

PROCEDURAL MANUAL

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Louisiana Crime Victims Reparations Board

Phone: (225) 342-1749

Fax: (225) 342-1672

Toll-Free Phone: (888) 6-VICTIM

Louisiana Commission on Law Enforcement

Box 3133

Baton Rouge, LA 70821

www.lcle.la.gov/cvr

The Procedure Manual for the Crime Victims Reparations Program has been prepared for use in the verification and investigation of claims submitted to the Board. Use this manual as a guide. Each case is different and the Board may request additional information about a claim depending on the circumstances of that case. Interpretations of some sections of the statute are also subject to change.

Crime Victims Reparations Board

The Crime Victims Reparations Board is under the jurisdiction of the Louisiana Commission on Law Enforcement and is domiciled in Baton Rouge. The Board is composed of the Executive Director of LCLE or his designee, and eight members and two at-large members who are appointed by the governor from each of the congressional districts in the state and a representative of the elderly for a term of four years.

BOARD MEMBERS:

1ST CONGRESSIONAL DIST

SHARON RODI
4421 FERRAN DRIVE
METAIRIE, LA 70002
504.454.5050

2ND CONGRESSIONAL DIST

KENNETH JONES
2145 HYDE PARK AVENUE EAST
HARVEY, LA 70058
504.367.4548

3RD CONGRESSIONAL

(VACANT)

4TH CONGRESSIONAL DIST

NANCY ADCOCK
5000 US HWY 71
SHREVEPORT, LA 71107
318.458.1637

5th CONGRESSIONAL DIST

MARY FANARA
438 NW MAIN STREET
BUNKIE, LA 71322
318.346.2664

6TH CONGRESSIONAL DIST

CAROLYN STAPLETON
645 MORROW AVENUE
ZACHARY, LA 70791
225.389.4993

7TH CONGRESSIONAL DIST

ANN POLAK, VICE CHAIRMAN
2628 LORRAINE LANE
LAKE CHARLES, LA 70605
337.436.4552

AT-LARGE MEMBER

LAMARR DAVIS, CHAIRMAN
POST OFFICE BOX 620
HODGE, LA 71247
318.259.7598

ELDERLY REP

LUCILLE WILLIAMS
6029 CHERRY HILL PLACE
SHREVEPORT, LA 71107
318.929.0077

VICTIMS & CITIZENS AGAINST CRIME

CARROLL DiBENEDETTO, SR.
8942 TRUDEAU AVENUE
BATON ROUGE, LA 70806
225.927.2869

DESIGNEE - LCLE EXECUTIVE DIRECTOR

DEBBIE MAGGIO
POST OFFICE BOX 3133
BATON ROUGE, LA 70821
225.342-1955

STAFF:

Carla Trahan , Program Manager
Margaret Watson, Program Assistant

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INTRODUCTION

In 1982, the Louisiana Legislature enacted Act 250, the Crime Victims Reparations Act, which established a fund to compensate victims of crimes. A Board was created to administer the fund, and the legislation stipulated that the Sheriff of each parish (Criminal Sheriff of Orleans) would provide personnel to carry out the purposes of the Act.

The Crime Victims Reparations fund is financed by fines levied on Criminal Court cases and NOT by taxpayer dollars. The Crime Victims Reparations Board, in managing the fund, must insure that those dollars are disbursed as equitably and fairly as possible. To do so, the Board has adopted Standard Operating Procedures to keep the fund solvent and help contain costs. Applications are accepted when expenses are completely verified. This manual is designed to provide guidance for you as the designated claim investigator to accomplish this duty.

The following is a list of components essential to this process. These will be covered in detail in the manual. This list is repeated again in the back of the manual for you to remove and post for quick reference.

Your job is essential. Without you, the Crime Victims Reparations Board could not accomplish what the statute mandates.

Sincerely,

The CVR Board

General Procedures

DISPENSING APPLICATION FORMS

Crime victim application forms are available primarily through all Louisiana Parish Sheriff's Offices. They can also be obtained on the internet at www.lcle.la.gov/cvr or by contacting the Crime Victim Reparations Board office by phone at 1-888-6-VICTIM.

Upon request, the Sheriff's Office will furnish application forms to the victim, the victim's dependent or his/her representative. Each Parish Sheriff's Office has a claim investigator assigned to assist crime victims. The claim investigator will see that each victim who inquires is sent a copy of the application form with instructions on how to complete the application.

PRELIMINARY CHECK

After receiving an application and assigning a number, the investigator makes a preliminary check to see if all necessary information has been furnished.

GENERAL INFORMATION

A victim's name, address, phone number, date of birth, social security number, etc.
Claimant (if applicable) name, address, phone number, date of birth, social security number, etc.

CRIME INFORMATION

Date and location of crime, type of crime and/or a description, report #, and description of injuries. If applicant does not have information on offender(s), this can be entered once the offense report is obtained.

SIGNATURE AND DATE

The Crime Victims Application must be signed and dated by the victim or by the claimant.

When the victim is deceased (a claimant must file and sign a Crime Victims application).

OR When the claimant:

Has the power of attorney over the victim.

Is the legal guardian of the victim who is a minor child.

Has been granted court-ordered interdiction for the victim.

ASSIGNING CLAIM NUMBER TO APPLICATION FORM

Upon receipt of the completed application, the Sheriff's Office will assign a claim number and write it on the application in the box designated for the sheriff's claim investigator. The claim number will consist of the parish name and the number. The first two digits should indicate the year the application was signed by the claimant. The final three digits will indicate the number of the current application as received by the Sheriff's Office. For example, the first application claim number in Claiborne Parish for 2008 would be **CLAI08-001**; subsequent claim numbers would appear as follows, CLAI08-002, CLAI08-003, CLAI08-004 and so on. This number will be used to identify the claim in all future correspondence.

CLAIM INVESTIGATOR REVIEW

A **Claim Investigator Review** should be completed by the claim investigator and attached to the completed application. Each section should be completed. When completing the Claim Investigator's Recommendation, if you check Deny or Undecided, please explain why. The Board values your input; therefore, when making recommendations, please include any facts (not opinions) you may have regarding the case. Sign and date.

POLICE REPORT and/or accident or incident report

Crime Victim Applications must have a police report attached. **Mail** the original application along with the claim investigator review, police report and any claims to the CVR Board Office.

DETERMINING ELIGIBILITY

The Sheriff's Office will review the completed application form and make a preliminary determination as to whether the claimant meets all basic eligibility requirements:

1. An award may be made to a person who believed he/she is a victim of a crime which involved:
 - a. the *use of force or threat of force* and resulted in personal injury, loss of income, or catastrophic loss; or
 - b. any of the following vehicular incidents caused by:
 1. a DWI/DUI driver, or
 2. a hit and run driver, or
 3. a driver who is fleeing scene of a crime, or
 4. injuries that were intentionally inflicted; or
 - c. terrorism.

NOTE: POLICE AND FIREMEN ARE NOW ELIGIBLE FOR THIS PROGRAM.

2. An award may also be made to secondary victims (family members or cohabitators of a homicide victim).
3. The offense must have occurred in the state of Louisiana or happened to a Louisiana resident in a place with no compensation program.
4. The offense must have occurred **AFTER** July 16, 1982.
5. The victim/claimant must have reported the incident to law enforcement officials within 72 hours unless there is a valid reason for a later reporting. (Child sexual abuse and kidnapping sometimes fall into this category.)
6. The victim/claimant must cooperate with the reasonable requests of law enforcement officials in the investigation and prosecution.
7. The application form must be filed within one year of the date the offense occurred, or within such longer period as the Board determines is justified by the circumstances. If there is any doubt about the one year filing deadline, please submit the application and allow the board to make a final determination.
8. If a claimant is filing for catastrophic property loss, the claimant must have suffered "loss of abode". (Generally, arson related crime.)
9. The victim/claimant cannot be the offender or an accomplice.
10. The victim of the criminal attack cannot have suffered the attack while confined in a prison or other correctional facility.

11. The victim whose own misconduct either caused or contributed to the criminal attack may have an award denied or reduced depending upon the degree of misconduct. **THIS DECISION IS DETERMINED BY THE BOARD.**

NOTE: IF, AFTER THE PRELIMINARY CHECK, THE INVESTIGATOR DETERMINES THAT THE CLAIMANT DOES NOT MEET THE MINIMUM ELIGIBILITY REQUIREMENTS, THE APPLICATION SHOULD BE FORWARDED TO THE CVR OFFICE WITH AN EXPLANATION OF THE FINDINGS INCLUDED IN THE COMMENT SECTION. IN-DEPTH VERIFICATION OF EXPENSES IS NOT NECESSARY. HOWEVER, ELIGIBILITY ISSUES REGARDING REPORTING TIME, APPLICATION FILING TIME AND CONTRIBUTION SHOULD BE HANDLED IN THE USUAL MANNER WITH COMPLETE VERIFICATION OF CLAIMED EXPENSES.

EMERGENCY APPLICATION

An emergency application should be submitted on an **APPLICATION FOR EMERGENCY AWARD** form and the claimant must explain the need for an emergency award, e.g., the claimant does not yet have all bills to file a regular claim and a medical provider insists on payment before continuing treatment, the victim cannot work due to his/her injuries, the victim is deceased and the claimant needs funds for funeral expenses, or in a domestic violence case the victim needs funds to relocate, and waiting to fill out and process a regular application would cause undue hardship.

PROCEDURE:

1. Have victim or claimant complete the appropriate portions of the **Application for Emergency Award** form and sign and date it.
2. Review the application to determine eligibility for an award.
3. Investigate and verify the offense with the respective law enforcement officer or agency.
4. Recommend approval, (with investigator's signature and date) that an emergency award should be made.
5. If a provider should receive the award, write the name and address of the provider on the emergency application. The Board Office prefers to pay the provider directly when possible.
6. Call the CVR office (225) 342-1749 and notify us that an emergency application will be faxed.
7. FAX the emergency application to the CVR office. The fax number is (225) 342-1672.
8. The CVR office will then seek the recommendation from the appropriate CVR board member when an emergency application is received.
9. If the emergency application is approved by both the Sheriff's Office and the appropriate CVR board member, a check will be mailed to the Sheriff's office that requested the award. The Claim Investigator for that Sheriff's office will then deliver the award to the victim/claimant.
10. Mail the original emergency application to the CVR office as soon as possible with the sections on the front and back of the application completed and signed.

If the claimant is granted an emergency award, the Sheriff's Office is responsible for processing the regular application and investigating the claim in the normal manner.

SUPPLEMENTAL CLAIMS

Any crime victim who incurs additional expenses that are directly related to the crime and which were not claimed on the original application may file a supplemental claim for those additional expenses. The victim/claimant must fill out another claim form (not a new application) only on the supplemental claim for which they are seeking reimbursement (MEDICAL for medical expenses, LOST WAGES for lost earnings, etc). The victim/claimant must sign and date the supplemental claim form(s). The maximum amount the victim or claimant may apply for on a supplemental claim is the difference between the original award and **\$10,000** (maximum authorized by law). If the claimant has received the maximum amount of **\$10,000**, no supplemental claims may be filed. Exception: The board may award up to **\$25,000** for permanent and/or total disability and no supplemental claims may be filed once that maximum has been met.

FOLLOW-UP PROCEDURES

The CVR Board manages a small fund and must insure that these dollars are disbursed as equitably and fairly as possible. To keep the fund solvent, the Board adopted operating procedures that limit the amount paid on each claim. These limits are indicated in each section of this manual. Invoices which are paid at less than 100% of the balance are all marked "PAID IN FULL" unless payment has been reduced due to contribution. We request that the provider agrees to (1) accept the amount of the check as payment in full, and (2) not to attempt to collect any remainder from the victim/claimant when they accept the CVR check.

All provider award checks are sent directly to the provider, excluding collection agencies. Victim or claimant award checks are sent to the applicable Sheriff's Offices that have requested receipt of such checks. The Sheriff's Office will then deliver or mail the award checks to the payee on the check. For those Sheriff's Offices that have not requested receipt of award checks, the checks are mailed directly to the claimant.

If a claim is deferred by the board, a follow-up must be made with regard to the apprehension, prosecution, and conviction of the offender. If restitution is ordered to be paid to the victim, the victim/claimant must reimburse the Crime Victims Reparations Fund for the amount recovered from the defendant by restitution.

If the claimant files a civil suit, the claimant must notify the Board and the Attorney General in writing.

If the claimant receives payment from insurance, civil action, or any governmental or private agency after receiving an award from the CVR Board, the fund must be repaid.

The applicant agrees to each of these conditions when the application is signed.

Should the investigator become aware of any payments made to the claimant after an award, the CVR Program Manager should be notified.

RECONSIDERATION/APPEALS OF APPLICATIONS

If a claim is denied by the Board, a claimant must submit a written request for appeal (reconsideration) of the case. This request for appeal should include any additional information regarding the case and list specific reasons why the claimant feels the Board should reconsider the denial. The Sheriff's Office will forward that request to the Crime Victims Reparations Board office. The Board office will forward this appeal letter to the Board and schedule the appeal to be reviewed at the next board meeting. A letter will be sent notifying the claimant of the date of the appeal hearing and the claimant should be encouraged to attend, if possible. After the hearing, both the claimant and the Sheriff's office will be notified of the Board's decision in this matter.

CLAIM INVESTIGATION

INVESTIGATION PROCEDURES

If the preliminary review of the application indicates that the claimant meets all eligibility requirements, the Sheriff's Office should conduct an investigation to verify information presented by the claimant. The investigation need only cover those claims included by the victim in the applications.

The first step in the process of investigating of the application is to obtain the offense report from the investigating law enforcement agency.

(1) **EXAMINE THE OFFENSE REPORT & CONVICTION INFORMATION** (when available)

Review the report and determine if the offender was identified, apprehended, or convicted. If no subsequent arrest or conviction resulted, the reason should be set forth as: offender unknown, insufficient identification, not able to locate defendant, warrant issued - case pending, trial date set, etc. If the arrest resulted in a conviction, indicate the type of conviction. To determine the conviction data, obtain a copy of the minute entry from the court and attach it to the application.

