

Rule 1. Purpose.

These rules govern the implementation of the Crime Victims Compensation Program ("Program") in the Superior Court of the District of Columbia ("Court"), as set forth in the "Victims of Violent Crime Compensation Act of 1996," as amended, D.C. Code 4-501 et seq. The Program provides compensation to victims of violent crime for medical and related expenses, and loss of services, support and earnings.

Rule 2. Scope.

These rules shall apply to all claims filed with the Program after the effective date of the "Victims of Violent Crime Compensation Emergency Act of 1996." All claims filed prior to the effective date of the "Victims of Violent Crime Compensation Emergency Act of 1996" shall be processed pursuant to the Department of Employment Services' Notice of Final Rulemaking (29 DCR 4453), effective November 7, 1982, as implemented under the "Victims of Violent Crime Compensation Act of 1981."

Rule 3. Administration.

The Program, shall (a) investigate claims filed pursuant to D.C. Code § 4-501 *et seq.*, (b) obtain from agencies of the District of Columbia and the United States information, data and assistance to facilitate the determination of whether a crime was committed or attempted and whether the claimant is eligible for compensation, (c) process and maintain claims in the order filed, including claims filed under the Victims of Violent Crime Compensation Act of 1981, (d) determine each claim filed and reinvestigate and reopen cases when necessary, (e) require and direct medical examinations of victims and secondary victims when necessary, (f) publicize the existence of the Program, and (g) provide printed informational materials about the program, including brochures and posters, in both English and Spanish.

Rule 4. Confidentiality of records and hearings.

(a) Hearings, information, records and transcripts of hearings conducted and maintained by the Program shall be confidential and closed to the public, except that:

(1) A claimant, or the representative of a claimant with the claimant's signed authorization, may review the claimant's claim;

(2) Physicians treating or examining a claimant seeking benefits from the Program or physicians advising the Program regarding any claim may, with the Programs authorization, inspect the claims files and records of the claimant;

(3) Other persons, with the Program's authorization, may inspect the claims files and records of the claimant when rendering assistance to the Program on a matter pertaining to the administration of the Program; and

(4) Other persons may be present at hearings upon the written authorization of the claimant or the Director of the Program.

(b) Meetings of the Appeals Board shall be closed to the public. The Chairperson or, in his or her absence, the member designated to act as presiding officer shall direct a member to record minutes of each meeting of the Appeals Board. The minutes shall be confidential.

Rule 5. Appointment and qualification of Advisory Commission members; designation of Chairperson; conduct of meetings.

(a) A Crime Victims Compensation Advisory Commission ("Commission") shall be established as set forth in D.C. Code § 4-504 and shall consist of fifteen members, appointed by the Chief Judge of the Superior Court of the District of Columbia ("Chief Judge") to serve a three-year term, and until successors are appointed and qualified. An Advisory Commission member is eligible for reappointment at the expiration of the member's term.

(b) One member of the Advisory Commission shall be designated by the Chief Judge to serve as Chairperson. The Chairperson shall serve as presiding officer at all Advisory Commission meetings. In the absence of the Chairperson at a Commission meeting, the remaining Commission members may designate a member to preside over the meeting.

(c) The Commission shall meet at the call of the Chairperson. The order of business at any meeting of the Commission shall follow the agenda prepared in advance of the meeting. Such other matters may be brought before the Commission as shall be requested by any member in writing and presented to the Chairperson. An employee of the Program, designated by the Director of the Program, shall serve as the Program's Commission Liaison and shall be responsible for preparation of minutes for each Commission meeting.

(d) Roberts Rules of Order, Revised shall govern all meetings of the Commission.

Rule 6. Appointment of Crime Victims Compensation Appeals Board members and alternates; designation of Chairperson; conduct of meetings; compensable expenses; conflicts of interest.

(a) A Crime Victims Compensation Appeals Board ("Board") shall be established and shall consist of five members from among the qualified membership of the Advisory Commission, appointed by the Chief Judge to serve at his or her pleasure. At least one of the members must be an attorney. The Chief Judge may appoint qualified members of the Advisory Commission to serve as alternates on the Board in the event of the unavailability of a Board member. Three Board members shall constitute a quorum, provided that either the Chairperson or person designated to act as presiding officer in his or her absence is present.

