PAYMENT APPROVAL**

The Board reserves the right to rescind approval of payments on a claim where it has been determined by staff or members of the Board that the victim has falsified documents and/or provided false information in order to obtain payment through the fund. Such actions may result in claim denial, a request that already disbursed CVC funds be returned, a criminal investigation and/or criminal charges being filed against the victim.

## **PROVIDER UNDER REVIEW**

The CVC Board may limit, suspend or deny payments of bills submitted by a provider who is under review by a licensing board, or under investigation by a law enforcement agency. If the provider has been convicted of, or admitted to, defrauding any Crime Victim Compensation program, the provider is ineligible for payment through Crime Victim Compensation. Should the CVC Board decide to limit, suspend or deny payments of bills, the following procedures will apply:

- A. The CVC Board will notify the provider, in writing, of any change in payment status.
- B. The CVC Board will also notify any claimants receiving services from the provider of any change in the payment status.
- C. It is the responsibility of the provider who receives such notification from the CVC Board to make arrangements with clients for services provided after the date of notification.
- D. It is also the responsibility of the provider to submit written documentation of the final findings and outcome of licensing review and/or criminal investigation, prior to the CVC Board considering reinstatement of payment to that provider.

### **DELEGATION OF SIGNING AUTHORITY**

The Board chairperson will allow signing authority, in the form of use of a signature stamp, to the CVC Administrator for purposes of payment through the DA's CVC administrative fund. If such payment is in the form of reimbursement to the Administrator, a second signature, from the Victim Witness Director, must also be obtained.

The Board chairperson will also allow signing authority to the CVC Administrator, in the form of use of the chairperson's signature stamp, for monthly payment authorizations for purposes of payment from the CVC victim fund.

### **WRITTEN DOCUMENTATION OF FUND DISBURSEMENTS**

The CVC Program Administrator shall receive, verify and maintain written documentation pertaining to all approved CVC disbursements by claim number and application.

# **COLLATERAL PAYMENT SOURCES & SUBROGATION**

## **COLLATERAL SOURCES**

The Board has mandated that in all victim compensation cases the victim must submit his/her losses to his/her insurance company, defendant's insurance company, state insurance program (Medicaid, Worker's Compensation, etc.), or other collateral resource as per CRS 24-4.1-110. The program's administrative staff is required to withhold all payments on awarded cases until written or other equally binding assurances are accepted regarding the victim's losses and collateral resource payments.

The Board has determined that the primary objective of the victim compensation program is to finance quality services for victims of compensable crimes. The Board believes that crime victims frequently may not receive quality victim-specific mental health care through current insurance or HMO systems. Therefore, in order to benefit the victim and promote fiscal responsibility, the Board authorizes that victims who request victim-specific mental health services are not required to access those services through their insurance or HMO agency.

In addition, the Board authorizes payment of AIDS testing without submission to the victim's insurance company if the victim requests this due to privacy concerns.

The Board also recognizes that the victim of a vehicular crime may suffer undue financial hardship because of payment delays that occur when insurance companies are involved, or the victim is seeking recompense through a civil suit. Therefore, the Board will waive their payer of last resort status and make payment on behalf of a victim of a vehicular crime prior to their collateral sources making payment. The Board will require a signed secondary subrogation agreement from the victim prior to making such payment, which will serve as agreement to subrogate the fund at such time that the collateral source(s) make payment on behalf of the victim.

The Board recognizes the difficulty in tracking, verifying and limiting CVC awards when there are private donations. The Board will not consider private donations as a collateral source of payment and therefore, will not limit a CVC award due to the possibility or actual collections of private donations.

## **SUBROGATION**

Through the CVC application the victim/applicant agrees to subrogation. In auto crime cases, or cases where there is a likelihood of civil recompense, the CVC Board may require a secondary subrogation agreement to be completed and signed prior to issuing any approved crime related payments. In accordance with C.R.S. §24-4.1-110(2), the victim/applicant must repay CVC for the same crime related expenses that they received collateral source payment for. The secondary subrogation agreement will include the following:

- A. A statement that the victim has informed their lawyer that they have applied to CVC and agreed to subrogation for the items CVC compensates.
- B. A statement that the victim will inform their insurance company that they have applied to CVC and agreed to subrogation for the items CVC compensates.
- C. A statement that the victim will inform the defendant's insurance company that they have applied to CVC and agreed to subrogation for the items CVC compensates.
- D. A statement that they understand they will be required to reimburse CVC, if they receive any collateral sources of payment for the items that CVC has paid.

- E. A statement that they will notify CVC of their final civil settlement.

Without a signed secondary subrogation agreement, or on a case-by-case bases, the Board may postpone a funding decision, if there is a possibility that the applicant may be eligible for a considerable collateral source payment for their crime related debts. As the payer of last and pursuant to C.R.S. §24-4.1-110 the CVC Board may deduct from its award any payments received by the applicant from the offender or representative/agency of the offender or from a private source. The applicant would be eligible for CVC funding if their compensable crime related losses were in excess of the collateral source of payments. The victim must submit all settlement documents and itemized compensable losses in order to determine, what if any payments should be deducted from an award.

### **REQUESTS TO WAIVE SUBROGATION**

The Board will consider waiving their status as payer of last resort or subrogation when:

- A. A request is made from the victim/applicant and the victim successfully provides all necessary documents to the Board to verify:
  - 1. The compensable crime related losses exceed the collateral source payments, after any insurance adjustments have been made, or
  - 2. The settlement specifically indicates the financial award is for non-compensable losses (pain and suffering), or
  - 3. The settlement is a general award and does not indicate what losses are to be covered.

## **EMERGENCY AWARDS**

The First Judicial District is fortunate to have agencies to which crime victims may be referred for emergency financial assistance. Emergency awards that are considered compensable expenses under current Crime Victim Compensation board policy may be reimbursed to those agencies upon submission and approval of an application and appropriate supporting documentation, as outlined in written payment policy, as long as the funds were not funded through VOCA assistance funds.

If a situation occurs where this program may be required to make an emergency award, the Board, through a single member, may order an emergency award to the applicant, pending a final decision on the claim, if it appears to that Board member that undue hardship will result to the applicant if immediate payment is not made, and the applicant cannot wait for payment until the next monthly payment cycle. The amount of such award shall not exceed \$2,000, and shall be deducted from any final award made as a result of the claim.

Undue hardship shall include, but is not limited to, the threat of eviction, the inability to pay for food, housing, utilities, and/or medical expenses. Only those requests compensable under current board policy shall be considered.

If the amount of such emergency award exceeds the sum the board would have awarded pursuant to this policy, such amount shall be repaid by the recipient.

Requirements for consideration:

- completed application
- police report
- letter from victim requesting emergency award
- verification from victim advocate that no other sources of payment are available

The fully completed application, with required documentation as listed above, will be reviewed within seventy-two (72) hours of receipt. Approval from one (1) Board member shall be sufficient to authorize a pay order for the emergency award. Approval may be made by phone, fax or e-mail; however, the payment authorization must be signed by that Board member. The claim must be reviewed by the full Board at the next scheduled board meeting, and the decision documented in the meeting minutes.