(2) **OBTAIN A COPY OF THE RESTITUTION ORDER** (when applicable)

Contact the local or area probation and parole officer to verify the restitution order, the amount of restitution and to whom the restitution is to be paid. Note the probation officer's name and telephone number in the "Comments Or Concerns By Other Law Enforcement Officials" section of the **Claim Investigator Application Checklist**.

CONTRIBUTION/MISCONDUCT

Contribution to an incident by a victim should be carefully investigated to determine if a victim contributed to the crime. **The victim's consent to, incitement, or provocation could affect eligibility.** It is necessary to send sufficient documentation for the Board to determine elements of contribution. Sometimes enough information is included in the incident report. However, in many cases, supplemental reports, and witness statements, etc. are necessary. If the offense report contains insufficient information for the Board's purposes or if the offense report cannot be released, then a written statement from the actual investigating officer or detective would be helpful.

CVR Board members will review the facts to determine if the claim should be allowed or denied in whole, or in part, based on this issue.

STATUTORY DEFINITION OF CONTRIBUTION

Contribution falls into two categories within the Crime Victim Statute. Following are the two sections of the Statute that define Contribution:

1. **CONTRIBUTION TO THE CRIME ITSELF**

L.R.S. 46:1809(3)(d) states that “no award of reparations shall be made if the board finds that the claimant was the offender or an accessory, or that an award to the claimant would unjustly benefit any of them.”

This category is normally the easiest to identify. The victim may be listed as the assailant, suspect, or co-conspirator, or the facts in the file clearly indicate the victim's participation in the commission of the crime.

EXAMPLE: Victim Bob Johnson was involved in a shoot-out when he pursued Suspect Tom Smith and attempted to shoot Smith for revenge involving an alleged drug rip-off. Johnson was in turn shot by Smith. Johnson was listed as the assailant in the crime report.

2. **CONTRIBUTION TO THE EVENTS LEADING TO THE CRIME**

L.R.S.46:1809(4)(a) states that “The board may deny or reduce an award if it finds that the behavior of the victim at the time of the crime giving rise to the claim was such that the victim bears some measure of responsibility for the crime that caused the physical injury, death, or catastrophic property loss or for the physical injury, death, or catastrophic property loss.”

This category is more difficult to identify and may require more facts than those contained in the offense report. This type of contribution refers to the victim's actions prior to the incident. Such actions may have caused the incident to occur.

When you have completed your review of the offense report, you are ready to complete the Investigator's Comments on the Claim Investigator's Application Checklist page of the CVR application. This section should reflect one of the three following declarations:

- a. **“Yes, the victim contributed to the incident”** -- Tells the Board that the material in the offense report clearly indicates that victim's Contribution to the Crime Itself. Relevant pages in the offense report should be flagged (yellow marker) and followed with a brief explanation of how the victim contributed to the crime itself.
- b. **“Unable to Determine”** -- Tells the Board one of three situations exists:

1. The material in the offense report indicates that the victim may have Contributed to the Events Leading to the Crime, or
2. There is not enough evidence to definitely determine if an issue of Contribution exists, possibly due to conflicting statements.
3. In cases where a dead body is found and there is no evidence or information about how the victim died, indicate "**Unable to determine**" in the Investigator's Comments.

Following the statement "**Unable to Determine**" in the Investigator's Comments, you should give a brief explanation of how the victim Contributed to the Events Leading to the Crime or why you are unable to determine if an issue of Contribution exists. Relevant pages in the offense report should be flagged (yellow marker).

3. "**No Contribution**" -- Tells the Board there is no evidence in the offense report which indicates any degree of Contribution.

READING AND FLAGGING AN OFFENSE REPORT

Your review of the offense report is an important step in determining if a Contribution issue exists. Offense reports may contain conflicting information about the victim's willing participation in the crime (Contribution to the Crime Itself) or involvement in the events leading to the crime (Contribution to the Events Leading to the Crime). Therefore, read the offense report carefully and with an open mind. **CONSULT WITH THE ARRESTING LAW ENFORCEMENT OFFICER FOR CLARIFICATION IF NECESSARY.**

1. **IF THE CRIME REPORT CLEARLY INDICATES A CONTRIBUTION ISSUE**, such as the victim is listed as the assailant, look for the pages of the crime report that substantiate the Contribution issue and flag them. For the benefit of Board Members, such pages should be referred to on the Investigator's Comments Section. Explain what type of information they contain, i.e., witness Jane Smith states or Officer Tom Brown concludes. **FLAG ONLY THE ESSENTIAL PAGES OF THE OFFENSE REPORT.** As a general rule, try to use no more than five (5) flags per offense report.

2. **IF THE OFFENSE REPORT INDICATES THE POSSIBILITY OF A CONTRIBUTION ISSUE**, examine statements in the following order to determine the most reliable source to use in referring to the possibility of a Contribution issue:
 - a. Factual conclusion from law enforcement officers.

 - b. Statements from witness who are totally uninvolved and/or unacquainted with the suspect and victim.

 - c. Statements from witnesses who are acquaintances of the victim or suspect. In such cases indicate in your report the relationship of the witness to the victim or suspect, such as, "Witness Sally Brown, who is the suspect's wife, told the police..."

Do not hesitate to state in your Investigator's Comments that you cannot reach an absolute conclusion regarding the Contribution issue, due to conflicting statements or evidence. This will occur in some of your claims. In such situations, indicate "**Unable to Determine**" in the Investigator's Comments followed by a statement explaining why there is "**Possible Contribution**".

CONTRIBUTION ISSUES

Following are examples of three (3) types of incidents that demonstrate Contribution issues. These examples are provided to familiarize you with the concept of Contribution and to help you recognize the issue when reading offense reports. The examples also tell you how to answer the issue in the investigator's Comments Or Concerns You Have About This Case: section on the **Claim Investigator's Application Checklist**.

1. **PARTICIPATION IN A PHYSICAL FIGHT:**

If the offense report states that the victim and suspect voluntarily agreed to fight as a means of settling a dispute, regardless of whether either were armed, this incident should be classified as **"Contribution to the Crime Itself."** You would note this comment in the Investigator's Comments Or Concerns You Have About This Case: section and recommend that the claim be denied.

EXAMPLE A: Witness John Smith (who is an independent witness) states in the offense report that he observed Victim Nathan Brown and Suspect Bob Johnson agree to fight each other over a remark Brown had made about Johnson's girlfriend.

If it cannot be clearly determined who started the physical fight or whether the victim's participation in the physical fight was voluntary, this incident should be classified as **"Possible Contribution."** In the Investigator's Comments it should be noted that you were **"Unable to Determine"** contribution.

NOTE: ACTING IN SELF-DEFENSE IS NOT CONTRIBUTION. IF THE OFFENSE REPORT CLEARLY SHOWS THAT THE VICTIM PROVOKED A PHYSICAL FIGHT, BUT WAS NOT THE ONE TO THROW THE FIRST PUNCH, THIS INCIDENT SHOULD BE CLASSIFIED AS CONTRIBUTION TO THE EVENTS LEADING TO THE CRIME. THE INVESTIGATOR'S COMMENTS WOULD NOTE THAT YOU WERE "UNABLE TO DETERMINE" CONTRIBUTION.

EXAMPLE B: Victim Mike Gage was involved in a verbal argument with Suspect Allen Cook while in a bar. During the argument Gage provoked Cook by using abrasive language and approached Cook in a threatening manner. The argument developed into a physical fight with Cook throwing the first blow.

It may be necessary to establish whether there was a provocation. If there was, these three questions should be addressed:

- a. Was there a provocation that warranted a response?
- b. If the provocation did warrant a response, did the response involve an unfair advantage by the assailant?
- c. Could the victim have foreseen the possible results and avoided the incident altogether?

2. **GANG ACTIVITY:**

If the offense report clearly indicates that the victim was a known gang member and was engaged in a gang fight in which he voluntarily participated, this incident should be classified as **“Contribution to the Crime Itself.”** You should note this in the Investigator's Comments section.

NOTE: GANG MEMBERSHIP ITSELF IS NOT CONTRIBUTION IF THE VICTIM WAS NOT INVOLVED IN ILLEGAL GANG ACTIVITY AT THE TIME OF THE INCIDENT. THERE WILL ALSO BE INCIDENTS IN WHICH THE VICTIM IS INVOLVED IN GANG ACTIVITY, HOWEVER, THE INCIDENT SHOULD BE CLASSIFIED AS CONTRIBUTION TO THE EVENTS LEADING TO THE CRIME.

EXAMPLE: The offense report shows that the victim, a known gang member, agreed to accompany fellow gang members to a rival gang's territory for the purpose of harassing the rival gang members. As the victim and companions passed by a group of rival gang members, racial slurs were made toward the rival gang. A member of the rival gang fired a shot which struck the victim.

NOTE: IN THIS CASE THE INVESTIGATOR'S COMMENTS SECTION SHOULD BE NOTED THAT YOU WERE "UNABLE TO DETERMINE" CONTRIBUTION.

3. **ENGAGED IN ILLEGAL ACTIVITY:**

If the offense report clearly reflects that the victim knowingly and willingly engaged in an illegal activity directly related to the incident, such as committing robbery or selling/buying illegal drugs. This incident should be classified as **“Contribution to the Crime Itself.”** in the Investigator's Comments section.

There will also be incidents in which the victim is engaged in illegal activity, however, the incident should be classified as **“Contribution to the Events Leading to the Crime.”**

EXAMPLE: The offense report reflects that the victim merely accompanied a friend, who is a known drug user, to a location so that the friend could purchase drugs from a known drug dealer. While at the location of the intended purchase, the victim's friend became involved in an argument with the drug dealer over the cost of the drugs. The victim involved himself in the argument in defense of his friend, at which time the drug dealer pulled a knife and stabbed the victim.

NOTE: IN THIS CASE, THE INVESTIGATOR'S COMMENTS SECTION SHOULD BE ANSWERED "UNABLE TO DETERMINE" CONTRIBUTION.

Claims that are filed which reflect the victim's involvement in prostitution at the time of the crime are to be verified completely. The victim's involvement in the act of prostitution should be noted in the Investigator's Comments section.

VERIFICATION OF EXPENSES

The second step in the investigation process involves contacting providers and employers to verify crime-related losses claimed on the application. **IT IS CRUCIAL THAT THE EXPENSES ARE COMPLETELY VERIFIED.** The Board will not render a decision without accurate verification.

1. **Check for documentation.** Each expense should have supporting documentation in the form of an itemized bill or invoice on the provider's letterhead. The bill must be in the name of the victim/claimant and not the Sheriff's Office or the CVR Board.
2. **Review the expenses charged** on the bill to make sure those claimed expenses occurred on or after the date of the crime.
3. **Verify the amounts listed on the bill.** This can be done in one of two ways: (1) phone the service provider or (2) use the CVR verification forms. The forms are designed to verify that the treatment expense being claimed is connected to the crime.

THE VERIFICATION FORMS ARE:

<u>FORM NAME</u>	<u>COMPLETED BY</u>
Child Care Expense Verification	Child Care Provider
Employment Verification.....	Employer
Funeral/Burial Expense Verification.....	Funeral Director
Disability Verification.....	Physician
Mental Health Treatment Initial.....	Mental Health Provider
Mental Health Treatment Update.....	Mental Health Provider

It is the claimant's responsibility to furnish itemized bills and receipts from providers; that means, it is not the investigator's responsibility to go to the service provider to get a bill or receipt if the victim fails to produce it. The investigator should use his/her own discretion and guidance from their sheriff on the degree and amount of assistance accorded the claimant.

Should the victim fail to provide the needed documentation within a timely period (30-day deadline), the victim should be notified, in writing, that the portion of his/her claim for which documentation is missing cannot be considered until all requested documentation is obtained.

CHECKING COLLATERAL SOURCES

The Crime Victims Reparations Board makes awards for out-of-pocket losses. Documentation of actual losses includes verifying all sources of reimbursement available to the claimant.

The most common collateral sources are:

Health Insurance (HMO's, Group, Individual)
Automobile Insurance (Medical Coverage)
Homeowners Insurance (Residence & Contents)
Disability Insurance
Life Insurance (Except when spouse or dependent is beneficiary.)
Burial Insurance
Medicare
Medicaid
Social Security Disability
Social Security Survivor Benefits
SSI
Worker's Compensation
Sick Leave
Unemployment Benefits
VA Benefits (CHAMPUS)

Generally the claimant will provide most of the information. However, many will fail to list all their sources of reimbursement. The investigator should ask for and note indications of insurance coverage in medical documents and verification forms. Also, phone conversations with the claimant may reveal eligibility for reimbursements not listed on the application.

THE CVR OFFICE IS NOT A GUARANTOR OF PAYMENT
INSURANCE MUST BE FILED FIRST -- CVR IS PAYER OF LAST RESORT.

VEHICULAR INCIDENT CLAIM

ELIGIBLE EXPENSES:

Medical, lost wages, and funeral expenses incurred resulting from DWI, Hit and Run, Fleeing Felon, or injuries intentionally inflicted by an operator of a motor vehicle, boat, or aircraft.

NOTE: VEHICULAR ACCIDENT RELATED INJURIES, OTHER THAN THOSE CAUSED BY THE ABOVE, ARE NOT COMPENSABLE.

DOCUMENTS REQUIRED:

1. Copy of the **Motor Vehicle Traffic Accident Report**.
2. Results of **Blood Alcohol Test** (for DWI) or **Drug Screen**.
3. Copy of auto insurance coverage on vehicle(s) involved in incident.