(b) The Chief Judge shall designate one member of the Appeals Board to serve as Chairperson. The Chairperson shall serve as the presiding officer at all Board meetings and hearings on contested claims. In the absence of the Chairperson, the Chairperson shall designate a Board member to serve as presiding officer.

(c) The Appeals Board shall meet at least quarterly at the call of the Chairperson to consider contested compensation claims. At least five days prior to the scheduled meeting, the Program shall forward to the members of the Board and alternate Board members the appeal documents and record of all cases in which an appeal has been filed. The Chairperson, or the member designated to act as presiding officer in his or her absence, shall prepare an agenda for each meeting and forward the agenda to each Board member, alternate Board member, and the Program prior to the scheduled meeting. The Board shall consider each case on the agenda and determine by majority vote of the quorum whether the determination of the Program shall be affirmed, modified, or reversed, or whether a hearing should be held prior to a decision of the Board.

(d) Appeals Board members shall not be compensated, but may be reimbursed for reasonable out-of-pocket expenses directly related to the Board's meetings. Requests for reimbursement must be in writing, supported by receipts and filed with the Program within 20 days of the meeting or hearing for which expense compensation is sought. Reimbursement for expenses shall not exceed twenty dollars per member per meeting.

(e) An Appeals Board member who becomes aware of a conflict of interest shall report it immediately, in writing, to the Chief Judge upon learning of the conflict. A conflict shall exist if a Board member is aware of any circumstances which would impair the Appeals Board member's ability to make an impartial decision concerning the claim, including but not limited to (1) a personal or professional relationship between the Board member and the claimant, offender, or an immediate family member of the claimant; or (2) personal knowledge of the crime for which compensation is sought or persons related in any way to the crime. The Chief Judge shall make a determination as to the existence of a conflict and appoint an alternate, if necessary.

Rule 7. Eligibility for compensation.

(a) A claimant is eligible for compensation if:

(1) The claimant suffered injury as a result of a crime;

(2) The crime upon which the claim is based was reported to appropriate law enforcement officials within seven days of its occurrence or, if it could not reasonably be reported within that time, within seven days of when it could reasonably have been reported;

(3) The claimant files a claim with the Crime Victims Compensation Program within 1 year of the occurrence of the crime, or within one year of learning of the existence of the program provided that the claimant makes an adequate showing that the delay in learning of the program was reasonable;

(4) The claimant was at the time of the crime:

(A) a person who suffered personal injury or death in the District of Columbia;

(B) a resident of the District of Columbia who suffered personal injury or death as a result of a terrorist act or act of mass violence committed outside of the United States;

(C) a resident of the District of Columbia who suffered personal injury or death outside the District of Columbia in a state that does not have a crime victims compensation program that is eligible for funding under the Victims of Crime Act of 1984 (98 Stat. 2170, 42 U.S.C. 10601 et seq.), as a direct result of:

(i) a crime;

(ii) assisting lawfully to apprehend a person reasonably suspected of committing or attempting to commit a crime;

(iii) assisting a person against whom a crime has been committed or attempted if the assistance was rendered in a reasonable manner;

(iv) attempting to prevent the commission of a crime; or

(v) a violation of sections 9 or 10 of the District of Columbia Traffic Act (D.C. Code §§ 50-2201.04 and -2201.05) or a comparable state law regarding driving violations; and

(5) The claimant was a victim, secondary victim, or a person (not a provider of services) acting on behalf of a victim or secondary victim.

(b) Factors to be considered in determining the reasonableness of the reporting time shall include, but are not limited to:

(1) the physical or mental incapacity of the victim;

(2) the age of the victim;

(3) whether the injury to the victim was reasonably discoverable;

(4) the lack of a police report through no fault of the victim; and

(5) the failure or non-cooperation of persons who could reasonably have aided the victim in filing a report;

A victim who does not report the crime to appropriate law enforcement officials may satisfy the reporting requirement (1) if he or she has been sexually assaulted, by seeking a sexual assault examination from a licensed medical treatment facility within a reasonable time period, (2) if he or she is the victim of domestic violence, by obtaining a civil protection order or (3) if he or she is the victim of cruelty to children, by the filing of a neglect petition. If a victim of domestic violence is seeking assistance with temporary emergency housing and a civil protection order has not yet been issued but a temporary

protection court order has been issued, the temporary protection order may satisfy the reporting requirement until the civil protection order is issued.