# RECORDS RETENTION

## RECORDS RETENTION

The following schedule of records retention is prescribed by the state of Colorado, and is adhered to by the First Judicial District Attorney's Office. These time periods represent the minimum time period for which these documents must be retained:

- |  |                       |
|--|-----------------------|
| A. Minutes of CVC Board meetings:  | Permanent             |
| B. Statewide CVC Reports received from DCJ:  | Permanent             |
| C. All Financial Reports received from the Judicial District Administrator:                                      | Permanent             |
| D. Judicial District Administrator disbursement requests for the District Attorney's administrative fund:        | Permanent             |
| E. Annual Program Reports:   | Permanent             |
| F. Judicial District Administrator disbursement requests for compensation claims:                                | Seven years + current |
| G. Compensation applications approved for CVC fund disbursements:  | Seven years + current |
| H. Compensation applications approved for CVC fund disbursements and that include mental health treatment plans: | Seven years + current |
| I. Compensation applications denied for any CVC fund disbursement:   | One year + current    |
| J. Public Notice of Meetings   | One year + current    |
| K. General correspondence  | One year + current    |

# **CONFIDENTIALITY OF MATERIALS**

## **COMPENSATION MATERIALS**

Crime victim compensation materials are defined by statute as any records, claims, writings, documents or information concerning a compensation application.

## **CONFIDENTIALITY**

Any information or materials received, made or kept by the 1<sup>st</sup> Judicial CVC Board or the District Attorney's office concerning an application for compensation made pursuant to statute are confidential. Pursuant to C.R.S. §24-4.1-107.5., any such materials shall not be discoverable unless a judge conducts an in camera review of the materials sought to be discovered and the judge determines that the materials sought are necessary for the resolution of an issue then pending before the court.

All claim information, files, victim information etc will be kept in a separate and secure location, hard drive or server. Only CVC personnel and Board members may have access to confidential CVC materials.

## **DISTRICT ATTORNEY**

The District Attorney's office shall have standing in any action to oppose the disclosure of any materials received, made or kept by the 1<sup>st</sup> Judicial District CVC Board concerning a compensation application.

Pursuant to C.R.S. §24-4.1-302(1.5)(e.5), the District Attorney will notify the victim of the subpoena requesting in camera review of their application and enclosed materials in order that they may be present at the hearing wherein the applicant's materials may be released to defense and prosecution. CVC Staff will notify the prosecuting attorney or assigned victim specialist when a subpoena is received.

## **IN CAMERA REVIEW**

In camera review means a hearing/review before a judge in a courtroom, hearing room or chambers to which the general public is not admitted. After such a hearing/review, the statements and evidence of the judge and counsel shall be held in confidence by those participating or present at the hearing or review, and any transcript of the hearing/review shall be sealed until and unless disclosure is ordered by a court having jurisdiction over the matter.

## **RELEASE OF DOCUMENTS**

In accordance with C.R.S. §24-4.1-107.5, the compensation program staff will limit the release of information regarding a compensation claim to that information necessary only to recover restitution specific to that claim, and only for the purposes of a restitution request. A restitution motion will be created by the restitution analyst employed by the District Attorney's office, and only a summary of disbursements made on that claim will accompany the motion when submitted to the court. If additional supporting documentation is requested by any parties involved in the court proceeding, a subpoena duces tecum or an order of the court is required before staff may submit such documentation. Per statute, a judge must review the documents in camera to determine the relevance of the request for restitution to the CVC fund.

The victim's signed "Release of Information" on the application form is limited to information necessary to verify the claims submitted by that victim. This release of information policy is binding on all victim compensation information inquiries unless under court order to act otherwise.

In accordance C.R.S. §24-72-202, upon written request, CVC staff may release non-confidential program information; meeting minutes, statistics, etc. No specific claim information or victim information, including victim name is releasable. The funding decisions of claims are recorded via claim number to protect the confidentiality CVC on meeting minutes.

## **MEETING PROCEDURES**

Pursuant to C.R.S. §24-6-402, the public is welcome to observe the CVC meetings of the First Judicial District. Public notice of the meetings will be posted at the Courthouse and on the District Attorney or CVC websites. CVC meetings are not open for public comment or discussion. Persons who wish to submit information for the Board to review must do so in one of the following way:

1. Provide a written letter to the Board. Letters that are relevant; contain fact information, substantiation, and explanation of losses or medical/psychiatric need and are submitted by the first of the month will be provided to the Board for that month. Letters provided after the 1<sup>st</sup> of the month will be reviewed the following month.
2. Or, information may be relayed to any member of the CVC staff. Information will be included in the claim summary. Information should be relayed to staff by the first of the month. Information provided after the first will be reviewed by the Board the following month.

Claims will be reviewed/discussed and documented on meeting minutes by claim number.

In order to preserve and respect the confidential nature of CVC claims and victim information the Board shall review and discuss all claims, claim materials, claimant requests, medical reports, treatment plans, crime related debts, or appeals in Executive Session as allowed by C.R.S. §24-6-402(4)(c), C.R.S. §24-6-402(4)(g), C.R.S. §24-72-202(4)(b)(4), C.R.S. §24-7-204(1)(a), C.R.S. §24-4-107.5 when non-CVC staff or Board members are in attendance. The administrative portion and all funding decisions will be made outside of Executive Session.

# **PUBLIC EDUCATION/OUTREACH**

## **PUBLIC EDUCATION/TRAINING**

The Crime Victim Compensation Program will provide outreach and education to the public by:

- A. Publishing brochures which include information about the purpose and availability of crime victim compensation funds, including eligibility criteria and compensable services. The brochures will be given to all law enforcement victim services programs in the First Judicial District to distribute to crime victims. The brochure will also be distributed to providers, as requested.
- B. Providing training to law enforcement-based victim advocates and non-profit victim service agencies through scheduled trainings, and by attending victim service providers meetings for the district.
- C. Providing training to each attorney hired by the District Attorney's office.
- D. Providing training to requesting agencies and service providers as requested.
- E. Providing collateral agencies with updated policy information as the Board adds, removes, revises or amends policies.

The need for training shall periodically be reviewed for board members and DA staff. Regular training will be provided on victim compensation statutes, policies of the First Judicial CVC Board and the correct assessment of surcharges.

# BOARD AND STAFF TRAVEL

## MEETING AND TRAVEL POLICIES

Payment or reimbursement for expenses incurred by CVC staff or board members to attend or hold CVC-related meetings, trainings or conferences will be based on the following policies:

### Local meetings, trainings and conferences

Expenses eligible for reimbursement are the items or supplies necessary to hold a meeting, conference or training. This includes, but is not limited to, office supplies, nonalcoholic beverages, food and utensils for meals or refreshments provided to attendees, and speaker fees, lodging and travel expenses. Board members and staff will be reimbursed for the cost of lunches and/or dinners (including tips) attended during the scheduled meeting/training time, for which the staff or board member was required to pay. Receipts must be submitted for reimbursement.