NOTE: BOARD MAY DENY OR REDUCE AN AWARD IF:

- A. VICTIM WAS NOT WEARING A SEAT BELT IF THEY WERE A DRIVER OR FRONT SEAT PASSENGER.
- B. VICTIM WAS A WILLING PASSENGER IN A VEHICLE, BOAT, OR AIRCRAFT OPERATED BY A "DRUNK" DRIVER.
- C. VICTIM WAS OPERATING A MOTOR VEHICLE WITHOUT REQUIRED SECURITY (LIABILITY INSURANCE).
- D. MEDICAL EXPENSES CAN BE PAID BY THE AUTO INSURANCE.

NOTE: THE CVR INVESTIGATOR SHOULD CHECK FOR AUTO INSURANCE OF BOTH THE OFFENDER AND THE VICTIM.

VEHICLE INCIDENT CLAIM CHECKLIST

1. Is a copy of the Motor Vehicle Traffic Accident Report attached?
2. Are the results of the Blood Alcohol Test for DWI or Drug Screen attached?
3. Is a copy of the claimant's auto insurance coverage attached?
4. Has the claimant listed the auto insurance policy number and insurance agent in the Insurance section of the **Vehicle Information Report**?
5. Has the victim/claimant retained an attorney? If the section of the form marked **Attorney** is not completed, ask the victim/claimant if he/she plans to retain an attorney and fill out accordingly.

CLAIMS PROCESSING

MEDICAL CLAIMS

ELIGIBLE EXPENSES:

Out-of-pocket loss for personal injury that is directly crime-related. These expenses are expenses not recoverable from any other source and insurance has been filed.

MEDICINES & DRUGS:

Only those medicines and drugs prescribed by a licensed physician.

PHYSICIANS ALLOWED:

Services provided by licensed medical doctors, dentists, eye doctors, chiropractors, osteopaths, pediatricians, psychiatrists, psychologists, physical therapists, etc.

MEDICAL SERVICES:

Emergency ambulance service, medical examinations, x-ray and laboratory services and/or whirlpool baths the doctor ordered.

NURSING HELP:

Only services of a registered nurse as prescribed by a licensed physician.

HOSPITAL CARE:

Meals, lodging, clinic costs, and lab fees.

MEDICAL AIDS:

Aids such a hearing aids, false teeth, eyeglasses, contact lenses, crutches, and wheelchairs needed as a direct result of the crime or that were damaged or destroyed during the crime.

ALLOWABLE TRAVEL EXPENSES:

These transportation costs other than the initial ambulance service, are reimbursable only when required medical care is not available locally. Certification is required by the physician of record that local medical care is unavailable. Reimbursable expenses include ambulance service, public transit expenses, private automobile mileage (36 cents/mile), and bus fare.

DOCUMENTS REQUIRED:

1. All **itemized medical bills** or statements from the physician or provider of medical service.
2. For all hospital services, a complete itemized list of services **must** be included along with the discharge summary.
3. Xerox copies of canceled checks where claimant/victim has paid a portion or all of the expenses.
4. A **Medical Expense Verification Form** must be completed to verify medical expense.
5. Copies of insurance statements that reflect portion(s) of medical expense(s) reimbursed by medical insurance.
6. Copies of any estimates for work to be done (i.e. dental work, or cosmetic surgery) should be sent with the application for prior approval by the board. The estimate should spell out the work to be performed.

NOTE: MAKE SURE AN ITEMIZED BILL OR STATEMENT IS ATTACHED TO THE FORM.
THE VERIFICATION FORM DOES NOT ACT AS A BILL OR STATEMENT.

VERIFICATION BY PHONE:

Insurance payments, claimant payments, and outstanding balances owed to providers can be verified by phone.

Indicate the following on the bill:

- | | | | |
|----|---------------------------|----|---------------------------|
| a. | Date called | b. | Amount of total charges, |
| c. | Amount paid by claimant | d. | Amount paid by insurance, |
| e. | Remaining Balance, if any | f. | Investigator's initials. |

VERIFICATION BY FORM:

The primary providers itemized bills do not list payments by insurance and the claimant. They should be sent a **Medical Expense Verification Form**. Each doctor treating the victim must verify on the form that the injuries being treated are the result of the crime.

If there is a difference in the amount of the itemized bill and the amount on the **Medical Expense Verification Form**, call the provider to verify the amount.

If there is a significant time lapse between the **Medical Expense Verification Form** being completed and filing the claim, call the provider to verify the amount claimed.

The applicant's authorization for release of information from the second page of the application is sent along with the form.

CURRENT BOARD PAYMENT POLICY:

The Board may pay up to **70%** of all outstanding charges independent of any third party sources.

If **70%** of the total outstanding charges exceeds the case cap of **\$10,000**, then all providers listed in the claim will be paid out of that actual percentage those bills are in relation to the available case funds.

AMBULANCE Travel Maximum is subject to a **\$300.00** limit.

AIRMED Travel is subject to a **\$500.00** limit.

Medical procedures during **AIRMED** or ambulance travel are separate and should be billed under medical expenses. The Board may pay **70%** of the outstanding balance of the **medical** portion of the **AIRMED** or ambulance bill.

NOTE: IF A DECEASED VICTIM IS 18 YEARS OR OLDER, ASK THE CLAIMANT IF HE/SHE SIGNED AN AGREEMENT WITH THE HOSPITAL, PHYSICIAN, ETC. ASSUMING RESPONSIBILITY FOR THE MEDICAL BILLS. IF HE/SHE HAS NOT, THEN HE/SHE IS NOT LEGALLY RESPONSIBLE AND THE BOARD MAY NOT CONSIDER THOSE EXPENSES.

EXAMPLE: Claimant is the mother of a 19-year-old daughter who was shot by an unknown person during an armed robbery. Claimant lists ambulance, hospital and funeral expenses on the application. Ambulance and hospital bills are made out to the victim. Claimant is responsible for the funeral bill as she signed the itemized statement from the funeral home. Claimant said she did not sign anything at or from the hospital or ambulance company. The Board can only consider reimbursement of the funeral expenses. Claimant is not obligated to pay the medical bills.

MEDICAL CLAIM CHECKLIST

1. Did the claimant fill out a **Claim Form For Medical Expenses, Mental Health, and Funeral Expense** answering the questions, listing all medical providers and expenses, and complete the form with his/her signature and the date? Please make sure that all claims requiring reimbursement to the claimant or provider are listed on the claim form. Please do not send in forms with "See Attached."
2. Do you have a **Medical Expense Verification Form** completed by each medical provider that the claimant has listed on the **Claim Form For Medical, Mental Health & Funeral Expenses**?
3. Is each itemized bill attached? (BILLING STATEMENTS DO NOT SUFFICE.)
4. Is each bill addressed to the claimant - not some other party, the Sheriff's Office or the CVR Board?
5. Does it appear that the claimant has filed for all insurance or other collateral source payments for which he/she might be eligible? If not, notify the claimant that insurance claims must be filed and resolved before CVR claims can be processed. (This does not preclude an eligibility determination.) Check for inconsistencies.
6. If provider is a hospital, is an emergency treatment record or final discharge report attached? If not, contact hospital and ask them to send or fax to you the itemized bill in claimant's name listing charges and payments made on account from insurance and/or victim/claimant.
7. If traveling expenses for medical care are reported, is the required doctor's or dentist's letter attached?
8. The **Medical Treatment/Disability Verification Form** is to be sent to the victim's primary doctor(s) or dentist(s) only, not to radiologists, ambulance, etc. unless there are problems. Ask the claimant to have the primary doctor(s) or dentist(s) complete the verification form. Please check the forms to make sure they have been filled out correctly and completely.
9. Did you verify the expense for each claim?
 - a. If no, you may complete the verification form by phoning the provider's business office, or you can fax or send the form to the provider. Follow-up on getting the form returned to you.
 - b. If yes, you have finished all requirements. Please complete, sign, and date the **Claim Investigator's Verification** section of the **Medical/Lost Wage Claim Checklist** and submit it and the attachments with the application.

LOST WAGES CLAIMS

ELIGIBLE EXPENSES:

Lost earnings compensation shall accrue only during the period of medical disability as confirmed by a licensed medical practitioner.

DOCUMENTS REQUIRED:

1. Disability Verification Form must be completed by the victim's doctor and state that injuries the victim sustained are a direct result of the crime. The disability period must be indicated.

Only the following list of physicians can legally determine physical disability:

Medical Doctor	Physiatrist
Oral Surgeon	Ophthalmologist
Psychiatrist	Surgeon

2. An Employment/Wage Verification, must be completed and signed by employer or other authorized person.
3. A claim form for Lost Wages/Earnings must be completed and signed by the victim.
3. Individual federal or state tax return for the last year before the crime incident.
4. All W-2 or 1099 statements of the victim that were filed with tax return.

NOTES:

Sick Leave: If a victim uses sick leave through his employment, the victim may be reimbursed by CVR.

Annual Leave: If the victim uses vacation or personal holiday (or other allotted holiday) eligible through employment, CVR may reimburse the victim for that time used.

Referrals: If a victim is initially treated by one doctor and that doctor refers the victim to another doctor, the referral doctor can determine disability from the date of the incident.

CURRENT BOARD PAYMENT POLICY:

The Board may award up to **\$400/week** pay with a maximum of **\$10,000** over a period of 52 weeks.

If workmen's compensation or other private disability/income protection insurance is available, those policies must be paid out first before the CVRB considers a "lost wages" claim. The inability to work must be directly related to the victimization and documented by the appropriate Medical Doctor. That medical opinion is subject to professional review and audit. If a victim does not return to work, the lost wage period will be no longer than the payment period paid by the Workmen's Compensation program. If a person is not gainfully employed at the time of the crime, then no lost wages can be determined nor awarded.

WHEN VICTIM IS SELF-EMPLOYED:

ELIGIBLE EXPENSES:

Lost earnings compensation shall accrue only during the period of medical disability as confirmed by a medical practitioner.

DOCUMENTS REQUIRED:

1. A Disability Verification Form, must be completed by victim's doctor and state that injuries the victim sustained are a direct result of the crime. Only the following list of physicians can legally determine physical disability:

Medical Doctor	Physiatrist
Oral Surgeon	Ophthalmologist
Psychiatrist	Surgeon

2. Copies of individual federal and state tax returns for the last year before the crime incident plus verification of payment of estimated tax.
3. All supporting Federal Tax Return Schedules of the victim that were filed with tax return.

CURRENT BOARD PAYMENT POLICY:

The Board may award up to **\$400/week** (gross, net, after-tax, or take home pay) with a maximum of **\$10,000** over a period of 52 weeks.

LOST WAGE CLAIM CHECKLIST

1. **Has the claimant attached proof of his/her employer verifying wages or earnings? This includes Employment Verification Form, tax returns, pay stubs, contracts, etc.**
2. **If the claimant missed more than one week of work, is the Medical Treatment/Disability Verification form attached?**
3. **Does it appear that the claimant has filed for all insurance or other collateral source payments for which he/she might be eligible?**
 - a. If no, notify the claimant that all insurance claims must be filed and resolved before CVR claims can be processed.
 - b. If yes, you have finished all requirements. Please complete, sign, and date the **Claim Investigator's Verification** section of the **Medical/Lost Wage Claim Checklist** and submit it and the attachments with the application.

MENTAL HEALTH CLAIMS GUIDELINES

ELIGIBLE CLAIMANTS:

Currently, the statute allows reimbursement of mental health treatment expenses only for:

1. **Primary Victim:** Individual who was directly victimized or traumatized by criminal activity.
2. **Secondary Victim:** Family member(s) or one in close relationship (i.e., living in home) to victim in Homicide cases.

NOTE: THE CVR FUND IS A SECONDARY SOURCE (OR A "PAYER OF LAST RESORT") THAT PAYS AFTER OTHER SOURCES HAVE PAID FIRST (E.G., HMO/HEALTH INSURANCE/MEDICARE/MEDICAID).

DOCUMENTS REQUIRED:

1. **Initial Mental Health Treatment Plan,** must be completed by the victim's mental health counselor and state how the psychological trauma experienced by the victim is a direct result of the crime. *THIS MUST BE SUBMITTED WITHIN THE FIRST 3 MONTHS OF TREATMENT.*

The following is a list of the licensed professionals that meet the requirements of the board:

Medical Doctor	MD
Psychiatrist	MD
Psychologist	Ph.D.
Licensed Clinical Social Worker	LCSW
Licensed Professional Counselor	LPC

2. **Itemized Bill,** from the mental health counselor showing dates of service and the hourly fee for that service, amount insurance paid, amount patient paid, and balance owed.

NOTE: THE BILL MUST BE IN THE NAME OF THE VICTIM.

3. **Updated Mental Health Treatment Plan,** must be submitted *AFTER THE FIRST 6 MONTHS OR 26 SESSIONS OF TREATMENT*, then every 3 months or 12 sessions thereafter for continued consideration of compensation.

NOTE: THIS IS A DIFFERENT FORM THAN THE INITIAL MENTAL HEALTH TREATMENT PLAN.

NOTE: AFTER RECEIPT OF THE INITIAL CLAIM, THE THERAPIST IS SENT INFORMATION ABOUT MENTAL HEALTH DOCUMENTATION AND GUIDELINES.

CURRENT BOARD PAYMENT POLICY:

1. For the life of each claim, reimbursable charges may not exceed \$2,500. These limits include the cost of all treatment services and psychological or neuropsychological evaluations/testing as described in §503.I.8. Victims/claimants may apply for an additional \$2,500 in reimbursement when there is a documented need for long-term mental health services.
2. Providers must be licensed psychiatrists, psychologists, professional counselors, or licensed clinical social workers and are reimbursed at the following rates:
 - a. M.D. Board Certified Psychiatrists.....**\$85/hour**
 - b. Ph.D. Licensed Psychologists (Ph.D.).....**\$85/hour**
 - c. M.S. Licensed Professional Counselor (LPC).....**\$75/hour**
 - d. MSW Licensed Clinical Social Worker (LCSW).....**\$75/hour**
 - e. Group Therapy Rates.....**\$30/hour**

NOTE: THE BOARD MAY NOT COMPENSATE SERVICES PERFORMED BY UNLICENSED PROVIDERS OR ANY OTHER LICENSED PROVIDER NOT INCLUDED ABOVE (E.G., RN, BCSAC, ETC.).