(c) An application for assistance may be denied in whole or in part if the Program finds that:

(1) Denial is appropriate due to the nature of the victim's or secondary victim's involvement in the events leading to the relevant crime; or

(2) The claimant failed to provide information to a requesting law enforcement agency or did not reasonably cooperate with law enforcement officials in apprehending the offender, except that refusal of a victim or claimant to testify against the offender may be excused if testifying would subject the victim or claimant to a substantial risk of serious physical or emotional injury.

Reasonable cooperation by the victim may include, but is not limited to, the following:

(A) Providing law enforcement officers with a true and accurate report of the crime;

(B) Participating in the investigation of the crime to assist law enforcement officers in the identification of a suspect; and

(C) Participating in prosecution procedures, including deposition, grand jury and trial.

(d) A claimant is not eligible for compensation if:

(1) The claimant/victim knowingly or willingly participated in or aided in the commission of the crime upon which the claim is based, as determined by evaluation of the Police Report, except that a secondary victim is not automatically ineligible for compensation under such circumstances;

(2) The claimant's/victim's consent, substantial provocation or substantial incitement caused the injury or death for which compensation is sought. Factors to be considered in determining consent, substantial provocation, and substantial incitement may include but are not limited to law enforcement documentation indicating:

(A) Whether charges were filed against the suspect;

(B) Whether the victim attempted to withdraw from the incident;

(C) Whether the victim deliberately provoked the offender by means of fighting words, racial or other bias-motivated taunting, or by threats coupled with overt actions indicating the victim's intent to carry out the threats;

(D) Comparable or reasonable force on the part of the suspect in response to an action of the victim;

(E) The amount of time from the beginning of the interaction between the victim and the suspect and the criminal act committed by the suspect;

(F) The age of the victim; and

(G) Comparable size or strength of the victim and suspect.

(e) Gang membership or co-habitation with the offender is not a disqualifying factor under this rule, unless the claimant would be substantially and unjustly enriched by an award.

(f) The award of compensation to the claimant shall not enrich the offender except in extraordinary circumstances where the interests of justice so require. Factors to be considered in determining whether an offender will be unjustly enriched shall include, but are not limited to:

(1) Whether the claimant is cooperating with law enforcement officers in the investigation and prosecution of the crime;

- (2) Whether the offender will have access to the compensation paid to the claimant or a service provider on behalf of the victim;
- (3) The claimant's familial relationship to the offender; and, or
- (4) The presence of the offender in the claimant's household at the time of the award.

Rule 8. Filing of application.

A claim is considered filed when the claimant submits a completed Application for Crime Victims Compensation (“Application”), to the Program Office. The Application may be mailed or delivered in person to the Program Office. If a person eligible for compensation is a minor or legally incompetent, a claim may be filed on such person's behalf by the person's parent, guardian or personal representative.

COMMENT: The intent of the Rule is to allow guardians ad litem, even if not specified in the Rule, to file claims on behalf of minors or legal incompetents.

Rule 9. Contents of Application

The application for a claim must contain the following:

- (a) Information or facts sufficient to establish eligibility;
- (b) Whether the claim is for injury, death benefits, or other compensable economic losses, or an emergency award;
- (c) Whether the claimant is a victim, a secondary victim, or a person (not a provider of services) acting on behalf of the victim or secondary victim;
- (d) A description of the injury or death, date of crime, and any known information concerning the offender;
- (e) The name, address, phone number, and birth date of the victim or secondary victim and the claimant (if different from the victim or secondary victim);
- (f) The name, address, and birth date of any dependent included in the claim;
- (g) Sufficient information and documentation to support each claim of economic loss;
- (h) Information regarding any restitution, insurance, or other collateral source of benefits or compensation related to a claim;
- (i) A declaration of subrogation and suit notification signed by the claimant;
- (j) For a claimant seeking compensation for medical expenses, any necessary authorization permitting:
 - (1) release of all medical bills relating to the victim's or secondary victim's injuries for which compensation is sought; and
 - (2) the medical provider to complete the certification required by Rule 13;
- (k) Any other necessary authorization for release of non-medical information related to a claim;
- (l) An affirmation signed by the claimant; and
- (m) Any other information that the Program reasonably may require.