### Non-local meeting, trainings and conferences

Travel advances are available to board members only, and are limited to the applicable per diem, paid at county rates. The per diem covers meals, tips, and nonalcoholic beverages; it does not cover transportation and lodging (see policies below regarding those expenses)).

### Travel/transportation expenses

- Airfare – It is the expectation that board members and staff will book flights at the lowest coach fare available, and as far in advance as possible to take advantage of discount fares. Reimbursement will be made upon submission of a confirmed itinerary.
- Other Forms of Transportation – If a board member prefers another form of transportation, other than flying, reimbursement will be made at whichever cost is lower- that of the airfare, or the alternate mode of travel. The balance of the cost will be the responsibility of the board member, if the more expensive form of travel is used. (Staff members must consult with the Victim Witness Director for DA's Office policy regarding alternate forms of travel.)
- Taxi – Taxi fare for travel required for attendance at scheduled conferences in other cities will be reimbursed upon submission of the appropriate receipts.
- Rental Car – Board members may use a rental car for non-local travel if the location of the meeting, training or conference requires it. Preapproval must be obtained from the Board prior to the date of departure. (Staff members must obtain approval from the Victim Witness Director prior to the date of departure.)

### Lodging expenses

If board or staff members arrange their own lodging, it is expected that every attempt will be made to obtain lodging at any facility offering special rates for that particular event. Reimbursement will be made for the duration of the conference. If no rooms are available at those facilities, the board or staff member may arrange lodging at a similar facility, for which full reimbursement will be made for the duration of the conference. In addition, reimbursement may be made for wireless internet connection and one long distance call per day. An itemized statement from the hotel must be submitted for reimbursement.

Mileage

Mileage may be paid to board members and staff when local travel is necessary to conduct business or attend meetings, trainings or conferences. Mileage will be reimbursed at the county rate effective at the time the cost was incurred.

Cancellations

If it is necessary to cancel travel arrangements, it is expected that the board or staff member will make cancellations as soon as possible in order to minimize any associated fees. Per diem monies will be returned or reimbursed in full to the District Attorney CVC Administrative Fund as soon as possible after the need for cancellation is identified.

Attendance

It is the expectation of the CVC Board and the District Attorney's Office that a board or staff member incurring expenses paid for through the District Attorney CVC Administrative Fund for travel to attend meetings, trainings and conferences, will attend and participate in the meeting, training or conference.

# **MASS CRIMINAL CRITICAL INCIDENT**

## **MASS CRIMINAL CRITICAL INCIDENT**

For purposes of this policy, a mass criminal critical incident is a criminal incident resulting in a large scale event that has the potential to harm life or well-being, and causes extreme stress, fear, injury or death to the citizens of the community.

Upon the event of a mass criminal incident, the CVC Administrator may approve and disseminate a condensed version of the current CVC application specific to that incident. The condensed application will only be available through the CVC Administrator, and shall only be used for victims/families/witnesses, or other parties identified as eligible by the CVC Board, impacted by the mass incident. Law enforcement advocates will have access to the CVC Administrator via business phone or e-mail, to request such application or other CVC assistance at the time of the incident.

The CVC Administrator, or any member of the CVC Board, may request a special meeting to be held prior to the next regularly scheduled board meeting. The CVC Administrator will project the possible financial impact of the incident, and the availability of financial resources. The Board may create policies specific to the incident. The CVC Administrator will disseminate those policies immediately thereafter to all relevant law enforcement agencies and victim services programs that may be providing assistance to victims of the incident.

# ANNUAL REVIEW AND PLANNING

## **FINANCIAL REVIEW**

The CVC Board, assigned administrative staff within the District Attorney's and Judicial District Administrator's offices shall annually review and assess the effectiveness of financial policies as they pertain to their respective CVC responsibilities and conduct an annual financial review to assess the effectiveness of the CVC Board's financial policies to determine if current financial policies are appropriate to maintain a reasonable fund balance. This review will take place during the first quarter of each year at the CVC Board's annual business meeting.

- A. In conducting the financial review, the CVC Board shall use monthly financial reports from the Judicial District Administrator and payment information collected by the CCVC database. Such review shall contain the following elements:
- 1) A review of the amount of funds received since the last review;
  - 2) An analysis of the increase or decrease in the amount of dollars coming into the fund;
  - 3) A review of the number of claims received and paid since the last review;
  - 4) An analysis of the claims paid in relation to the funds available;
  - 5) An analysis of significant increases or decreases in requests for compensation;
  - 6) A review of the amount of funds encumbered;
  - 7) A review of the length of time the unpaid obligations are maintained;
  - 8) An analysis of the CVC Board's ability to meet existing unpaid obligations when due;
  - 9) An analysis of the CVC Board's ability to meet future unpaid obligations prior to making new financial commitments;
  - 10) A review of the current fund balance;
  - 11) Fund balance projections for six months and one year; and
  - 12) A determination if current payment policies are appropriate to maintain a reasonable fund balance based upon the review of the present and future fund balances.

## **PROGRAM REVIEW**

The CVC Board, along with the assigned administrative staff from the District Attorney's office shall conduct an annual program review that shall be documented in the meeting minutes. This review will take place during the first quarter of each year at the CVC Board's annual business meeting. This review shall be documented in the meeting minutes and shall include, but not be limited to:

- A. A review of the average claim processing time from the receipt of a completed application to the CVC Board's initial eligibility determination to verify if the time is within 45 working days, but no longer than 60 working days;
- B. A review of the claims denied during the past year to determine if patterns of denial exist;
- C. A review of policies that affect the amount of funds a claimant may receive, including but not limited to, dollar limitations related to type of crime or type of service.

## **POLICY CHANGES**

The CVC Program Coordinator or designee will disseminate notification of any policy changes that may affect the amount of funds a compensation applicant may receive to the general public, claimants and service providers affected in a manner the CVC Board determines appropriate.

# CIVIL RIGHTS

## **NOTIFICATION TO PROGRAM BENEFICIARIES FOR FILING CIVIL RIGHTS COMPLAINTS**

If the Crime Victim Compensation Program (administrator, staff, board member, etc.) receives notice from an individual alleging discrimination based on race, color, national original, religion, sex, age, disability or sexual orientation in provision of services, the Crime Victim Compensation Program will refer the individual to the state and federal Office for Civil Rights, as well as provide the individual with the contact information for the state and federal Offices for Civil Rights as follows:

### Federal

Phone number: 202-307-0690

TTY number: 202-307-2027

Website: [www.ojp.usdoj.gov/ocr](http://www.ojp.usdoj.gov/ocr)

### State

Phone number: 303-894-2997

TTY number: 711-303-894-2997

Website: [www.dora.state.co.us/civil-rights/](http://www.dora.state.co.us/civil-rights/)

# RESTITUTION

## **RESTITUTION**

The CVC Board will not authorize the prosecution in a criminal case to waive the requirement to seek restitution to the CVC fund where payment has been made on behalf of the victim, except in minor sibling cases or cases involving victims who are the parents of a minor offender, where restitution would be required by the party or parties seeking assistance from the CVC fund.