3. Psychological evaluation/testing may not exceed \$800.00 and neuropsychological evaluation/testing may not exceed \$1,500.
4. No reimbursement for court preparation or for missed appointments will be made.
5. It is the experience of the board that psychiatric inpatient hospitalization is not usually necessary. For claims involving inpatient treatment, peer review will be required.

MENTAL HEALTH CLAIM CHECKLIST

1. **Claim Form for Medical, Mental Health, and Funeral Expenses**, answering all questions and listing all mental health providers and expenses with a signature and a date, completed by claimant.
2. **Initial Mental Health Treatment Plan**, completed by the mental health provider.
3. **Itemized bill**, completed by mental health provider.
4. Verify bill is addressed to claimant.
5. Verify the claimant has filed for all insurance or other collateral source payments for which he/she might be eligible.
6. Verify the expense by contacting the provider's business office to clarify any discrepancies in the bill and the **Initial Mental Health Treatment Plan**.

NOTE: CLAIMANT MUST FILE MENTAL HEALTH CLAIMS WITHIN THE FIRST 3 MONTHS OF TREATMENT. INITIAL CLAIMS MUST INCLUDE THE INITIAL MENTAL HEALTH TREATMENT PLAN COMPLETED BY THE THERAPIST. AFTER THE FIRST 6 MONTHS OR 26 SESSIONS OF TREATMENT, THE THERAPIST MUST COMPLETE AND SUBMIT AN UPDATED MENTAL HEALTH TREATMENT PLAN, AND THEN EVERY THREE MONTHS THEREAFTER.

MENTAL HEALTH CLAIMS GUIDELINES-SUPPLEMENTAL
Points to Remember:

1. The Louisiana Crime Victims Reparations Board strives to provide financial assistance to those who have been victims of crime. However, please note that this does NOT mean:
 - a. that the Board is a guarantor for services or,
 - b. that the Board or its consultants in any way dictate the manner or duration of mental health treatment for victims
2. Compensable mental health treatment expenses are limited to the primary victim except in cases of homicide or conjoint therapy for family members of a sexual abuse victim.
3. The Board has the primary goal of helping as many victims as possible. Therefore, while many victims may benefit from long-term intervention, the Board is able to consider compensation only for treatment that is necessary to reduce significant risk to a victim and/or restore a victim to a reasonable level of functioning. This may or may not be a level that is equal to the victim's functioning prior to the crime.
4. Based upon professional review of submitted treatment information the Board may limit or deny compensation of treatment expenses for various reasons including the following:
 - a. Treatment is being given for issues unrelated to the experience of a crime.
 - b. Treatment is being provided to individuals that are not the primary victim (i.e., did not directly experience the crime)
 - c. Initial or updated treatment plans are incomplete or not submitted in a timely manner
 - d. Treatment is considered to be ineffective when no or little improvement is achieved even after an extended treatment period (e.g., 6 months to a year)
 - e. The victim has improved to the point of demonstrating a reasonable level of functioning, even if this is not equal to that prior to the crime.
 - f. The total cost of compensation has reached the established limits set forth in the guidelines of the Board.
5. In some cases treatment for a victim may become extended in duration or very complicated in scope (e.g., multiple therapists, multiple problem areas, etc.). In cases such as these, the Board may require additional information (e.g., case notes, discussion with therapist, secondary opinion or evaluation, etc.) in order to render a decision about potential compensation. Please note that as a part of the CVRB claims procedures, all victims/legal guardians sign consent to obtain such information from providers.

Steps for Submitting Claims:

1. An INITIAL MENTAL HEALTH TREATMENT PLAN must be submitted by the mental health provider within the first 3 months of treatment. **Otherwise the claim will be deferred until such time that the provider can document the reason for the delay in submitting the claim.**
2. After the first 6 months/26 sessions of treatment, an UPDATED MENTAL HEALTH TREATMENT PLAN must be submitted documenting current status of patient and goals/steps of planned treatment. **Please note that this is a different form than the INITIAL MENTAL HEALTH TREATMENT PLAN.**
3. Every subsequent 3 months/12 sessions of treatment will require a new UPDATED MENTAL HEALTH TREATMENT PLAN to be completed by the mental health provider.
4. Alternative treatment plan forms or summaries are not acceptable as a substitute for the CVRB treatment plan forms.

(Please note that failure to complete the Initial Treatment Plan and the subsequent Treatment Updates in a timely manner will significantly delay potential reimbursements.)

(The best way to determine the extent to which the Board can be of financial assistance is to submit documentation in a timely manner as detailed.)

DATE:

TO: MENTAL HEALTH PROVIDERS

FROM: ERICH DUCHMANN, Ph.D.
MENTAL HEALTH CONSULTANT
CRIME VICTIMS REPARATIONS BOARD

Dear Provider:

Thank you for your willingness to assist a victim of crime. The Louisiana Crime Victim's Reparations Board (CVRB) may be able to provide compensation for a portion of mental health treatment expenses. In order to apply for compensation, the mental health provider must complete an Initial Mental Health Treatment Plan within the first 3 months of treatment. This form should document the current conditions or symptomatology that is being treated, how it is related to the reported crime, the specific interventions employed, and an estimated problem resolution date.

In regards to problem resolution dates, you should know that the CVRB strives to help as many victims of crime as is possible. Therefore, while many victims may benefit from a long-term intervention, the Board is able to provide compensation only for treatment that is necessary to reduce significant risk to a victim, and/or restore a victim to a reasonable level of functioning. This may or may not be a level that is equal to the victim's functioning prior to the crime. This should be taken into account during treatment planning.

Typically, mental health treatment goals and techniques that are within reasonable and acceptable standards for the conditions being treated will be approved for reimbursement for the first 26 sessions or 6 months, whichever comes first. However, any treatment extending beyond this time frame will require the completion of an Updated Mental Health Treatment Plan for each additional 3 months (or 12 sessions). Given sufficient documentation on this form to support the need for extended treatment, the victim will be considered for further compensation. Please note that this is a different form from the Initial Mental Health Treatment Plan. Also, alternative treatment summaries or forms are not acceptable.

It is the purpose of the CVRB to provide financial assistance to those who have been victims of crime. However, this should not be interpreted as being a guarantor for services provided. Please note the CVRB is considered a payer of last resort, meaning one used only after application to other legitimate payers such as health insurance, Medicare, or Medicaid has been made. Also, it should be noted that the Board or its consultants in no way dictate the manner or duration of mental health treatment for victims. However, based upon professional review of submitted treatment plans, the Board may limit or deny compensation of treatment for various reasons including the following:

- 1) Treatment is being given for issues unrelated to the experience of a crime
- 2) Treatment is being provided to individuals that did not directly experience a crime
- 3) Initial or updated treatment plans are incomplete or not submitted in a timely manner (see paragraphs 1 & 2 above)

- 4) Treatment is considered to be ineffective when no or little improvement is achieved even after an extended treatment period (e.g., 6 months to a year or more).
- 5) The client has improved to the point of demonstrating a reasonable level of functioning, even if this is not equal to the level of functioning prior to the crime.
- 6) The total cost of compensation has reached the established limits set forth in the guidelines of the Board.

If you have any questions about the requirements of submitting mental health claims information, please don't hesitate to contact us.

Sincerely,

Erich G. Duchmann, Ph.D.
Crime Victims Reparations Board
Mental Health Consultant

Family Therapy Clinic of Louisiana, LLC
4980 Bluebonnet Blvd., Ste. B
Baton Rouge, LA 70809
225-927-2455
225-927-7921 (fax)
erich_ftc@bellsouth.net

**(SAMPLE OF LETTER SENT FROM CVR OFFICE TO MENTAL HEALTH PROVIDERS
REQUESTING UPDATED MENTAL HEALTH TREATMENT PLAN)**

(DATE)

(PROVIDER NAME)
(PROVIDER ADDRESS)

Dear (PROVIDER):

Thank you for the treatment plan information you have submitted regarding (CLIENT NAME). This information is very helpful for the Louisiana Crime Victims Reparations Board (CVRB) to make informed decisions regarding victim support. Typically, mental health treatment goals and techniques that are within reasonable and acceptable standards for the conditions being treated will be approved for reimbursement over the course of the first 26 sessions or 6 months, whichever comes first. However, any treatment extending beyond this time frame will require the completion of an Updated Mental Health Treatment Plan for **each** additional 3 months or 12 sessions (Please note that this is NOT the same form as the Initial Mental Health Treatment Plan). Given sufficient documentation on this form to support the need for extended treatment, the victim will be considered for further compensation.

According to our records, an Updated Mental Health Treatment Plan is due on your client. Please note that the update should document your client's status AS OF (DATE), and not as of today.

If you have questions regarding this letter, please don't hesitate to contact the CVRB office, or you can contact me directly via phone or email (preferable). Thank you again for your consideration in this matter, and for your assistance in providing this victim with support during this difficult time.

Sincerely,

Erich G. Duchmann, Ph.D.
Crime Victims Reparations Board
Mental Health Consultant

Family Therapy Clinic of Louisiana, LLC.
7656 Jefferson Hwy, Suite 1A
Baton Rouge, LA 70809
225-927-2455
225-927-7921 (fax)
FTCLA@bellsouth.net

FUNERAL CLAIM

ELIGIBLE EXPENSES:

Funeral, burial, or cremation expenses as a consequence of crime-related death.

DOCUMENTS REQUIRED:

1. Copies of all bills or statements from funeral homes. The bill from the funeral home must be itemized.
2. The **Funeral/Burial Verification** completed by the funeral home.
3. Xerox copy of death certificate of victim signed by coroner. If claimant provides original certificate, please make a copy and return the original document to the claimant.
4. Copies of receipts and/or canceled checks for any out-of-pocket expenses.

There is a maximum cap of **\$5,000** for all services. Death and/or burial insurances must pay first.

FUNERAL/BURIAL CLAIM CHECKLIST

1. Did the claimant fill out the **Funeral/Burial Expense Verification Form**?
2. Is the itemized bill and a copy of the death certificate attached?
3. Is the claimant responsible for the bill?
4. Does it appear that the claimant has filed for all insurance or other collateral source payments for which he/she might be eligible?
5. Did you verify the expense?
6. The Board requires that it be determined if insurance was life insurance or a dedicated burial policy. Is that question answered on the verification form?

LOSS OF SUPPORT

ELIGIBLE EXPENSES:

A claimant may seek compensation for loss of support based only on the victim's death. The loss of support or dependency shall accrue only to:

1. Dependent children under 18;
2. The dependent spouse of a deceased victim, until remarriage;
3. Any relative who was a financial dependent of the deceased victim at the time of death of the victim.

Where a deceased victim and surviving spouse both have income at the time of the criminal occurrence resulting in the death of one of the spouses, the independent income of each spouse shall be used to determine if loss of support (dependency benefits) may accrue.

DOCUMENTS REQUIRED:

1. Claim Form for Loss of Support completed and signed by claimant.
2. Copy of Death Certificate of victim signed by coroner. If claimant provides original certificate, please make a copy and return the original document to the claimant.
3. Employment/Wage Verification must be completed and signed by employer of victim.
4. Copy of individual federal or state tax return for the last year before the crime incident. (Required to show dependency of claimant to victim.)
5. Copies of all W-2/1099 and/or supporting tax schedules of the victim and claimant, if applicable, that were filed with tax return.
6. Copy of any life insurance policy or claim filed on behalf of victim.
7. Copies of documentation that Social Security or other pension benefits are not available to surviving spouse.

LOSS OF SUPPORT CLAIM CHECKLIST

1. Are the proofs of dependence attached? (Examples: tax return, custody papers, etc.)
2. Is the **Employment Verification Form** attached?
3. Has the claimant filed for Social Security?
4. Does it appear that the claimant has filed for all insurance or other collateral source payments for which he or she might be eligible? If not, ask the claimant to file with the insurance or other collateral source(s) for any payment he/she might be eligible.

CHILD CARE CLAIM

ELIGIBLE EXPENSES:

Expenses related to the care of a child or children enabling a victim or the spouse, but not both to engage in gainful employment.

For purposes of this section, the definition of child includes:

1. Dependent children, 13 or under, of victim or claimant;
2. Any dependent child who was a financial dependent of the deceased or disabled victim at the time of the crime.

DOCUMENTS REQUIRED:

1. Copies of bills, receipts or other documents which indicate total cost(s) for child care expenses;
2. Copies of canceled checks indicating amount of out-of-pocket expense victim/claimant may have paid;
3. Copies of victim/claimant previous year tax return to indicate dependent child status;
4. Copies of any applicable court documents indicating legal custody or responsibility that the victim/claimant has over dependent child.

CHILD CARE CLAIM CHECKLIST

1. Is the proof of dependency attached? (Tax return of court custody papers.)
2. Make sure bills/proofs of payment are attached.
3. Make sure the bills are addressed to the claimant.

CATASTROPHIC PROPERTY LOSS CLAIM

ELIGIBLE EXPENSES:

Permanent Property Loss. The property loss must be so great as to cause overwhelming financial effect on victim and is limited to loss of abode. It is usually the direct result of arson.

OVERWHELMING FINANCIAL EFFECT:

1. Lack of financial resources necessary to repair property damaged or provide temporary lodging.
2. Lack of financial resources may be little or no net worth, No homeowner's insurance policy.
3. Lack of income.

DOCUMENTS REQUIRED:

FOR ALL CASES:

1. Copy of homeowner's insurance policy including the name and phone number of the insurance agent.
2. A copy of insurance claim adjuster's report when claim filed with homeowner's insurance policy.