Rule 10. Processing of application.

Upon the filing of an application, the Program will date stamp the application and assign to it a claim number and a claims examiner. Applications shall be assigned to claims examiners on a rotating basis, subject to the Program Director's discretion where special needs are identified.

Rule 11. Request for law enforcement verification.

Verification information shall be requested from the applicable law enforcement agency in order to determine whether the claimant meets the law enforcement reporting requirement. The Program shall hand-deliver or mail the Request for Law Enforcement Verification to the law enforcement agency within five working days of the filing of a claim. The information requested shall include Metropolitan Police Department reports PD 251 and PD 255, or comparable reports from other law enforcement agencies, and any affidavit or other written statement that relates to the offense, is signed by the claimant and/or victim, and is in the possession of the law enforcement agency. The law enforcement agency shall be requested to return the completed, signed Law Enforcement Verification Form to the Program by first-class mail or by messenger within 21 working days of receipt of the Request for Law Enforcement Verification.

Rule 12. Request for prosecution information.

The following information shall be requested from the United States Attorney's Office or other prosecuting agency when necessary:

- (a) Whether the victim cooperated with law enforcement agencies;
- (b) Whether the victim contributed to his or her injury;
- (c) Whether the victim committed or aided in the commission of the crime;
- (d) Whether the victim resided in the same household with the claimant at the time of the crime; and
- (e) Disposition of the case, including whether restitution has been or will be sought or ordered, except that information on the disposition of cases involving juveniles prosecuted by the District of Columbia Corporation Counsel shall not be disclosed.

Rule 13. Request for Medical Expense and Treatment Verification

(a) IN GENERAL. If a claimant seeks compensation for a victim's or secondary victim's medical expenses for injuries related to a crime, the Program must request:

(1) a copy of all medical bills related to the claim from any individual or entity providing medical services to the victim or secondary victim; and

(2) a certification from the medical provider, under the penalty of perjury, indicating:

(A) the dates of medical services;

(B) the final amount due from the victim or secondary victim; and

(C) that the services were directly related to the crime.

(b) ADDITIONAL INFORMATION. If the Program determines, in its sole discretion, that it needs additional information in deciding whether to approve a claim related to medical expenses, the Program may request the victim's or secondary victim's medical records. The victim or secondary victim must provide any necessary authorization for release of the medical records.

(c) FORM OF REQUEST. The Program's request for the medical certification and the medical bills or records must include the victim's or secondary victim's authorization provided in accordance with Rule 9(j) or 13(b).

COMMENT TO 2021 AMENDMENTS

Medical expenses are listed in Rule 24.

Rule 14. Request for employment information.

If a claimant files an application for loss of earnings or support the following information shall be requested from the victim's employer:

- (a) The employee's name, address, date employed, job title, days and hours worked per week, and time lost as a result of the crime;
- (b) Gross earnings, federal and district taxes, and withholdings and other income; and
- (c) Benefits available for medical expenses and loss of earnings.

Rule 15. Request for funeral expenses verification.

If a claimant files an application for funeral expenses, the funeral bill shall be requested, along with a statement of what funeral expenses, if any, have been paid by any other agency or source.

Rule 16. Procedure for claim determination.

(a) Upon the receipt of verification requests, a claims examiner of the Program shall process and initially determine whether a claimant qualifies for program benefits. If the claimant is eligible for benefits, the claim examiner shall evaluate crime related losses, and:

- (1) May refer claimant to collateral sources;
- (2) Shall contact providers to confirm payments from collateral sources and/or the victim's receipt or entitlement to such payment;
- (3) Shall compute entitlement to Program benefits;
- (4) Shall prepare payment requests for approval by the Director and transmittal to the Budget and Finance Operations Division of the Superior Court; and
- (5) Shall make appropriate deductions in compensation where the conduct of the victim in the crime causes a partial denial of compensation.

(b) If verification is not received, the claim may be processed, but the provider from whom pending documentation has not been received shall be sent a letter informing the provider that benefits will be considered only upon receipt of verification.