The Board may waive the requirement to seek restitution if the claimant or the Board believes that requesting restitution could put the victim at further risk from the offender or cause undue hardship.

# **MOTOR VEHICLE CRIMES**

## **MOTOR VEHICLE COMPENSABLE CRIMES**

The Board has determined as per (CRS 24-4.1-102 (4)) that the following motor vehicle crimes are compensable; reckless, vehicular assault and homicide, DUI, Careless Resulting in Death, Careless Resulting in Injury, and Hit and Run. Hit and Run is covered in cases where law enforcement is unable to determine if the suspect had been drinking at the time the crime occurred due to the period of time between the crime and when the suspect was arrested.

# **LAW ENFORCEMENT, MILITARY, SECURITY GUARDS & INMATES**

## **LAW ENFORCEMENT OFFICERS/SECURITY GUARDS**

The program will compensate law enforcement officers and security guards injured in the line of duty for related medical services and lost wages for primary and secondary employment after submission to Worker's Compensation or all other collateral sources. The program will not compensate for medically necessary devices damaged or destroyed during the crime (example: contact lenses, prescription eyeglasses, dentures, etc.)

## **MILITARY PERSONNEL**

The Compensation program will not compensate military personnel injured or killed in the line of duty.

## **INMATES OF CORRECTIONAL FACILITIES**

The program will compensate inmates of state, county, or municipal correctional facilities who are victimized while being detained in the correctional facility. It is the belief of the Board that responsibility for the well-being of those inmates belongs with the governmental agency involved, but the Board acknowledges that there are issues that may prevent the inmate/victim from seeking treatment while in custody. The Crime Victim Compensation program will consider payment for compensable losses, excluding lost wages, upon the victim/inmate's release from the correctional facility, and with verification that the victim has completed all offense-specific treatment, but will not assume responsibility for arranging the treatment. Incarcerated victims are defined as those who are housed in a correctional facility and are victimized while housed in the correctional facility (which does not include Detox).

# UNJUST ENRICHMENT

## UNJUST ENRICHMENT

In determining whether a compensation claim can be approved without unjustly enriching an offender in a DV case, and without penalizing the victim/claimant, the Board will evaluate the following factors:

- A. Does the offender have access to any cash payment coming into the household on behalf of the victim, and will a substantial portion of the money be primarily used by or for the benefit of the offender?
- B. Is the offender being held accountable, either by the criminal justice system or through some therapeutic measure?
- C. Is the victim/claimant cooperating with the criminal justice system in the investigation and prosecution of the crime?
- D. Will the victim/claimant do what is possible to prevent access by the offender to the compensation paid?

If the Board has information through law enforcement that the victim and perpetrator in a DV case are still involved in a relationship at the time the claim is reviewed, the Board will limit the award strictly to medical and mental health compensation, and only payments made directly to providers will be approved. This policy is in place to prevent unjust enrichment to the perpetrator, while not penalizing the victim.

# **INFORMATION FOR THE COLORADO DIVISION OF CRIMINAL JUSTICE**

## **REPORTS**

- A. Quarterly, the CVC Program Administrator or designee will send to the Colorado Division of Criminal Justice, on the forms provided by the Colorado Division of Criminal Justice, reports of the program activities of the CVC Board.
- B. Quarterly, the Judicial District Administrator or designee, will send to the Colorado Division of Criminal Justice, on the forms provided by the Colorado Division of Criminal Justice, reports of the financial activities of the Board.
- C. The CVC Program Administrator or designee will annually send to the Colorado Division of Criminal Justice a copy of administrative fund expenditure reports as submitted by the District Attorney and the Judicial District Administrator and an annual activity report.
- D. The Victim Compensation Board shall comply with requests from the Division of Criminal Justice for standardized data and reports. Requested information shall be provided by the date specified by the Division of Criminal Justice.

## **AUDIT FOR FEDERAL COMPENSATION FUNDS**

The District Attorney will annually send to the Colorado Division of Criminal Justice a copy of the District Attorney Office annual audit that included federal victim compensation funds.

# **COMPENSABLE SERVICES**

## **MENTAL HEALTH**

### **MENTAL HEALTH ASSESSMENTS**

The Board will begin mental health therapy approval for primary or secondary victims with three initial assessment sessions. This will allow a state licensed counselor to assess their client's needs and formulate a mental health treatment plan. Additional funding, beyond three sessions, will only be considered when the therapist submits a mental health treatment plan. Payment for the three initial sessions may be made upon receipt of an invoice. Assessment sessions will be encumbered for a period of 6 months.

The program staff is authorized to grant initial approval for the primary or secondary victims to attend three (3) out-patient mental health assessment sessions. The staff must have a signed application, and police report. The victim's case must meet the following standard requirements for crime victim compensation cases in order to be approved for the assessment sessions by staff:

1. Crime occurred within physical boundaries of the First Judicial District of Colorado.
2. Crime occurred after July 1, 1982 and was reported within seventy-two (72) hours or,
3. Victim has cooperated fully with law enforcement officials to date and is currently determined to be innocent of any wrong doing in the crime in which s/he was injured.
4. The application is filed within one (1) year of the crime or, in the case of child victims, within one (1) year of the date an adult was made aware of and reported the crime.
5. The reported crime meets the statutory definition of a compensable crime.

### **MENTAL HEALTH TREATMENT PLAN**

For mental health counseling beyond three initial assessment sessions an initial treatment plan must be submitted for all primary and secondary victims. The board will review each treatment plan and approve additional mental health counseling based on the therapists recommendation and requested number of sessions, if treatment is directly related to the crime for which they have applied. Initial therapy approvals will be encumbered for one year or extended until exhausted if the victim is attending counseling on a regular basis. Letters of approval will be mailed to the victim and the counselor. A treatment plan is exclusive to the therapist and may not be transferred to another provider.

### **MENTAL HEALTH EXTENSIONS**

If an applicant would benefit from crime related mental health counseling beyond the initial therapy approval, the board will accept and review an extension request. For extensions greater than 26 sessions, or for therapists that are new to working with the board, the therapist will be scheduled a time to meet the board and review their request. The therapist may opt out of meeting with the Board in person if they have a scheduling conflict or if the therapist or the applicant is opposed to having the in-person request audio recorded as necessary during executive session. Extension approvals will be encumbered for one year or extended until exhausted if the victim is attending counseling on a regular basis. Letters of approval will be mailed to the victim and the counselor. An extension approval is exclusive to the therapist and may not be transferred to another provider.

**IN-PATIENT TREATMENT/72-HOUR MENTAL HEALTH HOLD:**

Payment for short-term in-patient mental health treatment needed as a result of the crime may be considered for payment. Due to financial constraints, the program may not compensate for long-term in-patient mental health treatment. If approved, payment will be considered a medical expense by the CVC Board. There must be a clear nexus between the victimization and the need for in-patient care. This award is strictly limited to treatment for crime-related issues, for a total of seven (7) days of in-patient mental health treatment, or up to \$15,000 in out of pocket expenses, whichever limit is reached first. Payment is limited to expenses incurred within one year of the date the crime was reported.