FOR ARSON-RELATED CASES:

3. A Fire Marshall's Incident Report if arson was the cause or suspected cause of the crime.

CURRENT BOARD PAYMENT POLICY:

A maximum of \$10,000 may be awarded if a victim's home is owned and house/contents are destroyed (usually by fire). This must produce a "verifiable" overwhelming financial effect for that person.

CATASTROPHIC PROPERTY LOSS CLAIM CHECKLIST

1. Is there evidence that the victim owned the house and resided there?
2. Are the tax returns, statement of net worth, insurance policy, adjustor's report, and the Fire Marshall's report attached?

NOTES:

1. The statement of net worth is an estimate by the claimant of his assets and liabilities. The figures do not have to exact to the penny.
2. The claimant should give an estimate of his monthly income; list the amount held in checking and savings accounts; and give the value of any stocks, bonds, or other real estate.
3. Also to be included is an estimate of the value of personal property including jewelry, clothing, and furniture, and the fair market value of the home.
4. Liabilities would include an estimate of the monthly expenses, such as mortgage payment, utilities, food, clothing, etc.
5. Other liabilities would include car loan(s), alimony and child support payments, and other debts such as credit card balances, signature loans, or insurance contracts.
6. The crime must produce a verifiable overwhelming financial effect on the victim.
7. If the claimant is infirm or might have difficulty in obtaining the requested information for any reason, it is appropriate for the Claim Investigator to try to obtain the information him/herself.

CRIME SCENE EVIDENCE CLAIM

ELIGIBLE EXPENSES:

1. Loss claimed must be for an item(s) listed as evidence seized in the law enforcement report.
2. The item(s) must be either not returned to returned in a condition, which renders it unusable.
3. Item(s) may be limited to clothing and bedding.

DOCUMENTS REQUIRED:

1. Portion of offense report listing item(s) as evidence seized.
2. Proof of purchase or an estimate for replacement with a comparable item from a recognized merchant must be furnished.

CURRENT BOARD POLICY:

1. Expenses associated with the collection and securing of crime scene evidence are limited to:
 - a. Reasonable replacement costs for clothing, bedding, or property seized as evidence
or
 - b. Rendered unusable as a result of a criminal investigation or lab test.
2. A forensic medical examination for a victim of sexual assault is considered an expense associated with the collection and securing of crime scene evidence. State law mandates payment for this examination by the parish governing authority. All other expenses related to these crimes are eligible for reimbursement by the board at 100%, subject to the provisions of the Crime Victims Reparations Act and its administrative rules.

CRIME SCENE EVIDENCE CLAIM CHECKLIST

1. Are the claimed items listed in the report as evidence seized?
2. Have you determined if the items were not returned or if they were returned in unusable condition?
3. Has the claimant furnished proof of payment or an estimate for replacement from a recognized merchant?
4. For victims of sexual assault, have they provided an itemized bill? Have you verified the expense? Have you obtained a copy of the medical record?

ATTORNEYS' FEES CLAIM

ELIGIBLE EXPENSES:

1. The Board can determine and award reasonable attorneys' fees as part of an order resulting from a hearing.
2. Attorneys' fees may be denied on a finding that the claim or appeal is frivolous.
3. Awards of attorneys' fees, if made, are in addition to awards of reparations.
4. Attorneys' fees are limited to a maximum of fifty dollars (\$50.00) per hour.

APPENDIX A

QUICK REFERENCE GUIDELINES

1. The Claim Investigator must give a recommendation on each application.
2. The **Claim Investigator Review** is reserved for the assigned Claim Investigator. Additional comments from the investigating officers should be attached when appropriate.
3. The victim/claimant must complete, sign and date the application and any claim form that states, "This Form is to be completed by the claimant." If the victim/claimant is assisted with the application and claim forms, he/she still has to sign or put their mark where the signature belongs and witnessed by someone.
4. Itemized expenses must be listed on the proper claim forms (such as the Claim Form for Medical, Mental Health and Funeral Expenses) for the Board to consider a claim. Verification forms are not substitute bills.
5. Invoices must be made out in the name of victim/claimant, **not** the CVR Board or the Sheriff's Office.
6. All amounts claimed must be verified by phone or with forms.
7. For Lost Wages:
 - (a) The doctor must sign a **Medical Verification Form** and state dates of disability and indicate if injury was direct result of the crime, and
 - (b) The victim's employer must complete an **Employment Verification Form**.
8. If the deceased victim is 18 years or older, his/her family is **NOT RESPONSIBLE** for medical bills, unless they sign an agreement with the hospital, doctor, ambulance, etc. They do not have to pay those bills. Therefore, they cannot be reimbursed for them.
9. Newspaper articles about the crime are helpful for obtaining details.
10. Supplemental claims require a new claim form signed by the claimant, for the specific claimed expense, with amounts listed as appropriate. Itemized bills should be attached.
11. Updates on offender trial status are appreciated with supplemental claims.
12. Put CVR claim numbers on the application and all appropriate claim forms. For supplemental claims, you will use the original number assigned to the victim.
13. Make others aware of the CVR program, especially your receptionist, so victims don't get turned away. Include your contact information on your agency's website.

QUICK REFERENCE FOR PAYMENT POLICIES

A. GENERAL LIMITS

1. A \$10,000 maximum award amount exists.
2. If the victim's injuries are permanent and total, the limit can be up to \$25,000. Award depends on availability of funds, lack of collateral sources.

B. FUNERAL/BURIAL EXPENSES

1. A \$5,000 limit for all services exists.

C. LOST WAGES/EARNINGS

1. The award is limited at \$400/gross per week to a limit of one year. (52 weeks)
2. The maximum award is \$10,000.

D. LOSS OF SUPPORT

1. The award is limited at \$400 per week to a limit of one year. (52 weeks)
2. The maximum award is \$10,000.
3. Also available in cases of Child Sexual Assault where the supporting parent is the offender.

E. MEDICAL

1. Claimant reimbursed 100% for expenses actually paid.
2. Balances owed to providers are limited at 70% of the outstanding balance; but, if this results in payment over \$10,000, the providers are paid at an equally prorated rate that equals \$10,000.
3. In-patient mental health limited to 50% of Board's allowable charges.

F. MENTAL HEALTH

1. Provider must be a licensed or board certified mental health professional.
 2. Does not include RN, BCSAC, etc.
 3. Rates limited as follows:

a.	M.D. Board Certified Psychiatrist	\$85/hour
b.	Ph.D. Licensed Psychologist	\$85/hour
c.	M.S. Licensed Professional Counselor	\$75/hour
d.	M.S.W. Board Certified Social Worker	\$75/hour
e.	Group Therapy (90 minute session)	\$30/hour
 4. Claimants are eligible for up to \$2500 in outpatient mental health services for the life of the case.
 5. Maximum award is \$2,500 for primary victims and for secondary victims.
 6. The maximum for evaluation & testing is \$300. Initial diagnostic interview sessions (90801) are reimbursed at 1.5 the hourly rate and limited to 1 per therapist.
 7. No compensation for preparation of reports, or court time.
 8. Only hourly sessions are to be reimbursed unless prior approval for 1.5-hr. sessions is provided by board.
- ** Secondary victims in child sexual assault cases

G. AMBULANCE

1. Transportation portion of bill is limited at \$300 for land travel and \$500 for AirMed.
2. Medical portion of bill is paid at same rate as medical expenses.

H. TRAVEL

1. Private mileage limited at state travel rate. (Rate may change.)
2. Only allowed when required medical care is certified by physician and is not locally available.

I. CATASTROPHIC PROPERTY LOSS

1. Allowed for destruction of arson of home owned and occupied by victim.
2. The maximum award is \$10,000.

J. CHILD CARE EXPENSES

1. The award is limited at \$100 per week per child, up to \$200 per week per family.
2. Unlicensed provider is awarded at 50% of standard local rate.
3. The maximum award is \$1,500.

K. CRIME SCENE EVIDENCE

1. Can be limited to bedding and clothing listed in police report.
2. Expenses related to forensic medical exam paid at 100%.

L. ATTORNEY FEES

1. Not available for assisting with application.
2. Available only if board calls a hearing or if ordered by court.
3. Limited to \$50 per hour for a maximum of 5 hours or \$250.

M. EMERGENCY AWARDS

1. Emergency awards are limited to a maximum of \$500. Requests are reviewed on a case-by-case basis and applications are not automatically approved.
2. The victim's situation must be critical. For example, the victim was employed but unable to work, has no income and has received an eviction notice or any utility cut-off notices.
3. Medical expenses are not eligible for emergency awards unless prescriptions or medical devices cannot be purchased because of lack of funds.

N. CRIME-SCENE CLEANUP

1. Total reimbursable expenses are limited to \$ 2,500.

APPENDIX B

CHAPTER 46. CRIME VICTIMS REPARATIONS

SEC.

- 1801. Short title.**
- 1802. Definitions.**
- 1803. Crime Victims Reparations Board.**
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§1801. Short title

This Chapter may be cited as the Crime Victims Reparations Act.

§1802. Definitions

As used in this Chapter:

- (1) "Accessory" includes an accessory after the fact and also a principal, as those terms are defined by the Louisiana Criminal Code.
- (2) "Board" means the Crime Victims Reparations Board.
- (3) "Child" means an unmarried person under eighteen years of age, and includes a natural child, adopted child, stepchild, illegitimate child, any of the above who is a student not over twenty-three years of age, and a child conceived prior to but born after the personal injury or death of the victim.
- (4) "Claimant" means a victim or a dependent of a deceased victim, or the legal representative of either, an intervener, or in the event of a death, a person who legally assumes the obligation or who voluntarily pays the medical or the funeral or burial expenses incurred as a direct result of the crime.
- (5) "Collateral source" means a source of benefits for pecuniary loss awardable, other than under this Chapter, which the claimant has received or which is readily available to him or her from any or all of the following:
 - (a) The offender under an order of restitution to the claimant imposed by a court as a condition of probation or otherwise.
 - (b) The United States or a federal agency, a state or any of its political subdivisions, or an instrumentality of two or more states.
 - (c) Social Security, Medicare, and Medicaid.
 - (d) Workers' compensation.
 - (e) Wage continuation programs of an employer.
 - (f) Proceeds of a contract of insurance payable to the claimant for pecuniary loss sustained by the claimant by reason of the crime.
 - (g) A contract providing prepaid hospital and other health care services, or benefits for disability.
- (6) "Dependent" means a spouse or any person who is a dependent of a victim within the meaning of Section 152 of the United States Internal Revenue Code (26 UCS 152).

- (7) "Intervener" means a person who goes to the aid of another and is killed or injured in the good faith effort to prevent a crime covered by this Chapter, to apprehend a person reasonably suspected of having engaged in such a crime, or to aid a peace officer. "Peace Officer" shall include commissioned police officers, sheriffs, deputy sheriffs, marshals, deputy marshals, correctional officers, constables, wildlife enforcement agents, and probation and parole officers.
- (8) "Pecuniary loss" means the amount of expense reasonably and necessarily incurred by reason of personal injury, as a consequence of death, or a catastrophic property loss, and includes:
- (a) For personal injury:
 - (i) Medical, hospital, nursing, or psychiatric care or counseling, and physical therapy.
 - (ii) Actual loss of past earnings and anticipated loss of future earnings because of a disability resulting from the personal injury, or the receipt of medically indicated services for a minor child related to the personal injury.
 - (iii) Care of a child or dependent
 - (iv) Counseling or therapy for the parents or siblings of a child who is the victim of a sexual crime.
 - (v) Loss of support for a child victim of a sexual crime not otherwise compensated for as a pecuniary loss for personal injury.
 - (b) As a consequence of death:
 - (i) Funeral, burial, or cremation expenses.
 - (ii) Loss of support to one or more dependents not otherwise compensated for as a pecuniary loss for personal injury.
 - (iii) Care of a child or children enabling the surviving spouse of a victim or the legal custodian or caretaker of the deceased victim's child or children to engage in lawful employment, where that expense is not otherwise compensated for as a pecuniary loss for personal injury.
 - (iv) Counseling or therapy for any surviving family member of the victim or any person in close relationship to such victim.
 - (v) Crime scene cleanup

"Pecuniary loss" does not include loss attributable to pain and suffering.
 - (c) As to catastrophic property loss, the loss must be so great as to cause overwhelming financial effect on the victim or other claimant and shall be restricted to loss of abode.
 - (d) Any other expense associated with the collection and securing of crime scene evidence.

- (9) "Reparations" means payment of compensation in accordance with the provisions of this Chapter for pecuniary loss resulting from physical injury, death, or catastrophic property loss by reason of a crime enumerated in this Chapter.
- (10) "Victim" means:
- (a) Any person who suffers personal injury, death, or catastrophic property loss as a result of a crime committed in this state and covered by this Chapter; or
 - (b) A Louisiana resident who is a victim of an act of terrorism as defined in 18 U.S.C. 2331 occurring outside the United States; or
 - (c) A Louisiana resident who suffers personal injury or death as a result of a crime described in R.S. 46:1805 except that the criminal act occurred outside of this state. The resident shall have the same rights under this Chapter as if the act had occurred in this state upon a showing that the state in which the act occurred does not have an eligible crime victims reparations program and the crime would have been compensable had it occurred in Louisiana. In this Subparagraph, "Louisiana resident" means a person who maintained a place of permanent abode in this state at the time the crime was committed for which reparations are sought.

§1803. Crime Victims Reparations Board

- A. The Crime Victims Reparations Board is created and established under the jurisdiction of the Louisiana Commission on Law Enforcement and Administration of Criminal Justice in the office of the governor. The board shall be domiciled in Baton Rouge.
- B. The board shall be composed of the executive director of the Louisiana Commission on Law Enforcement and Administration of Criminal Justice or his designee, one person who shall be appointed by the governor from a list of three recommendations submitted to the governor by the Victims and Citizens Against Crime, Inc., and nine members who shall be appointed by the governor for a term concurrent with that of the governor. Each appointment shall be submitted to the senate for confirmation. At least one member appointed by the governor shall be appointed from each of the congressional districts in the state. The governor's nine appointees shall include one full voting member who shall be sixty years of age or older and shall serve as a representative of the elderly population of Louisiana.
- C. A vacancy in the membership of the board shall be filled by appointment by the governor for the remainder of the unexpired term.