(c) Upon recommendation of denial of a claim, the claims examiner shall explain and document the reasons for denial, and forward the file to the Director for final decision.

Rule 17. Notice of determination.

(a) The Program shall send a Notice of the Determination to the claimant by first class mail. The Notice shall contain the following:

(1) A statement of whether the claim is granted, denied, or granted in part and denied in part;

(2) The amount of any award or partial award for loss of earnings, support or services and out-of-pocket expenses;

(3) The reasons for the Determination;

(4) Instructions for (A) requesting reconsideration or (B) an appeal before the Board, and notice of the availability of *pro bono* representation; and

(5) A statement indicating any service provider that will be paid directly and the amount to be paid.

(b) A claimant may agree in writing to a final determination at any time and thereby waive his or her right to reconsideration, appeal or both.

(c) If no request for reconsideration or an appeal is made within 30 days of receiving the determination, the determination shall become final.

Rule 18. Request of reconsideration.

The claimant may, within 30 days after receiving the determination, request reconsideration based on new or previously unavailable evidence. Upon the written request of a claimant for reconsideration and the submission of new evidence which could change the determination in whole or in part, the Program may reconsider the determination. New evidence only shall be accepted if it is material to the claim and would affect the determination. The Program must render a decision based on the additional evidence within 30 days after receiving it. The Program may affirm, modify, or reverse its initial decision. The Program shall send a Notice of Decision on Reconsideration, and the reasons therefor to the claimant by first class mail, along with instructions for filing an appeal.

Rule 19. Modification of determination by program.

The Program may reconsider and modify a determination at any time if new evidence reveals that the claimant was not eligible for an award, was guilty of contributory misconduct, knowingly provided false information in support of a claim, or suppressed relevant information concerning a claim.

Rule 20. Appeal of determination or decision on reconsideration.

(a) A claimant may within 30 days of receiving the determination, or within 30 days of receiving the notice of decision on reconsideration, appeal the determination or decision on reconsideration to the Board. The appeal must be filed with the Program within 30 days of receiving the determination or notice of decision on reconsideration. The Program shall forward the appeal to members of the Board.

(b) The Board shall consider the appeal on the record at the next meeting scheduled after receiving the appeal, provided that the appeal and the record are received at least five (5) days prior to the meeting. Within 20 days after the meeting, the Board shall either (1) provide the claimant with its written decision, explaining its determination and the reasons therefor, or (2) give notice to the claimant that it will hold a hearing on the appeal.

(c) If the Board determines that it will hold a hearing in a particular case, it shall provide written notice to the claimant within 60 days of the Board meeting at which the appeal was discussed, including the time, date and place of the hearing. The hearing shall occur within 30 days after the issuance of the Notice of Hearing on the Appeal, unless the claimant or claimant's counsel submits a written request to the Chairperson of the Board for a continuance of the hearing.

(d) The claimant shall have the burden of proof on appeal. The standard of proof before the Board shall be by a preponderance of the evidence. The claimant and the Program shall be allowed a reasonable time for presentation or oral argument or for the filing of briefs or other pleadings as to the facts or the law.

(e) The Board may proceed as it determines and may consider any statement, document, information or other matter that it finds is relevant to the determination of the appeal and necessary to afford the parties a fair hearing.

(f) The Board may accept hospital records and physicians reports as proof of the injury sustained, without requiring the presence of an attending physician at the hearing.

(g) In disputes as to medical facts, the Program may order a medical examination of the victim by a physician designated and compensated by the Program.

(h) All witnesses shall testify under oath or by affirmation. All hearings shall be recorded by a court reporter or an electronic sound recording device, and maintained as the Board directs. The Program may examine the claimant and all witnesses.

(i) The Board shall not be bound by common law or statutory rules of evidence, or by technical or formal rules of procedure, other than the rules stated herein.

(j) Hearings may be adjourned at the discretion of the Board Chairperson.

(k) The failure of the claimant to appear at the time of the hearing may, upon good cause shown, be excused and the hearing rescheduled.

Rule 21. Judicial review of board decisions.