**CONDITIONS OF PAYMENT:**

Payment will be considered under the following policies:

1. Sessions must be 45 minutes or longer. Sessions in excess of 45 minutes will still be paid at the CVC session rate.
2. Claims received after 6/1/2015 will be paid at \$90 maximum per individual session; \$40 maximum per group session or \$135 per EMDR session.
3. Claims received prior to 6/1/15 will be paid at \$80 maximum per individual session; \$40 maximum per group session or \$125 per EMDR session.
4. The therapist must be state licensed or hold a Master's Degree in a counseling field, be registered with the Department of Regulatory Agency and be supervised by a state licensed therapist.
5. Invoices must contain the patient name, claim number (if known), date of session, description of session or CPT code, cost per session and any payment received.
6. Treatment Plans and Extension requests must be submitted on the Board templates. Mental Health Providers may obtain the templates and the current mental health policies from CVC staff.
7. If insurance is available, all sessions should be submitted to insurance before CVC may consider compensation.
8. The Board will only consider mental health treatment from more than provider at a time when a second provider specializes in a modality that the first provides does not provide and both medical health providers work together to meet the victim's needs. Each provider will need to submit a treatment plan.

The program will not compensate for the following out-patient mental health services:

1. Couples, marital or family treatment.
2. Professional consultations.
3. Recurrent/intermittent therapy, unless deemed appropriate by the Board prior to such treatment.
4. Missed or cancelled appointments.
5. Trial attendance or support, except as noted below (see "Court Support").

6. Telephone contact(s), or videoconferencing between the victim and service providers, unless approved by the Board prior to such contact.
7. Any report writing.
8. Investigatory evaluations requested by police or prosecution, except as noted below.
9. Tests or evaluations billed separately from the initial intake session unless approved by the Board.

### **CHANGE OF THERAPISTS**

If a crime victim compensation client wants to change therapists part way through the awarded sessions, s/he must notify their current therapist in writing and arrange for the new therapist to complete the Initial Treatment Plan. When this is reviewed by the Board as a Special Case, written notification will be sent to the client of the Board's decision.

### **CONFLICT OF INTEREST – MENTAL HEALTH**

In those situations where a crime victim chooses to be in treatment with the same agency providing treatment to his/her perpetrator, it is the policy of the Crime Victim Compensation Board to pay for the victim's treatment if, and only if, those services are provided by a different therapist in a separate, safe facility of that agency, permanently designated for non-perpetrator treatment.

### **EMDR**

The program will compensate up to \$135 per EMDR session, which is the equivalent of 1 ½ hours of therapy paid at the normal policy rate of \$90 an hour for mental health sessions; therefore, EMDR sessions must be 90 minutes or longer to be eligible for payment at the higher rate. This policy has been instituted acknowledging that, while these sessions are of longer duration than traditional mental health sessions, usually fewer overall sessions are needed when EMDR is incorporated into treatment. With that in mind, if EMDR treatment exceeds 15 sessions, the Board will require the therapist to submit a written update, explaining the need for additional sessions, before further payment will be made for EMDR.

### **NEUROFEEDBACK SESSIONS**

The Board will approve neurofeedback therapy solely in conjunction with traditional talk therapy. The Board requires that a treatment plan be submitted, as well as itemized bills, and upon approval, payment will be made at the standard rate (\$90 per individual session).

### **COURT SUPPORT SESSIONS**

It is the policy of this program to allow both primary and secondary victims whose approved mental health therapy has been completed to use up to eight (8) additional sessions with their original therapists for court support, to be paid at \$90 per individual session or \$40 per group session. The therapist must request the sessions in writing. This applies only in those cases in which the prosecution of the suspect has been delayed beyond the treatment termination date. The additional sessions are to be scheduled expeditiously by the treatment provider. These sessions may be administratively approved by staff upon receipt of a written request from the victim's therapist.

The Board may also, on a case by case basis, approve court support sessions at other significant stages of the judicial process (ie. reconsideration of sentencing, release of defendant from DOC, etc.). However, court support sessions may be requested only once per claim.

### **MULTI-DISCIPLINARY/COMMUNITY SUPERVISION TEAM SEX OFFENDER MEETINGS**

Upon approval of a victim's treatment plan, the Board will provide compensation to the victim's therapist to represent the victim at up to six (6) multi-disciplinary or multi-treatment team meetings, at a maximum of \$90 per meeting.

### **ANIMAL-ASSISTED THERAPY**

The Board will consider approving animal-assisted therapy sessions in lieu of, or in conjunction with, traditional talk therapy sessions, but not in addition to such sessions. The therapist must submit a treatment plan for board approval, and payment will be made at the same maximum amount as that used for traditional treatment, not to exceed one session per calendar week.

### **NON-TRADITIONAL MENTAL HEALTH SERVICES**

The Board will consider, on a limited, case by case basis, approving non-traditional methods of mental health treatment (ie. Model Mugging, Outward Bound, self-defense classes, etc.) upon receipt of a letter or recommendation from a licensed therapist, or written request from the victim. The Board will approve payment of up to \$500 for such services. These options are extended only to primary victims, and with prior approval.

### **VICTIM-PERPETRATOR (CLARIFICATION) THERAPY SESSIONS**

The program will compensate for a maximum of six (6) victim – perpetrator (clarification) therapy sessions. These sessions are considered at the sole request of the victim and at the discretion of the victim and the victim's therapist. In addition, these sessions may be performed after the set termination date without a formal request for a therapy extension. These sessions will be paid at a rate of \$90 per individual session, or \$40 per group session.

### **RECURRENT/INTERMITTENT THERAPY, ADDITIONAL SESSIONS AVAILABLE**

The Crime Victim Compensation program is responsible for focusing its funding on immediate, short-term remedies which will assist in initiating a victim's recovery process. The Board realizes fully that additional therapy may be needed during the lifetime of the victim, but feels that brief intermittent therapy cannot be covered due to budgetary constraints.

The Board is aware that certain exceptional circumstances may arise that could not have been previously and/or adequately dealt with by the victim (ie. a trial being continued beyond the period normally allowed for compensation awards, a case going to appeal, etc.). Thus, under these types of exceptional circumstances, and strictly on a case by case basis, the Board will consider therapy at different intervals.

### **PSYCHOTROPIC MEDICATION/MEDICAL MANAGEMENT**

Therapists may refer their clients to a medical doctor or psychiatrist for a medical evaluation if it is deemed necessary. For verification purposes, the therapist should inform compensation staff if a

referral is made. This benefit is extended only to primary victims who are actively participating in therapy.

A total of 12 medical evaluation/medical management sessions will be paid for the primary victim, to be used at any time through the termination date for therapy set by the Board. If the victim does not have insurance, the medical doctor or psychiatrist will be paid at 80% of their customary rate for such services.