- D. Members shall serve without compensation, but shall be paid a per diem not in excess of seventy-five dollars and shall be reimbursed for travel expenses incurred in attendance at meetings of the board and other expenses incurred on business of the board at its direction.
- E. A majority of the members of the board shall constitute a quorum for the transaction of all business.
- F. The members of the board shall annually elect from their membership a chairman and a vice chairman.

§1804. Eligibility to apply for reparations

A person who believes he is a victim of a crime enumerated in R.S. 46:1805, or his legal representative, or in the case of death, a dependent or the legal representative of a dependent, or the rightful claimant as defined in R.S. 46:1802(4), shall be eligible to make application to the board for reparations and shall be eligible for an award of reparations in accordance with the provisions of this Chapter.

§1805. Crimes to which Chapter applies

- A. The board may make an award and order the payment of reparations for pecuniary loss in accordance with the provisions of this Chapter for personal injury, death, catastrophic property loss resulting from any act or omission to act that is defined as a misdemeanor under any local ordinance or as a crime under state or federal law and involves the use of force or the threat of the use of force.
- B.
 - (1) For the purposes of this Chapter, the operation of a motor vehicle, boat, or aircraft that results in a personal injury or death shall not constitute a crime unless the personal injury or death was intentionally inflicted through the use of such vehicle, boat, or aircraft, or was caused by an operator in violation of R.S. 14:98, 14:98.1, or R.S. 14:100.
 - (2) "Intentionally inflicted" includes, but is not limited to personal injury or death resulting due to operation of a motor vehicle, boat, or aircraft used to flee the scene of a crime in which the operator of the motor vehicle, boat, or aircraft knowingly participated.
- C. For the purposes of this Chapter, a person shall be deemed to have committed a criminal act or omission notwithstanding that by reason of age, insanity, drunkenness, or other reason he was legally incapable of committing a crime.

§1806. Application; requirements; confidentiality

- A. An application for reparations shall be filed in writing with the board within one year after the date of the personal injury, death, or catastrophic property loss or within such longer period as the board determines is justified by the circumstances. The application shall be valid only if the act resulting in the personal injury, death, or catastrophic property loss was reported to the appropriate law enforcement officers within seventy-two hours after the date of the personal injury, death, or catastrophic property loss, or within such longer period as the board determines is justified by the circumstances.
- B. Application shall be made on a form prescribed and provided by the board, which shall contain at least the following:
 - (1) A description of the date, nature, and circumstances of the act or acts resulting in the physical injury, death, or catastrophic property loss, and of the crime, if known.
 - (2) A complete financial statement, including the cost of medical care or funeral, burial, or cremation expenses, the loss of wages or support, and the extent of the property loss, if any, which the claimant has incurred or will incur and the extent to which the claimant has been indemnified for these expenses from any collateral source.
 - (3) Where appropriate, a statement indicating the extent of any disability resulting from the injury incurred.
 - (4) An authorization permitting the board or its representatives to verify the contents of the application.
 - (5) Such other information as the board may require.
- C. The following information, when submitted to the board as part of an application, shall be confidential:
 - (1) Documents submitted by a claimant which relate to medical treatment.
 - (2) Law enforcement investigative reports.
- D. Records, documents, and information in the possession of the board received pursuant to a law enforcement investigation or a verification of application by a law enforcement agency shall be considered investigative records of a law enforcement agency as described in R.S. 44.3 and shall not be disseminated under any condition, without the permission of the agency providing the record or information to the board.

§1807. Powers and duties of board; staff

- A. The board shall administer the provisions of this Chapter and shall be responsible, in accordance with this Chapter, for determining all matters pertaining to applications for reparations, investigations, and determinations based upon its findings, the granting or rejecting of claims, and fixing the amounts of such grants or payments and the methods of their payment.

- B. In the performance of its powers and duties the board shall:
- (1) Prescribe, distribute, and otherwise make available forms for use in making application for reparations.
 - (2) Prepare and distribute pamphlets, informational materials, and application forms, and otherwise assist in making the residents of the state aware of the provisions of this Chapter.
 - (3) Receive, verify, and process applications for reparations.
 - (4) Hold such hearings, take such testimony, and make such investigations as are necessary with respect to any application received by it.
 - (5) Make a written decision with respect to each application received by it and order payment of reparations to victims in accordance with this Chapter.
 - (6) Take such other actions and perform such other functions as are required by this Chapter or necessary to accomplish its purposes.
- C. The board also may:
- (1) Promulgate rules and regulations necessary to carry out its business or the provisions of this Chapter.
 - (2) Through its chairman or acting chairman administer oaths or affirmations to persons appearing before it, send for papers, documents, and records, and subpoena witnesses.
 - (3) Appoint committees, including advisory committees.
 - (4) Use the services, personnel, facilities, and information, including recommendations, estimates, and statistics, of federal agencies and other of state and local public agencies and private institutions, with or without reimbursement thereof.
 - (5) Request such information, data, and reports from any federal agency as the board may require and as may be produced consistent with law.
- D. (1) The Louisiana Commission on Law Enforcement and Administration of Criminal Justice shall provide the office space and personnel necessary to carry out the functions of the board and effectuate the purposes of this Chapter. In addition, to the extent that funds are appropriated or otherwise available therefore, the board may employ personnel including experts required in connection with particular applications before it.

- (2) The sheriff of each parish and the criminal sheriff of the parish of Orleans shall carry out the policies, decisions, and orders of the board and shall provide the office space and personnel in their respective parishes necessary to effectuate the purposes of this Chapter.
- E. Upon request of the board, each state agency or institution shall make available, to the greatest practical extent, its services, equipment, personnel, facilities, and information, including recommendations, estimates, and statistics.
- F. The board shall maintain a current record of the laws relating to crime victims reparations in other states and territories of the United States. The board need not keep a current record of laws in other countries. Upon request, the board shall assist Louisiana residents to determine if they meet the criteria specified in R.S. 46:1802(10)(b).

§1808. Procedure by the board; public hearing; rights to counsel

- A. Upon receipt of one or more applications for reparations resulting from the same crime, the board shall examine the application to determine that it is complete and shall schedule all of such claims for consideration at the same time. If the board determines that a hearing is necessary to a decision in the matter, it shall fix the day, time, and place thereof and shall notify the claimant or claimants and such other persons as have indicated a desire to be present or that the board desires to hear. The notice shall be in writing and shall be mailed by certified mail at least ten days prior to the day fixed for the hearing.
- B. Hearings shall be open to the public unless in a particular case the board determines that all or part of the hearing should be closed, taking into consideration the fact that an accused has not been convicted or that a closed hearing is in the best interest of the victim. The applicant may appear and be heard and present evidence on his own behalf or through counsel or legal representative. Any person who has a substantial interest in the proceedings, as determined by the board, may appear before the board and shall have the right to introduce evidence and cross examine witnesses.
- C. The members of the board and the attorney representing the board, if any, may question and cross examine witnesses. The board may bring before it physicians or other experts to examine any claimant. The board may receive in evidence any statement, document, information, or matter that it believes may contribute to the purposes of the hearing or to any of its deliberations, whether or not a hearing is held and whether or not any of them would be admissible in court.

§1809. Criteria for making awards; prohibitions; authority to deny or reduce award

- A. The board shall order the payment of reparations in an amount determined by it if, with or without hearings, it finds by a preponderance of the evidence that pecuniary loss was sustained by the victim or other claimant by reason of personal injury, death, or catastrophic property loss suffered by the victim and that such loss was proximately caused by a crime enumerated in R.S. 46:1805 and that such pecuniary loss has or will not be compensated from any collateral or other source.

- B. In making its determination, the following provisions shall apply:
 - (1) A finding by the board, for purposes of considering an application for award under this Chapter, that the commission of a crime enumerated in R.S. 46:1805(A) resulted in a pecuniary loss covered by this Chapter shall be a sufficient finding with respect to the crimes giving rise to the application for a reparations award. However, the board may make a partial eligibility determination on an application prior to the incurring of a pecuniary loss by the victim or other claimant. An order for reparations may be made whether or not any person is arrested, prosecuted, or convicted of the crime giving rise to the application for reparations. The board may suspend proceedings in the interest of justice if a civil or criminal action arising from such act or omission constituting the crime is pending or imminent.
 - (2) Conviction of an offender of a crime giving rise to the application for reparations under this Chapter shall be conclusive evidence that the crime was committed.
 - (3) No award of reparations shall be made if the board finds that:
 - (a) The crime was not reported within the time specified by R.S. 46:1806(A).
 - (b) The claimant failed or refused to cooperate substantially with the reasonable requests of appropriate law enforcement officials.
 - (c) Reparations may substantially enrich the offender.
 - (d) The claimant was the offender or an accessory, or that an award to the claimant would unjustly benefit any of them.
 - (e) The claim was not filed timely, as provided by R.S. 46:1806(A).
 - (f) [Repealed]
 - (g) The crime was committed prior to the effective date of this Chapter.
 - (4) The board may deny or reduce an award:
 - (a) If it finds that the behavior of the victim at the time of the crime giving rise to the claim was such that the victim bears some measure of responsibility for the crime that caused the physical injury, death, or catastrophic property loss or for the physical injury, death, or catastrophic property loss.
 - (b) To the extent that the pecuniary loss is recouped from collateral or other sources.

- (c) If it finds that the vehicle operated by the victim was without security as required by R.S. 32:861.
 - (d) If it finds that the victim was not wearing a safety belt in compliance with R.S. 32:295.1.
 - (e) If it finds that the victim was a willing passenger in a motor vehicle, boat, or aircraft that was operated by an individual who was in violation of R.S. 14:98 or 98.1.
- (5) No reparations of any kind shall be awarded under this Chapter to a victim who is injured or killed while confined in any state, parish, or city jail, prison, or other correctional facility as a result of a conviction of any crime. However, if, prior to a conviction, the victim was injured or killed while incarcerated, the board may deny reparations if it is subsequently determined that the victim was guilty of the offense which resulted in his incarceration.
- C. No victim or dependent shall be denied reparations solely because he or she is a relative of the offender or was living with the offender at the time of the injury or death. However, reparations may be awarded to a victim or dependent who is a relative, family or household member of the offender at the time of the award only if it can be reasonably determined that the offender will receive no substantial economic benefit or unjust enrichment from the award.

§1810. Amount of reparations award

- A. Awards payable under this Chapter shall not exceed ten thousand dollars in the aggregate for all claims arising out of the same crime except for those victims who are permanently, totally, or permanently and totally disabled as a result of the crime, the aggregate award shall not exceed twenty-five thousand dollars.

- B. In no case shall the total aggregate of awards given during any fiscal year to claimants residing in the same parish exceed the total amount of costs levied, collected, and remitted by that parish to the Louisiana Commission on Law Enforcement and Administration of Criminal Justice as required by R.S. 46:1816(D) for the preceding two fiscal years prior to the date of the crime to which this Chapter applies, or ten thousand dollars, whichever is greater. This Subsection shall not apply if the board determines that a qualified claimant would suffer severe and undue hardship if economic relief is not provided.

§1811. Reparation order; terms and conditions

- A. The board may order the payment of an award in a lump sum or in installments. That part of an award equal to the amount of the pecuniary loss accrued to the date of the award shall be paid in a lump sum. In all other respects the board shall determine all matters respecting the payment of awards, consistent with the provisions of this Chapter.
- B.
 - (1) The board shall deduct from any payments it orders any amounts received from any collateral source.
 - (2) If a claimant receives payment from a collateral source after receiving an award from the Crime Victims Reparations Fund, then to the extent the total amount received exceeds the actual loss experienced the claimant shall reimburse the Crime Victims Reparations Fund, through the board.
- C. The state treasurer shall pay to the person named in the order of payment of reparations the amount named therein in accordance with the provisions of such order.
- D. The board shall not be subject to garnishment, execution, or attachment on any award.

§1812. Finality of decision

A decision or order of the board with respect to any application or claim for reparations shall be subject to review in accordance with the provisions of Chapter 13 of Title 49 of the Louisiana Revised Statutes of 1950.

§1813. Emergency awards

- A. If it appears to the board prior to its taking action on a claim that an award likely will be made and that undue hardship will result to the claimant if no immediate economic relief is provided, the board may make an emergency award to the claimant pending its final decision in the case. The amount of an emergency award shall not exceed five hundred dollars.

- B. The amount of any emergency award shall be deducted from any final award made to the claimant receiving the emergency award. The claimant shall repay to the board the excess of the emergency award over the final award, or the full amount if no final award is made. However, the board may waive all or part of the repayment if in its judgment repayment would cause severe financial hardship.

§1814. Effect of reparations award on right to recover damages in civil action; repayment of award

- A. An order for reparations payments under this Chapter shall not affect the right of any person to institute a civil suit to recover damages for the personal injury, death, or catastrophic property loss from any other person. However, if damages in a civil action are recovered, from the offender or any other third party, the person shall reimburse the Crime Victims Reparations Fund, through the board, in an amount equal to the amount of reparations award or such lesser amount as is recovered in damages in the civil action.
- B. When any person who has received an award from the board files a civil action to recover damages, he shall, at the time of the filing of the suit, notify the board and the attorney general.