A Final Decision by the Board may be appealed to the Chief Judge by filing a Request for Judicial Review with the Program within 30 days of the date of the issuance of the Final Decision. The Program shall forward the Request for Judicial Review immediately to the Chief Judge, together with the claim file and record of the Board Proceeding. The Chief Judge shall have power to affirm, modify, or set aside the Final Decision by the Board, in whole or in part, and if necessary, to remand the case for further proceedings. The decision of the Chief Judge shall be final.

Rule 22. Compensation limit.

Compensation for any one claim shall not exceed \$ 25,000. A claim refers to all requests for compensation arising from a single victimization. Claims are payable subject to the availability of monies in the Fund.

Rule 23. Computation of compensation award.

(a) The compensation award shall be equal to the claimant's economic loss decreased by the amount received or available to the claimant from any emergency payments and collateral sources including payments and benefits from:

- (1) The person who committed the crime, or someone on his or her behalf;
- (2) A wage continuation program of an employer;
- (3) A contract of life, health, disability, liability, or fire and casualty insurance, or a contract providing prepaid hospital or health care benefits;
- (4) Proceeds of a lawsuit brought as a result of a crime;
- (5) Life Insurance proceeds of more than \$50,000; and
- (6) The United States, the District of Columbia, a state or territory of the United States or its political subdivisions, or an agency of the foregoing, including Social Security, Medicare, Medicaid, Workers' Compensation, Public Employees' Disability Compensation, the Department of Human Services, the Department of Health, the Child and Family Services Agency, and Court Social Services.

(b) Compensation awards may be reduced if it is determined by the Program that a reduction is warranted due to the nature of the victim's involvement in the events leading up to the crime, or the claimant's failure to cooperate with law enforcement officials.

Rule 24. Medical expenses.

(a) Compensation for medical expenses may be awarded when the claimant demonstrates economic loss as a result of a crime involving death or injury, including pregnancy and emotional trauma.

(b) Medical expenses include, but are not limited to:

(1) Ambulance, hospital, surgical, medical, nursing, dental, optometric, ophthalmologic, chiropractic, podiatric, in-patient mental health, and pregnancy-related care;

(2) Medical, dental, hearing, and surgical supplies; and

(3) Crutches and prosthetic devices taken, lost or destroyed during the commission of the crime, as well as new prosthetic devices which became necessary as a direct result of the crime, training in the use of such devices, and prescription eye glasses, taken, lost, or destroyed during the commission of the crime.

(c) Compensation may be awarded for costs incurred for pregnancy resulting from a sexual assault. This includes the cost of an abortion, or prenatal care and delivery, but not the cost of raising a child conceived through sexual assault.

(d) Compensation for mental health expenses shall not exceed \$ 3,000 for adults and \$ 6,000 for minor children. Out-patient mental health counseling expenses which became necessary as a direct result of the crime are compensable if provided by a (1) licensed psychiatrist or psychologist, (2) licensed social worker, or (3) licensed marriage, family, or child counselor, if such licensed practitioner provides services within the scope of his or her licensure.

Rule 25. Funeral, burial or cremation expenses.

Compensation of up to \$6,000 may be awarded for reasonable expenses incurred for actual services related to funeral, burial or cremation. Compensation shall not be payable for clothing for the victim's family members or dependents.

Rule 26. Crime scene clean-up.

Compensation of up to \$1000 may be awarded to claimants for reasonable costs associated with cleaning up the crime scene. Compensable items include the reasonable cost of cleaning supplies, rented or purchased equipment necessary for cleanup, and labor associated with the cleanup. Except as otherwise provided in these rules, no reimbursement shall be awarded to replace or repair property damaged as a result of the crime.

Rule 27. Replacement clothing.

Reasonable compensation up to \$100 may be awarded for the replacement value of clothing of a living victim which is held by law enforcement officials for evidentiary purposes.

Rule 28. Loss of earnings.

Loss of earnings may be compensated for a total period of up to 52 weeks after the date of the crime, in an amount not to exceed the lesser of 80 % of the victim's net pay or \$10,000. An award of loss of earnings shall be subject to ongoing review, based on the claimant's average earnings at the time of the crime, and computed and paid out periodically in accord with guidelines established by the Program. If the victim was unemployed, was receiving unemployment compensation at the time of the crime, and the compensation was terminated because the victim no longer qualified for compensation as a result of circumstances relating directly or indirectly to the crime, an award may be made in the amount of money the victim would have received in unemployment compensation benefits but for the crime.