The program will also reimburse the victim for the cost of psychotropic medication prescribed as a result of their medical evaluation, through the termination date of therapy set by the Board. It is the victim's responsibility to submit copies of their prescriptions for reimbursement. The first prescription filled for psychotropic medication prescribed after the crime may be reimbursed before a mental health treatment plan is approved by the Board. Reimbursement can only be made for subsequent prescriptions after the victim's mental health treatment plan is approved by the Board.

As trauma may exacerbate pre-existing mental health conditions, those victims who required psychotropic medication prior to reporting a crime are also eligible for reimbursement for psychotropic medications, but only from the date of the report to the therapy termination date set by the Board.

### **INTERPRETER SERVICES**

The Board will approve, on a case by case basis, payment for interpreter services if the victim requires an interpreter to assist with his/her mental health treatment due to language barriers or hearing impairment. Before payment may be made to the interpreter, a treatment plan must be approved by the Board, and itemized bills submitted by the therapist, to ensure that billing for interpreter services corresponds with the dates of service being billed by the provider. Payment will not be made for any appointments the victim does not attend.

### **THERAPISTS IN DUAL ROLES**

The CVC Board shall not consider payment for a claim by a therapist who provided victim services to their client in another role, either professionally or as a volunteer. For example, the Board will not consider payment of counseling sessions by a therapist who also operated as a police officer, law enforcement advocate, non-profit advocate, or forensic interviewer for their client. This list is not all-inclusive.

## **MEDICAL**

### **MEDICAL/DENTAL BILLS**

The Board will allow a maximum of up to \$30,000 for medical/dental expenses incurred by a victim/claimant for treatment of injury which was a direct result of a criminal act and for which a law enforcement offense report is available and substantiates the fact that a crime and resultant injuries did occur. Medical bills will be verified for date and time of services, services performed and identity of service provider. Ongoing medical services, such as physical therapy, chiropractic care, massage therapy, dental or similar may require a treatment plan from the service provider to establish a nexus to the crime and an estimated cost. Payment for medical and/or dental bills will be approved contingent upon receipt of itemized bills, and after consideration from medical insurance, where applicable. All medical and dental bills will be compensated at 80% of the amount billed in the event that the victim has no medical insurance, with the expectation that providers will accept this as payment in full. If a provider will not accept 80% as payment in full, payment may be made directly to the victim at 80%, and the provider will be notified that they must seek payment from the victim. Victims will be reimbursed 100% for any crime related medical service payments made out of pocket. The Board will compensate medical providers 100% of the patient responsibility, after medical insurance payment up to the statutory policy limits, or up to the amount approved by the Board after reviewing a medical treatment plan.

Written documentation may be required annually for continuing claims of medical services requested for injuries which are the direct result of a criminal act and for which a law enforcement offense report is available. At the discretion of the Board, a second opinion by a designated physician may be required.

If the claimant requests ongoing medical/dental services, it shall be the responsibility of the claimant to provide a written opinion from the medical service provider that the additional medical work is solely and directly related to the original crime, if requested by the Board or staff.

### **CHIROPRACTIC SERVICES**

The Board will approve payment for chiropractic services if services are initiated within four (4) weeks of the crime which caused the injury, or later if medically indicated, and a treatment plan from the victim's physician is submitted. Compensation will be approved at the discretion of the Board.

### **MASSAGE/ACUPUNCTURE**

Payment will be made for massage or acupuncture, only upon receipt of a written referral by a medical doctor and with documentation showing that such a need is solely related to injuries sustained as a result of the crime under which the victim's claim has been approved. Compensation will be limited to \$1,000 or one (1) year, whichever limit is reached first.

### **SEXUAL ASSAULT EXAMINATIONS**

Sexual assault medical examinations are considered to be investigative and are the responsibility of the investigating law enforcement agency. These are not compensable expenses within the definitions of the statute nor the guidelines of program policy. The Board will, however, approve payment for other costs (including the cost of the emergency room) which are left to the responsibility of the crime victim.

## **MEDICAL DEVICES**

Reimbursement for prescription eyeglasses or contact lenses damaged or destroyed during a crime shall be limited to no more than \$750. Such loss must be documented in the police report, or verified by a victim advocate. This award includes bifocals, trifocals, frames, and any other options designated by the applicant, as well as the cost of the examination.

Payment for replacement of damaged or destroyed prosthetics, hearing aids or dentures, or any other medically necessary device, as well as new prescriptions required as a result of the injury, is compensable, up to the maximum for medical expenses. In addition, Crime Victim Compensation will pay for the rental or purchase, whichever is appropriate, of wheelchairs, walkers, oxygen equipment, and other similar equipment lost as a result of the crime, and/or if documentation is submitted showing that this equipment has been ordered or prescribed by the attending physician as a result of injuries sustained because of the crime

Reimbursement for the cost to replace prescription medications stolen, damaged or destroyed as a result of a crime will be considered on a case by case basis when documented in the police report. In addition, Crime Victim Compensation will pay for the rental or purchase, whichever is appropriate, of wheelchairs, walkers, oxygen equipment, and other similar equipment lost as a result of the crime, and/or if documentation is submitted showing that this equipment has been ordered or prescribed by the attending physician as a result of injuries sustained because of the crime. Payment will be made up to the maximum for medical expenses.

Reimbursement will be made directly to the victim if a receipted bill and/or a copy of a cancelled check are submitted. If an itemized bill is submitted which shows that no payment has been made, the check will be sent to the stated service provider.

## **HOME MODIFICATION**

The Board may approve, on a case by case basis, modifications to the victim's home if such modifications are necessitated by injuries sustained as a result of the crime. A letter from the victim's physician must be submitted stating that those modifications are required. If approved, payment will be made upon submission of itemized bills for the approved changes.

## **AIDS/STD TESTING**

The program will compensate for AIDS/STD testing in cases where the victim requests compensation funds for testing services, the crime warrants such medical action, and the tests are medically indicated. The victim is not required to submit bills for HIV testing to their insurance company for payment if they feel their privacy will be compromised as a result. The program staff shall require only the itemized medical bill for the testing services performed and will not accept receipt of the test results. The program's payment for any test does not constitute a guarantee of payment for any resulting treatment costs.

## **HOME HEALTH CARE SERVICES**

The victim will be eligible for home health care compensation based upon a written report by the patient's medical physician that details the type, intensity, frequency, and length of home health care necessary for the victim's recovery from the crime related medical injuries.

The program will also consider compensating a family member or the victim's domestic partner for providing non-medical care required for the victim's recovery. The program will compensate the family member or domestic partner for wages lost while he/she assists the victim. This award will be

based on the program's lost wages policy.

**PREGNANCY/CHILD DELIVERY SERVICES**

The program will compensate for medically necessary prenatal and child delivery services for victims who become pregnant through a criminal and compensable act. The program will compensate all medical bills at 80% of the total for each individual itemized bill, if the victim has no insurance coverage. If the victim does have insurance, payment will be made for the amount that is designated by the insurance company as the victim's responsibility. The Board will not consider the on-going medical needs of the born child.