§1815. Recovery from the criminal

- A. Whenever any person is convicted of a crime and an order for the payment of reparations is or has been made under this Chapter for a personal injury, death, or catastrophic property loss resulting from the act or omission constituting the crime for which conviction was had, the attorney general, within one year after the date on which the judgment of conviction becomes final, may institute a civil action against the convicted person for the recovery of all or any part of the reparations payment. The suit shall be instituted in the district court having jurisdiction in the parish in which such person resides or is found or, in Orleans Parish, in the civil district court for that parish. The court shall have jurisdiction to hear, determine, and render judgment in any such action. Any amount recovered under this Subsection shall be deposited in the state treasury and, after meeting the requirements of Article VII, Section 9 of the Constitution of Louisiana, credited to the Crime Victims Reparations Fund hereinafter created. If an amount greater than that paid pursuant to the order for payment of reparations is recovered and collected in any such action, the board shall pay the balance to the claimant.
- B. The board shall provide the attorney general with such information, data, and reports as he may require to institute actions in accordance with this Section.

§1816. Crime Victims Reparations Fund; creation; sources of funds; uses

- A. The Crime Victims Reparations Fund, hereinafter referred to as "the fund," is hereby created in the state treasury.
- B. The fund shall be composed of:
 - (1) Monies derived from appropriations by the legislature.
 - (2) All monies paid as a cost levied on criminal actions, as provided by R.S. 46:1816(D).
 - (3) Any federal monies made available to the state for victim compensation.
 - (4) All monies received from any action to recover damages for a crime which was the basis of a reparations award under this Chapter.
 - (5) Any restitution paid by an offender to a victim for damages for a crime which was the basis of a reparations award under this Chapter.
 - (6) Any monies paid into the fund from a criminal victim's escrow account, as provided by Chapter 21-A of this Title.
 - (7) Any gift, grant, devise or bequest of monies or properties of any nature or description.
- C. All monies deposited in the fund shall be used solely to pay reparation awards to victims pursuant to this Chapter and disbursements there from shall be made by the state treasurer upon written order of the board, signed by the chairman, or a court.
- D. (1) (a) In addition to any other costs otherwise imposed by law, a cost of not less than fifty dollars for felonies and seven dollars and fifty cents for misdemeanors and violations of municipal and parish ordinances is hereby levied in each criminal action, except traffic violations other than those driving offenses defined in Title 14 of the Louisiana Revised Statutes of 1950, which results in a conviction. These costs shall be paid by the defendant. No court may suspend or waive the imposition of the costs provided for in this Section unless the defendant is found to be indigent, all other court costs are suspended or waived and no other costs, fines or assessments are levied, whether provided by law or imposed by the court, or unless restitution is ordered.

(b) The recipient of the costs shall remit all costs so collected to the Louisiana Commission on Law Enforcement and Administration of Criminal Justice on or before the first day of each calendar month to be deposited in the state treasurer's account for credit to the Crime Victims Reparations Fund after meeting the requirements of Article VII, Section 9 of the Constitution of Louisiana. The state treasurer shall invest the monies in this fund in the same manner as monies in the state general fund, and interest earned on the investment of these monies shall be credited to the fund following compliance with the requirement of Article VII, Section 9(B) relative to the Bond Security and Redemption Fund.

(2) Notwithstanding the provisions of R.S. 46:1816(C), monies deposited in the Crime Victims Reparations Fund may be used to pay reasonable costs of administering this Chapter. Disbursement of funds to pay such costs shall be made only on written authorization of the chairman or vice chairman of the board.

§1817. Notification to potential applicants

- A. Every hospital licensed under the laws of this state shall display prominently in its emergency room posters giving notification of the existence of the crime victims reparations program. The board shall set standards for the location of the display and shall provide posters and general information regarding this Chapter to each hospital.
- B. Application forms provided by the board shall be made available to individuals upon request at the parish sheriff's office.
- C. The failure of any hospital, law enforcement agency, or agent or employee thereof to comply with the requirements of this Section shall not give rise to a cause of action by any person against such hospital, law enforcement agency or agent or employee thereof; nor shall such failure in any way affect the time limitations provided for in this Chapter.

§1818. Report to legislature and governor

The board shall submit an annual written report to the legislature and the governor detailing its activities during the preceding year.

§1819. Penalty for fraud

No person shall procure or counsel another person to procure reparations under the provisions of this Chapter by any fraud. The penalty for the violation of the provisions of this Section shall be a fine of not more than five hundred dollars or imprisonment for not more than one year, or both.

§1820. Attorney fees

As part of an order resulting from a hearing, the board shall determine and award reasonable attorney's fees, commensurate with services rendered, to be paid from the fund in accordance with rules adopted by the board. Additional attorney's fees may be awarded by a court in the event of a review by the court in which the claimant prevails. Attorney's fees may be denied on a finding that the claim or appeal is frivolous. Awards of attorney's fees shall be in addition to awards of reparations and may be made whether or not compensation is awarded. In no event shall an award of attorney's fees be in excess of a rate of fifty dollars per hour.

§1821. Limited liability of the state

The state shall not be liable for the claim of any applicant in excess of the funds appropriated for the payment of claims under this Chapter.

Title 22
CORRECTIONS, CRIMINAL JUSTICE AND LAW ENFORCEMENT
Part XIII. Crime Victims Reparations Board

Chapter 1. Authority and Definitions

§101. Authority

A. Rules and regulations are hereby established by the Crime Victims Reparations Board by order of the Crime Victims Reparations Act, R.S. 46:1801 et seq., Act 250 of the 1982 Louisiana Legislature.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1801 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Commission on Law Enforcement and Administration of Criminal Justice, Crime Victims Reparations Board, LR 20:537 (May 1994).

§103. Definitions

A. The following terms as used in these regulations, unless the context otherwise requires or unless redefined by a particular part hereof, shall have the following meanings.

Accessory—an accessory after the fact and also a principal, as defined by the Louisiana Criminal Code.

Board—Crime Victims Reparations Board.

Child—unmarried person under 18 years of age; includes a natural child, adopted child, stepchild, illegitimate child, any of the above who is a student not over 23 years of age, and a child conceived prior to but born after the personal injury or death of the victim.

Claimant—victim or a dependent of a deceased victim, or the legal representative of either, an intervenor, or in the event of death, a person who legally assumes the obligation or who voluntarily pays the medical or the funeral or burial expenses incurred as a direct result of the crime.

Collateral Source or Resource—source of benefits for pecuniary loss awardable, other than under these rules, which the claimant has received or which is readily available to him/her from any or all of the following:

- a. the offender under an order of restitution to the claimant imposed by a court as a condition of probation or otherwise;
- b. the United States or a federal agency, a state or any of its political subdivisions, or an instrumentality of two or more states;
- c. Social Security, Medicare, and Medicaid;
- d. Workers' Compensation;
- e. wage continuation programs of an employer;

- f. proceeds of a contract of insurance payable to the claimant for pecuniary loss sustained by the claimant by reason of the crime.
- g. a contract providing prepaid hospital and other health care services, or benefits for disability.

Dependent—spouse or any person who is a dependent of a victim within the meaning of Section 152 of the United States Internal Revenue Code.

Intervenor — a person who goes to the aid of another and is killed or injured in the good faith effort to prevent a crime covered by this Chapter 1, to apprehend a person reasonably suspected of having engaged in such a crime, or to aid a peace officer. *Peace officer* shall include commissioned police officers, sheriffs, deputy sheriffs, marshals, deputy marshals, correctional officers, constables, wildlife enforcement agents, and probation and parole officers.

Pecuniary Loss—amount of expense reasonably and necessarily incurred by reason of personal injury, as a consequence of death, or a catastrophic property loss, and includes:

- a. for personal injury:
 - i. medical, hospital, nursing, or psychiatric care or counseling, and physical therapy;
 - ii. actual loss of past earnings and anticipated loss of future earnings because of a disability resulting from the personal injury;
 - iii. care of a child or children enabling a victim or the spouse, but not both of them, to engage in gainful employment;
- b. as a consequence of death:
 - i. funeral, burial, or cremation expenses;
 - ii. loss of support to one or more dependents not otherwise compensated for as a pecuniary loss for personal injury;
 - iii. care of a child or children enabling the surviving spouse of a victim or the legal custodian or caretaker of the deceased victim's child or children to engage in lawful employment, where that expense is not otherwise compensated for as a pecuniary loss for personal injury;
 - iv. counseling or therapy for any surviving family member of the victim or any person in close relationship to such victim;
 - v. *pecuniary loss* does not include loss attributable to pain and suffering;

c. catastrophic property loss must be so great as to cause overwhelming financial effect on the victim or other claimant and shall be restricted to loss of abode;

d. any other expense associated with the collection and securing of crime scene evidence.

Reparations—payment of compensation in accordance with the provisions of the act for pecuniary loss resulting from physical injury, death, or catastrophic property loss by reason of a crime enumerated in the act.

Victim—

a. any person who suffers personal injury, death, or catastrophic property loss as a result of a crime committed in this state and covered by Chapter 1; or

b. a resident of Louisiana who is a victim of an act of terrorism (as defined in Section 2331 of Title 18, *United States Code*) occurring outside the U.S.; or

c. a Louisiana resident who suffers personal injury or death as a result of a crime described in R.S. 46:1805 except that the criminal act occurred outside of this state. The resident shall have the same rights under this Chapter as if the act had occurred in this state upon a showing that the state in which the act occurred does not have an eligible crime victims reparations program and the crime would have been compensable had it occurred in Louisiana. In this Subparagraph, *Louisiana resident* means a person who maintained a place of permanent abode in this state at the time the crime was committed for which reparations are sought.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1801 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Crime Victims Reparations Board, LR 20:538 (May 1994), amended LR 22:709 (August 1996), LR 23:861 (July 1997), LR 24:327 (February 1998).

Chapter 3. Eligibility and Application Process

§301. Eligibility

A. To be eligible for compensation, an individual must have suffered personal injury, death or catastrophic property loss as a result of a violent crime.

1. Contribution

a. The Crime Victims Reparations Board may vote not to make an award to a claimant who is a victim, or who files an application on behalf of a victim, when any of the following occurs:

i. the victim was convicted of, or serving a sentence for, a felony offense, within the last five years prior to the filing of an application for reparations;

ii. there is good cause to believe that the victim engaged in an ongoing course of criminal conduct within five years or less of the criminally injurious conduct that is the subject of the claim;

iii. the victim was engaging in an illegal activity at the time of the criminally injurious conduct that is the subject of the claim.

b. As Louisiana law requires all drivers and front seat passengers to use seat belts, victims not wearing a seat belt and injured or killed by a driver in violation of R.S. 14:98 (DWI), if found eligible otherwise, may have their award reduced. The total maximum award allowed under current policy may be reduced by 50 percent.

2. Collateral Sources

a. Restitution

i. The board reserves the right to make an award to a victim/claimant when a court of law has ordered restitution by the defendant;

ii. if the board makes an award, the court will be contacted with a request for a change in the court order to reflect that payments are to be made to the Crime Victims Reparations Fund for the amount paid by the board.

b. Insurance

i. The victim/claimant must process any potential insurance before applying for reimbursement of mental health claims.

3. Unjust Enrichment

a. When determining unjust enrichment or substantial economic benefit to offenders in applications involving domestic violence, the board will consider the following factors.

i. Has the victim reported the incident to the authorities and has the victim cooperated with their reasonable requests?

ii. In determining whether enrichment is substantial or inconsequential, factors to be considered include:

(a). the amount of the award;

(b). the total amount of income to the household; and

(c). whether a substantial portion of the award will be used directly by or on behalf of the offender.

b. If the offender has direct access to a cash award and/or if a substantial portion of it will be used to pay for his living expenses, that portion of the award that will substantially benefit the offender may be reduced or denied.

c. The availability of collateral resources, including but not limited to court-ordered restitution and medical insurance, will be examined. A determination shall be made:

i. as to whether the offender has a legal responsibility to pay;

ii. whether the offender has resources to pay;

iii. whether payment is likely.

d. The victim shall not be penalized for the failure of an offender to meet legal obligations to pay for the costs of the victim's recovery.

e. If the offender fails to meet legal responsibilities to pay restitution or provide for the medical and support needs of a spouse or child, or if the offender impedes payment of insurance that may be available to cover a spouse's or child's expenses, the program should attempt to meet the victim's needs to the extent allowed.

f. Payments to third-party providers will be made wherever possible.

g. Child victims will not be penalized by denying or delaying payment when offender or collateral resources are not forthcoming.

AUTHORITY NOTE: Promulgated in accordance with R. S. 46:1801 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Crime Victims Reparations Board, LR 20:538 (May 1994), amended LR 22:709 (August 1996), LR 31:2009 (August 2005), LR 35:65 (January 2009).

§303. Application Process

A. Claimant Responsibility

1. Applications must be sent to the sheriff's office in the parish where the crime occurred. Those that are sent directly to the board office will have the date received entered on the application and then will be sent to the appropriate sheriff's office.

2. The applications must be signed and dated by the victim/claimant. Only original signatures, no copies, will be accepted. If the victim is a minor, the parent or guardian is the claimant and must sign. If the victim is deceased, the person responsible for the bill is the claimant and must sign the application.

3. The claimant must list each expense being claimed.

4. An itemized bill, not a billing statement, must accompany the application for each expense claimed.

5. The bills must show the victim/claimant as the guarantor. The board will not accept any bills which indicate the board or the sheriff's office is the guarantor.

6. The victim/claimant is required to use claim forms to seek additional compensation after the original award is made.

B. Sheriff's Office Responsibility

1. Each sheriff will designate at least one staff member to handle the applications of crime victims for the board.

2. The sheriff's staff person, called the claim investigator, will distribute the most current applications, receive, process, and forward them to the board office in a timely manner.

C. Board Staff Responsibility

1. Check distribution will be as follows:

a. Provider checks will be issued directly to providers from the board office.

b. Victim/claimant checks will be mailed directly from the board office unless the sheriff specifies that he wishes to have them mailed directly to the sheriff's claim investigator for personal distribution.

D. Appeals

1. If an application is denied and the victim/claimant desires to appeal the board's decision, the victim/claimant must file the appeal within 60 days from the date of the denial letter.

2. The appeal letter should furnish the board with any new information not yet provided that the victim/claimant desires to have presented.