Rule 29. Temporary emergency food and housing.

Upon referral by a prosecutor, law enforcement officer, judicial officer, or victims advocate, the cost of temporary emergency food and housing for a period of up to 120 days may be awarded. The maximum award for temporary emergency housing shall be \$3,000. The maximum award for emergency food shall be \$400. No award shall be made for temporary emergency housing until a victim has exhausted all benefits under any program administered by the U.S. Attorney's Office including the U.S. Attorney's Emergency Witness Assistant Program.

Rule 30. Loss of support.

Loss of support for dependents resulting from death or disability shall be limited to \$2,500 per dependent not to exceed \$7,500 per victimization.

(a) Surviving Spouse. If the claimant is the surviving spouse with or without a dependent child or children, the Program shall:

(1) Determine the victim's average net weekly income for the three (3) months immediately preceding the crime and multiply by 52, or if the victim was self-employed, the net annual profit for the calendar year immediately preceding the crime, subtracting the tax liability for social security tax, federal income tax, city income tax and local wage taxes to establish the net adjusted profit;

(2) Attribute 80% of the net adjusted profit or income as support to the surviving dependents;

(3) Multiply the net annual loss of support by the number of years of expected support.

(b) Guardian. If the claimant is a guardian of the dependent child or children of the victim, the Program shall:

(1) Determine the victim's net annual income for the twelve (12) months immediately preceding the crime, or if the victim was self-employed, the net annual profit for the calendar year immediately preceding the crime, subtracting the tax liabilities for social security, Federal income tax, city income tax and local wage taxes to establish the net adjusted profit;

(2) Attribute 80% of annual income or the net adjusted profit as support to the surviving dependent or dependents;

(3) Determine the number of years until the dependent or dependents shall attain the age of 18 and could have reasonably expected to be supported by the victim;

(4) Multiply the number of years of expected support by the net annual loss of support; and

(5) Prorate the award among the dependent children.

(c) Principal Supporter. If the victim is or was responsible for the principal support of the claimant the Program shall determine the amount of annual support provided by the victim to the claimant and multiply the net annual amount of support contributed by the victim to the claimant by the number of years during which support could have been expected.

(d) Pensioner. If the victim was a pensioner, the Program shall attribute 80% of all pension income received by the victim as support to the claimant. The claimant must submit documents to show the amount of support received from the pensioner.

Rule 31. Loss of services.

Compensation for loss of services may be awarded for the physical care the victim would have provided to dependents if the victim had lived or had not been disabled, the replacement services necessary as the result of the injury or death of the victim such as housekeeping, child care, etc., and replacement wages for a person who assumes responsibility for the services previously provided by the victim. Compensation for loss of services shall be limited to the minimum hourly wage for the District of Columbia, and shall not exceed \$ 200 per week and \$ 2,500 per victimization.

Rule 32. Securing residence.

Compensation of up to \$1,000 may be awarded for the reasonable cost of replacement of doors, windows, locks or other items necessary to secure the victim's home or other place of residence, except that the costs of guard dogs, other animals, guns or other weapons shall not be awarded.

Rule 33. Rental car.

Compensation of up to \$2,000 may be awarded for the reasonable cost of a rental car for the period of time that a victim or secondary victim's automobile is being held by the police as evidence or to collect evidence.

Rule 34. Moving expenses.

Upon referral by a prosecutor, law enforcement officer, judicial officer, medical or mental health services provider, or victims advocate, compensation of up to \$1,500 may be awarded for reasonable moving expenses where necessary for health or safety. No award shall be made for moving expenses until a victim has exhausted all benefits under any program administered by the U.S. Attorney's Office including the U.S. Attorney's Emergency Witness Assistant Program.

Rule 35. Transportation expenses.