Pursuant to Article 5, Section 50, of the Constitution of the State of Colorado, no public funds shall be used to pay or reimburse any person, agency or facility for the performance of an induced abortion. Compensation funds are considered public funds and may not be used for abortions for victims who become pregnant through a criminal and compensable act.

## **LOST WAGES**

### **VICTIM LOST WAGES**

The program will compensate claimants for the actual wages lost due to physical or emotional injuries directly resulting from the crime. The program will compensate for lost wages based on the following factors:

1. 80% of the victim's gross wage per hour, at a maximum of 40 hours per work week.
2. A maximum of three (3) months from the date of the crime, regardless of when the crime was reported.
3. Victim or victim's parent must supply acceptable verification from their employer, as well as from their physician and/or therapist. Verification from the victim's physician and/or therapist is not required if the victim misses fewer than four days of work.
4. Rate of pay is substantiated by a paystub or tax return.

The program will not compensate for time lost which could be covered by any paid leave time (sick, vacation, personal, bereavement leave, etc.) offered by the employer(s). The program will not compensate victims for time lost because of court appearances, appointments with criminal justice personnel, or appointments with medical service providers.

In those cases where a victim is self-employed, s/he must submit copies of federal and/or state tax returns, quarterly deposits, 1099s, etc. to substantiate the amount of lost wages. Payment will be based on the gross income amount reported on those documents. If the victim's business shows a loss on the tax documents submitted, and no salary is reported to the victim, no payment may be made. The program will not consider reimbursement for employment for which wages were not being reported for tax purposes. Tips will be considered for calculation of lost wages only if they are documented on tax forms. In cases where a victim is being paid less than minimum wage, and is unable to provide documentation of income from tips, the current minimum wage will be used to determine lost wages. Documentation requirements will not be waived for victims employed by family members, under any circumstances.

As long as it fits current policy limitations, crime victim compensation funds may be used to pay for temporary help to keep a business going if the owner/victim, who is the only employee, is incapacitated as a result of the crime. If the victim is working temporarily or on call at the time of the injury, the wages paid when the job was permanent or full time will be considered to calculate lost wages.

### **TERMINATION OF EMPLOYEMENT**

If a victim voluntarily terminates employment immediately following the crime because the employer, supervisor, or co-worker is the perpetrator, lost wages will be paid for a maximum of one month from the date employment ended, or at such time that the victim finds other employment, whichever comes first, to allow the victim time to find other employment. On a case by case basis, this policy also applies if the victim is terminated by their employer immediately following the crime, due to the suspect's criminal behavior or continued harassment of the victim at his/her place of employment following or related to the crime.

## **BEREVEAMENT**

In cases where the primary victim died as a result of the crime, the program will compensate immediate family members (spouses, domestic partners, parents, children and/or grandparents) for a maximum of two weeks of lost wages immediately following the date the victim died.

## **FUNERAL EXPENSES**

The program will compensate the victim's family or service provider a maximum of \$10,000 for funeral expenses or for the actual cost of the funeral expenses if less than \$10,000. This award includes payment for memorials/headstones. The Board does not require that the victims' life insurance benefits be used for such purposes.

Extraordinary costs that may arise (shipping the body to another state or country for burial, custom-sized casket, etc.) may be requested for consideration of an award exceeding \$10,000.

An additional award of up to \$2,000 may be available, strictly on a case by case basis, to allow travel for immediate family members to attend the victim's funeral and/or to finalize the victim's affairs.

If, after payment has been made for all funeral expenses, a balance remains of the funeral award, the Board may approve additional reimbursement of travel expenses for immediate family members to attend the victim's funeral. For these purposes, the Board has strictly defined "immediate family" as spouses, parents, grandparents, domestic partners, siblings and children.

## **LOST SUPPORT**

The intent of lost support compensation is to provide immediate, short-term assistance to the crime victim who was in an intimate relationship with the perpetrator, or was a dependent family member of the perpetrator. The award of lost support is applicable only in cases where the perpetrator was a wage earner for the family. Lost support compensation is also available for dependent family member(s) of homicide victims.

If, after initial application, the victim wishes to add a request for compensation for lost support, such request must be submitted within three months of initial application, or fifteen (15) months from the date of the crime, whichever is greater.

Please see the following information for specific details regarding lost support eligibility and limits under specific crimes:

### **LOSS OF SUPPORT TO DEPENDANT (DEATH)**

The board members have limited this lost support award to a \$3,000 payment per dependant, to include the victim's dependent children, spouse and/or domestic partner as determined by the board members or administrative staff.

### **HOUSEHOLD SUPPORT**

In the interest of justice, on a case by case basis, the Board may award \$2,000 to a victim of crime whose perpetrator was living with and contributing to the financial support of the victim/family at the time the crime occurred, either through employment or through benefits programs, and who leaves or is removed from the victim's home as a result of the crime and is no longer providing financial support. The support is limited to a one-time award of \$2,000, upon submission of a completed and signed loss of support worksheet, confirming that the victim meets all of the aforementioned requirements.

In crimes where other family members have been identified as primary victims (a mother and her children, all victimized by the same perpetrator during the same incident, for instance), the total award per family, per incident, is limited to \$4,000.

If the Board has approved Loss of Support, but CVC staff later learns that any of the following apply, they may notify the victim that they are not eligible for loss of support based on the following information.

1. The victim and perpetrator were not living together at the time of the crime
2. The perpetrator was unemployed and was not receiving financial assistance
3. The victim and perpetrator are still residing together
4. The perpetrator is still providing financial support to the victim, even if they are no longer living together.

The Board may consider approving lost support, strictly on a case by case basis, in situations where the parties are separated prior to the incident, but the suspect was providing financial support to the victim through an informal agreement.

In those cases where a child victim has been abused by both parents, and the child is not in foster or residential care through Human Services, the lost support payment can be made to a guardian with whom the victim is living.

These awards shall be made only one time per victim-suspect.

## **PHYSICAL PROPERTY**

### **DOORS, LOCKS, WINDOWS, REKEYING**

Awards for physical (residential) property are made solely out of concern for the victim's safety, and awards will not be made for "cosmetic" repairs (e.g. drywall repair or window screen replacement).

The program defines compensable physical property as residential entry points, including exterior residential doors, locks, and windows which are damaged or destroyed, or otherwise compromised during the crime, as well as rekeying of motor vehicle locks, or other locks necessary to ensure a victim's safety. Such damage must be specifically documented in the police report or verified by a law enforcement representative who responded to the scene of the crime. This approval includes repair or replacement of garage doors, as well as reprogramming or replacement of a remote control to the victim's garage door opener, and also includes the door connecting the residence to an attached garage, if said door is damaged as a result of the crime. Garage must be connected to the victim's residence to be eligible for this award.

The Board will also consider requests from victims who, as a result of the crime, sustained damage to the exterior of their residence which allowed direct access to the victim's home, and thus posed a threat to the victim's safety.

"Residence" is defined as the structure which serves as the victim's primary residential dwelling.