3. The appeal will be scheduled for the next available agenda.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1801 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Commission on Law Enforcement and Administration of Criminal Justice, Crime Victims Reparations Board, LR 20:539 (May 1994), amended LR 22:710 (August 1996).

Chapter 5. Awards

§501. Payment of Awards

A. Only verified expenses can be reimbursed.

B. Verification of Claimed Expenses

1. Each type of claim form used by the board should identify the documents that must be submitted by the victim/claimant to support and verify a claimed expense.

2. When applications lack documentation necessary for a decision or award in total or in part, and adequate effort has been made to acquire that information, the application will be placed on an agenda and the decision and award will be based on that information available. Should the formerly sought information become available, a supplemental application can be filed.

C. Awards to eligible victims or claimants for expenses incurred but not yet paid may be made payable directly to the providers.

D. All checks to providers when paid at less than the full balance owing are marked "paid in full."

E. If a provider refuses a board check, the check will be reissued to the claimant for the same amount as approved.

F. In those instances in which:

1. an application has been approved for an award; and
2. payment is being made directly to the provider; and
3. the check either has not been sent or has not been negotiated by the provider; and

4. the claimant notifies the board that he has paid the bill, upon verification and return of the check, the check will be voided and reissued for the same amount to the claimant.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1801 et seq.

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HISTORICAL NOTE: Promulgated by the Office of the Governor, Commission on Law Enforcement and Administration of Criminal Justice, Crime Victims Reparations Board, LR 20:539 (May 1994), repromulgated LR 22:710 (August 1996), amended LR 24:328 (February 1998).

§503. Limits on Awards

A. General

1. There will be a \$10,000 limit for awards for all victims with the exception of those primary victims who become totally and permanently disabled as a result of the crime. For those awards, the board may, at its discretion, award up to \$25,000, depending on availability of funds its administrative rule limits for certain award benefits, and the extent, if any, of collateral resources. For purposes of this Section:

a. a victim is "totally and permanently disabled" if the victim has a physical or mental impairment that substantially precludes them from obtaining gainful employment and appears reasonably certain to continue without substantial improvement throughout their life;

b. the board reserves the right to obtain an impartial medical expert, at its expense, if necessary, to assess the degree of disability of the victim.

2. All applications filed as the result of the death of a victim will be assigned one claim number with the deceased listed as the primary victim. Each additional claimant and/or secondary victim must submit a separate application with the appropriate claim form(s) and supporting documents. The aggregate claims arising out of the same crime will be subject to the maximum amount authorized by law.

B. Attorney Fees

1. The board does not reimburse victims for fees charged by an attorney to prepare an application or represent the victim in any way unless the fees result from a hearing ordered by the board.

2. Those reimbursable charges are set at a maximum of \$50 per hour for a total of five hours or \$250.

3. The appeals process does not constitute a hearing. Thus, any fees charged by an attorney to represent a victim/claimant at an appeal are not compensable.

C. Funeral Expenses

1. The board will reimburse up to a maximum of \$5,000 to cover reasonable expenses actually incurred for the funeral, burial, or cremation. (effective January 1, 2009).

2. Death and/or burial insurance taken out specifically for the purpose of burial must pay first. The amount of life insurance proceeds paid is no longer considered as a collateral source for funeral expenses.

D. Lost Wages/Earnings

1. When lost wages are part of a claim, lost wages will be considered before out-of-pocket or other medical expenses are considered.

2. The inability to work must be directly related to the victimization and documented by the appropriate medical doctor. That medical opinion is subject to professional review and audit.

3. Violently assaulted victims who do not require medical intervention (i.e., doctor visit, emergency room treatment) will be allowed a reimbursable recuperation period:

a. if no sick time or other compensation is available, the board may grant up to five working days of lost wages;

b. wage verification by the employer is required.

4. The board may reimburse lost wages/earnings with a maximum of \$10,000.

a. The board will award up to \$320 per week based on net, after-tax, or take home pay.

b. If only gross income is provided, the board will award at 80 percent of gross up to the \$400 per week cap.

5. If workers' compensation or other private disability/income protection insurance is available, those policies must be paid out first before the board considers a claim for lost wages.

6. If a victim does not return to work, the lost wage period will be no longer than one year.

7. If a person is not gainfully employed or is not receiving entitlement at the time of the crime, then no lost wages can be determined nor awarded. However, an award for loss of wages based on seasonal, nonsalaried or intermittent work, or a bona fide offer of employment may be based on an average net anticipated salary for the period of employment.

8. Only the following list of physicians can legally determine physical disability:

a. medical doctor;

b. oral surgeon;

c. psychiatrist;

d. physiatrist;

e. ophthalmologist;

f. surgeon.

9. If a victim is initially treated by one doctor and that doctor refers the victim to another doctor, the referral doctor can determine disability from the date of the incident.

E. Loss of Support

1. For loss of support for a surviving spouse or other dependent to be considered, the following documentation must be provided:

a. death certificate signed by the coroner;

b. individual federal and state tax return for year before the crime to show dependency of claimant;

c. employment/wage verification completed and signed by the victim's employer;

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d. verification of life insurance claimed by dependent filing application; and

e. documentation that Social Security or other pension benefits are not available to surviving spouse or dependents.

2. Loss of support for a surviving spouse may be awarded at the discretion of the board when no other collateral resources exist and the inability to work exists or the opportunity to find work could be delayed due to age, frailty, and lack of previous work experience.

3. The board will reimburse loss of support with a maximum of \$10,000.

a. The board may award loss of support up to the maximum amount per week authorized for lost wages in §503.D.4. That amount is based on net, after-tax, or take home pay.

b. When only gross income is provided by a claimant, then the board will award the loss of support at 80 percent of the amount authorized in §503.D.4 for lost wages.

F. Ambulance

1. A maximum of \$300 for regular ambulance transport. A maximum of \$500 exists for air medical transport.

2. Air transport services are considered ambulance services and reimbursed as such.

3. The medical portion of the ambulance bill is to be considered as a medical cost and paid at the medical per cent consistent with all other claims for that claimant.

4. If the ambulance bill is part of the total hospital bill and the total hospital bill is under \$10,000, the ambulance transfer bills will be isolated and paid separately. If the total bill is over \$10,000, the ambulance charges will not be isolated for payment.

G. Medical Expenses

1. The board reserves the right to audit any and all billings associated with medical care. All treatment must be considered "usual and customary" and be directly related to the victimization.

2. The board will not pay any interest, finance, or collection fees as part of the claim process.

3. The board will pay 70 percent of all outstanding charges after any third-party payment sources up to the statutory limits.

4. If the total outstanding charges exceed the case cap of \$10,000, then all providers listed in the claim will be paid out at that actual percentage those bills are in relation to the available case funds.

5. Out-of-pocket paid monies will be reimbursed to the victim prior to applying this payment schedule.

6. Psychiatric Inpatient Hospitalization. It is the opinion of the board that any psychiatric inpatient hospitalization required by a crime victim would be very acute and crisis management in scope. Compensation for such care will require a peer review as described in §503.I.3.

a. The board will not reimburse for more than seven days of psychiatric inpatient hospitalization at a cost of no more than \$700 per day. This is intended for an acute hospitalization with the goals of emotional stabilization and placement in outpatient treatment.

b. The board will not reimburse more than one psychological evaluation (as defined in §503.I.5).

i. The board will not reimburse for any intake evaluation or psychological testing.

ii. The board will not reimburse for any more than one in-patient treatment, group or individual, per day. Support or family day sessions and "community" meetings are not reimbursable.

iii. All provider/therapist/s charges are reimbursed at the same hourly rate as outpatient mental health services, that is:

(a). M.S./M.S.W. (O.P.C./B.C.S.W.): \$75/hour

(b). Ph.D./M.D. (Board Certified): \$85/hour

(c). Group therapy: \$30/session

c. Therapeutic groups outside the per diem charge of the hospital will not be reimbursed.

d. All therapist charges that are outside the per diem charge of the hospital will be limited to no more than one session per day at a rate described in §503.I.8.

7. Only those medicines and drugs prescribed by a licensed physician are compensable.

8. Reimbursable providers include licensed medical doctors, dentists, eye doctors, chiropractors, osteopaths, podiatrists, psychiatrists, psychologists, physical therapists, etc.

9. Compensable medical services include emergency ambulance service, medical examinations, X-ray and laboratory services, whirlpool baths ordered by a doctor.

10. Only services of a nurse as prescribed by a licensed physician are compensable.

11. Aids such as hearing aids, false teeth, eyeglasses, contact lenses, crutches, and wheelchairs needed as a direct result of the crime or that were damaged or destroyed during the crime are compensable.

H. Travel Expenses. Transportation costs other than the initial ambulance services are reimbursable only when required medical care is not locally available. Certification is required by the physician of record that local medical care is unavailable. Allowable private vehicle mileage for out-of-town travel is reimbursed at the rate published in the current state travel regulations.

I. Mental Health Counseling

1. It is the board's opinion that the majority of those directly victimized by violent crime (e.g., *primary victims*) can obtain significant improvement within the first six months of qualified counseling. The board recognizes that short-term

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crisis management counseling may also be needed for *secondary victims* (defined as *primary family members or cohabitators of the victim*).

2. Reimbursement of mental health services is limited to six months from the date of the first visit or after the first 26 qualified sessions/groups (whichever comes first).

3. Cases which extend beyond the allowable time limit will be subject to a peer review by a psychiatrist or psychologist, licensed by the state of Louisiana, consulting with the board. Peer review will involve an examination of the following:

- a. complete progress notes for crime-related conditions(s) being treated;
- b. any psychological evaluations/testing pertaining to the crime-related condition;
- c. description of prior conditions or treatments;
- d. current treatment and treatment response to date; and
- e. updated treatment plan.

4. Limits on Charges

a. For the life of each claim, reimbursable charges may not exceed \$2,500. These limits include the cost of all treatment services and psychological or neuropsychological evaluations/testing as described in §503.I.8. Victims/claimants may apply for an additional \$2,500 in reimbursement when there is a documented need for long-term mental health services.

b. All applications for extended reimbursement will require a formal psychological or neuropsychological evaluation/testing that clearly documents the need for extended mental health treatment.

c. All applications for extended reimbursement of mental health expenses are subject to peer review by a psychiatrist or psychologist, licensed by the state of Louisiana, consulting with the board.

5. Limits on Evaluation/Testing

a. Psychological evaluation/testing may not exceed \$800 and neuropsychological evaluation/testing may not exceed \$1,500.

b. Any evaluation/testing must be conducted by a licensed psychologist and should include the following:

- i. description of any structured interview used;
 - ii. description and results of testing administered;
 - iii. case formulation and DMS-IV diagnoses.
- c. case formulation and DSM-IV diagnoses.

6. Treatment plans completed by the therapist of record (or primary therapist) are required for consideration of mental health expenses. The therapist must show that the psychological condition being treated is a direct result of the crime. Treatment plans must be fully documented in a

"problem" and "intervention" format. Detail must be provided for both symptom and intervention. Single word descriptors such as "nightmares" or "supporting counseling" will not suffice. Insufficient treatment plans will be returned to the therapist and the case may be deferred or denied until revised.

7. All payments for services are subject to review and audit by the board.

8. Rates for Reimbursement

a. Only physicians, psychiatrists, state certified or state licensed psychologists, licensed professional counselors, or board-certified social workers are eligible for reimbursement.

b. The rates for reimbursement shall be:

- i. M.D./Psychiatrists \$85/hour;
- ii. Ph.D. or Psy.D. Licensed Psychologists; \$85/hour
- iii. Licenses Professional Counselors \$75/hour;
- iv. Board-Certified Social Worker \$75/hour;
- v. Group Therapy Rates (90 minute) \$30/session.

9. It is the board's assessment that psychiatric inpatient hospitalization of crime victims is rarely required. If under unusual circumstances such treatment is required, compensation will be subject to a peer review as previously described. Reimbursement for such treatment is limited in amounts and procedures listed under "medical" services.

10. Any claim for injuries sustained may be denied if prescribed or preempted as a matter of law.

J. Catastrophic Property Loss

1. A maximum of \$10,000 may be awarded if a victim's abode is owned and the abode/contents are destroyed by criminal act.

2. This must produce a "verifiable" overwhelming financial effect for that person.

3. This is considered when no insurance exists or the ability to rehabilitate the structure is precluded due to lack of personal resources.

K. Vehicular Incidents

1. Eligible expenses include those resulting from death or personal injury as outlined in the statute if they are incurred resulting from DWI or hit and run offenses, fleeing felon incidents, or injuries intentionally inflicted with a motor vehicle, boat or aircraft.

2. Vehicular accident related injuries, other than those caused by the above are not compensable.

L. Child Care Expenses

1. A maximum of \$1,500 may be paid for each eligible childcare claim.

2. The board may award up to \$100 per week per child, up to a maximum of \$200 per week per family.

3. The service provider need not be licensed; however, if the provider is not licensed, the board will pay up to 50 percent of the standard rate.

M. Crime Scene Evidence

1. Expenses associated with the collection and securing of crime scene evidence are limited to:

- a. reasonable replacement costs for clothing;
- b. bedding; or
- c. property seized as evidence or rendered unusable as a result of a criminal investigation or lab test.

2. A forensic medical examination for a victim of sexual assault is considered an expense associated with the collection and securing of crime scene evidence. Payment for this examination by the parish governing authority is mandated by state law. All other expenses related to these crimes are eligible for reimbursement by the board at 100 percent, subject to the provisions of the Crime Victims Reparations Act and its administrative rules.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1801 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Crime Victims Reparations Board, LR 20:539 (May 1994), amended LR 22:710 (August 1996), LR 24:328 (February 1998), LR 25:26 (January 1999), LR 26:1019 (May 2000), LR 29:577 (April 2003), LR 31:1330 (June 2005), LR 32:242 (February 2006), LR 35:65 (January 2009).