Up to \$500 for necessary out of state travel and up to \$100 for all local transportation, not to exceed a total of \$600 per claim, may be awarded for reasonable transportation expenses incurred by the victim or secondary victim for the following purposes:

- (1) to participate in court proceedings;
 - (2) to participate in the investigation or prosecution of the case;
 - (3) to obtain medical care, supplies or equipment;
 - (4) in the case of secondary victims, to obtain psychiatric, psychological, or mental health counseling required as a direct result of the crime;
 - (5) in the case of victims, to obtain physical or occupational therapy and rehabilitation;
- or
- (6) to obtain any other services required as a direct result of the crime.

Rule 36. Payments of Claims.

Awards may be paid in a lump sum, in trust, in installment payments or may be paid directly to a provider of medical services or for other expenses relating to economic loss.

Rule 37. Emergency awards.

Emergency awards not exceeding \$1,000 may be made when it appears likely that a claimant will be approved for compensation. Awards will only be granted where a claimant can show a compelling need or that the claimant is unable to afford the basic necessities of food, clothing and shelter, as a direct result of the crime that is the basis of the claim. To receive an emergency award, a claimant must produce law enforcement verification evidencing that a crime has been committed, written proof of the financial emergency (e.g., a notice of eviction from the landlord, a shut-off notice from the utilities company, other correspondence, bank records or other documents which demonstrate an inability to overcome the emergency, and if the financial emergency is caused by a wage loss, a letter or certificate from the employer stating that the victim was employed in good standing but cannot work due to the incident, and that the victim does not have any sick leave benefits available. If compensation is awarded, the Program shall deduct the amount of the emergency award from any final award. If the emergency award is greater than the final award, the claimant must repay the difference. If compensation is not awarded, the claimant must repay the emergency award in its entirety.

Rule 38. Availability of monies in the crime victims fund.

(a) All compensation awards are subject to the availability of monies in the Fund. No compensation payments shall be made which exceed the amount of money in the Fund. The Court is not liable for a Final Determination of an award of compensation except to the extent that unencumbered monies are available in the Fund on the date the award is ordered.

(b) All compensation awards shall be paid in the order that they are forwarded to the Budget and Finance Operations Division of the Court by the date of the Request for Payment. When a Final Determination for an award is made and forwarded to the Budget and Finance Operations Division, the funds for payment of the award are thereby encumbered.

(c) If there are insufficient funds to pay an award, the claimant may agree to a proportional reduction of benefits. This reduction of benefits may be agreed to in order to receive compensation payments at an earlier date. A claimant who accepts a proportional reduction of benefits waives entitlement to the remaining portion of the settlement and thus may not in future years file for the amount of the reduction in claims.

Rule 39. Attorney's fees.

(a) Reasonable fees and costs may be awarded to an attorney for services rendered only in connection with an appeal proceeding under the Act.

(b) No attorney may charge, demand, receive, or collect any fee for services rendered on any claim appeals proceeding in any amount larger than \$500 or 10% of the claimant's award, whichever is less, as set forth in D.C. Code § 4-512(g).

(c) If a claimant designates an attorney to represent the claimant's interests in the claim appeals proceeding, such attorney shall file a notice of appearance with the Program. Such notice shall remain in effect unless the party represented files with the Program a written discharge of the attorney, the attorney, with the consent of the claimant, files with the Program a written statement of withdrawal from the case, or the attorney makes an oral statement of withdrawal from the case on the record at the hearing, and states the reason for said withdrawal.

(d) To receive compensation for attorney's fees, the claimant or the claimant's attorney must file with the Program a statement of services listing the nature of each service rendered, the amount of time spent in rendering each service and the hourly rate charged by the attorney to claimant for the services performed.

(e) If an attorney asserts a false claim as to the services rendered or the time spent, the Program may reduce or deny the attorney's fee, in whole or in part.

Rule 40. Restitution, subrogation, and preservation of civil action.

An award under these rules shall not affect the claimant's right to recover damages from the offender or third parties, or to obtain restitution from the offender. Upon applying for compensation, where a claimant recovers damages or receives restitution, a claimant must sign an agreement subrogating the District of Columbia to the claimant's right against the offender or third parties to the extent of any compensation awarded by the Program. On the application for compensation, the claimant must sign a declaration that the claimant will notify the Program of the institution of any suit against the offender for damages or restitution.

Rule 41. Prosecution of false claims.

Upon a finding that a claim has been falsely asserted, the Program shall refer the claim to the appropriate law enforcement agency for investigation.