The Board will consider requests to rekey residential locks, motor vehicle locks, or other locks necessary to ensure the victim's safety if the perpetrator is likely to have had access to the victim's keys at some point in time. Board policy limits rekeying and lock replacement to \$1,000.

The limit for window repair or replacement and door repair or replacement is \$1,000, with an aggregate total maximum of \$1,000 for compensation for window and door repair or replacement.

Payment for emergency board-up services will be paid at the amount billed, and that amount will not be deducted from the award for window or door repair

If the victim has homeowner's insurance, such reimbursements will be limited to the victim's insurance deductible, or the maximum award per category, whichever is less.

The Board has given authorization to program staff to administratively approve claims for physical property as defined above, on claims which meet all statutory and policy requirements.

### **SAFETY DEVICES/MODIFICATIONS**

The Board will consider, on a limited case by case basis, requests from victims for security devices or safety modifications in cases where the ongoing safety of the victim is a concern (e.g. stalking cases). This award is limited to \$1,500, and may be used for the purchase and installation of a security system or devices, as well as related monitoring charges billed by a security company, for a maximum award of \$1,500, or up to six (6) months, whichever limit is reached first. The Board may also consider one time purchased of safety devices; motion lights, cameras, window locks, ect.

The CVC Board will not approve compensation for reimbursement for the purchase of weapons or animals.

## **CRIME SCENE CLEANUP**

The program may compensate victims, relatives, or residence owners for crime scene clean-up on a case-by-case basis. The board members allow this award "in the interest of justice" in order that victims, co-victims, or property owners are not forced to clean crime scenes, which may be traumatic and pose a health threat.

The following restrictions apply:

- A. Crime scene clean-up awards are limited to a maximum of \$1,000;
- B. Limited to a residential property only;
- C. The award is to be used to clean items which are stained or contaminated with a bodily fluid or matter, and may not be used to repair or replace damaged or destroyed items;
- D. Clean up services may only be performed by a professional cleaning agency; and,
- E. The award does not include any crime scene damage caused by the collection of evidence for investigation of the crime or apprehension of the suspect, if reimbursement for such damage may be recovered through the city or county's risk management department. The Board may consider payment for this type of damage, under normal guidelines for physical property (exterior doors, locks and windows) and on a case by case basis, upon notification of denial by the appropriate risk management department.

## **RELOCATION/MOVING & STORAGE**

The purpose of moving and storage awards is to assist the victim in staying safe from the offender. In reviewing a victim's request for moving and storage the Board may take into consideration the time between the crime and the request for assistance, threats, real or perceived from the offender or offender's family/associates, defendant's current incarceration status, or offender's knowledge of the victim's location.

In those cases where it may be in the best interest of the victim to move due to safety concerns related to the crime, the Board may approve aggregate compensation to relocate, move residence or store personal items. The victim must be living in a residence, a shelter, or in a hotel or motel to be eligible for compensation for moving and storage expenses. Unless otherwise stated below, this award may be used for rental deposit, rental application, first month's rent, moving truck, movers, packing materials or reimbursement of one way bus, train or plane ticket, or new storage rental fees. Utility hook-up or the cost of food is not applicable.

Victims that are approved will be eligible for \$2,000. If the victim is a minor, or the victim has line-in minor dependents they could be eligible for up to \$4,000. When more than one family member is a primary victim, and they all live together, the relocation award will be capped at \$4,000.

The victim must initiate the move within three months of the date of approval to be eligible for reimbursement. The award will be aggregate; victims may decide how to use the awarded funds from the options below.

### **NEW RESIDENCE**

For consideration of rental deposit, rental application and first month's rent, the victim must enter into a new lease agreement and provide a signed copy. If the cost of the new residence has been paid by the victim, reimbursement will be made. If the cost is still outstanding, payment will be made to the landlord. If the victim will reside with one or more adult roommates, CVC will only reimburse a proportionate amount of the victim's deposit or any other compensable expense included on the lease, up to the maximum award.

### **STORAGE**

New storage rental fees may be compensated up to the award maximum or for six months, whichever comes first. Storage compensation is limited to six months from the date of approval.

### **MOVING TRUCK/MOVERS**

The Board may reimburse the cost of a moving truck or movers. Invoices must be from a professional company and staff must be able to verify the move.

### **OTHER RELOCATION**

The Board may reimburse the cost of a one way bus, plane or train ticket. On a case by case basis, the Board may reimburse the mileage (or cost of gas) to relocate. Reimbursement of this type may be dependent upon the victim providing proof of travel or relocation.

### **PO BOX**

Victims of domestic violence, sexual assault or stalking are eligible for reimbursement for P.O. Box rental, up to \$50, to be included in the total aggregate award of \$2,000. Additional funding may be considered if the victim is disabled.

**LEASE BREAK**

If the victim is being charged by their current landlord for breaking a lease, the Board will approve payment for the penalty, but not rent in arrears, in addition to the moving and storage award, in the interest of the victim's safety. The lease break fee must be verifiable and provided in the form of an invoice.

**FOR VICTIMS LIVING IN A MOTEL/ HOTEL**

The Board may consider reimbursement of any pre-payment hotel cost that was not refunded to the victim when they checked-out of the hotel. Victims may be reimbursed for bus, train, plane or mileage to relocate to a different city/state. But they are not eligible for the cost of a new hotel or the cost to move to a permanent residence.

The Board may also consider, strictly on a very limited case by case basis, approval in circumstances where the victim is required to move out of their residence due to financial hardship resulting from the loss of financial assistance from the perpetrator (ie the suspect has been jailed, forces the victim to move out, etc.), or the victim is asked to leave the premises by management due to the suspect's criminal activity.

## **MISCELLANEOUS SERVICES**

### **RESPIRE CARE**

On a limited basis, with strict guidelines, payment for child care with licensed daycare providers within 72 hours of the crime to allow domestic violence or sex assault victims time to get rest immediately after the criminal incident is a compensable request. Payment will be made for no more than one day of daycare unless there are extraordinary circumstances. Arrangements must be worked out between the appropriate victim advocate, daycare provider, and victim.

### **TELEPHONE HOOK-UP FEES**

Payment will be considered for hook up fees only for basic service and Caller I.D., subject to carrier policies, to ensure the safety of domestic violence victims who have left the battering relationship. Need for the service must be documented by the appropriate victim advocate.

### **TELEPHONE REPLACEMENT**

The program will reimburse the primary victim up to \$200 for replacement of one phone only, theft or damage of which was indicated in the police report, upon submission of an itemized bill or receipt. The Board will also, on a case by case basis, approve reimbursement for purchase of a phone if the victim does not have one, if stalking behavior is documented. This reimbursement would allow either Caller ID or voice messaging features to assist in the investigation and/or prosecution of the stalking behavior.

These policies went into effect for crimes that occurred on or after March 1, 2017. These policies and procedures supersede previous policies and shall remain in effect until amended or abolished.

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Liz Hudd  
Board Chair

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Date

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Traci Johnson  
Board Member

\_\_\_\_\_  
Date

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J.D. Jepkema  
Board Member

\_\_\_\_\_  
Date