

REVISED SEPTEMBER 2016

# VICTIM SERVICE PROVIDER HANDBOOK



MINNESOTA CRIME VICTIMS REPARATIONS BOARD

OFFICE OF JUSTICE PROGRAMS  
MINNESOTA DEPARTMENT OF PUBLIC SAFETY

The Crime Victims Reparations Board was established in 1974 to assist crime victims in Minnesota with their financial losses and to restore at least a portion of the victim's economic losses resulting from the crime.

This handbook is intended to provide victim service providers with information that will help them assist victims of crime in filing a Reparations claim. The purpose is to aid in the understanding of how the program works and what type of financial assistance may be available to victims of violent crime. The handbook includes a list of eligibility criteria that need to be met by the victim, as well as what benefits are available. At any time that questions arise, please feel free to contact the Reparations staff for assistance.

## **How do I contact the Reparations Board?**

Reparations staff are available to answer your questions or assist claimants during regular office hours.

Regular Office Hours:

8:00 a.m. - 4:30 p.m., Monday - Friday

651-201-7300 Main

888-622-8799 Toll Free

651-205-4827 TTY

The Crime Victims Reparations Board office is located on the twenty-third floor of the Bremer Tower. The mailing address is:

Office of Justice Programs

Crime Victims Reparations Board

445 Minnesota Street, Suite 2300

St. Paul, MN 55101-1515

The Crime Victims Reparations Board is a program of the Minnesota Office of Justice Programs.

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## **Board Members:**

**Amy Christiansen** - Crime Victim Representative

**Lisa Eder, Chair** - Hennepin Co. Attorney's Office  
Victim/Witness Program

**Stephen Kiester, M.D.** - Physician

**Kim Lund** - Minneapolis Police Dept.

**Professor Lynette Renner** - U of M

## **Staff:**

**Alceny Ajayi, Claims Specialist** . . . . . 651-201-7301  
**Marie Bibus, Director** . . . . . 651-201-7304  
**Jeanne Brann, Admin. Specialist** . . . . . 651-201-7308  
**Danielle Kitto, Claims Manager** . . . . . 651-201-7321  
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**Cathy O'Bryan, Admin. Specialist** . . . . . 651-201-7335  
**Gloria Passer, Admin. Specialist** . . . . . 651-201-7337  
**Allison Scott, Receptionist** . . . . . 651-201-7306  
**Justine Strom, Claims Specialist** . . . . . 651-201-7331  
**Amy Studtmann, Claims Specialist** . . . . . 651-201-7344  
**Lisa Varela, Admin. Specialist** . . . . . 651-201-7347

## What are the eligibility requirements?

1. The claimant must be a victim, a family member of a victim, dependent, estate of a deceased victim, a person purchasing products or services for a victim, or the victim's guardian, guardian ad litem, conservator, or authorized agent. A service provider cannot file a claim.
2. The victim must be a person who suffered injury or death as a direct result of a crime, a good faith effort to prevent a crime or to apprehend a person suspected of engaging in a crime.
3. The claim must involve a crime that occurred in Minnesota. (*See Exceptions to crime location. Page 6.*)
4. The crime must be reported to the police within 30 days. (*See Police reporting exceptions. Page 6.*)
5. The claim must be filed within 3 years of the crime. (*See Exceptions to the filing deadline. Page 7.*)
6. The victim must cooperate fully with the police in their investigation and with the city or county attorney in the prosecution of the offender.
7. There must be no contributory misconduct by the victim. (*See What is contributory misconduct? Page 10.*)
8. There must be evidence that a crime was committed. It is not necessary that the offender be prosecuted or convicted to show that a crime occurred. Whether the case was charged or not is, however, a factor in the Board's decision in determining if a crime occurred. The Board relies heavily on police reports and conclusions of the prosecuting attorney's office.

## Exceptions to crime location

The following are the only allowable exceptions to the requirement that the crime occurred in Minnesota:

**International terrorism:** A Minnesota resident who is a victim of a crime involving international terrorism is entitled to the same rights as if the crime had occurred within Minnesota regardless of where the crime occurred or if the jurisdiction has a Reparations law.

**Minnesota residents injured elsewhere:** A Minnesota resident injured outside of Minnesota has the same rights as if the crime had occurred in Minnesota if the state or country where the crime occurred does not have a crime victim Reparations law covering the resident's injury or death.

## Police reporting exceptions

The following are the only allowable exceptions to the 30 day reporting deadline:

**Unable to report:** If the crime could not reasonably have been reported within the required time period, it must have been reported within 30 days of when a report could have been made.

**Adult sexual assault:** The 30 day reporting deadline is waived; however the victim must file a police report to be eligible for reparations. The claim must be filed within three years of the date of the crime.

**Child abuse:** There is no time period requirement for reporting the incident to the police. The claimant must, however, make a report to the police in order to be eligible for reparations.

These are the most current rules. The date of the incident can affect the reporting requirements, so check with the Reparations staff if you are unsure.

## Exceptions to the filing deadline

The following are the only allowable exceptions to the three-year filing deadline:

**Unable to file:** If the victim was unable to file due to a physical or mental disability, the claim must be filed within three years of the time when the victim was reasonably able to file.

**Injury not reasonably discoverable:** If the victim's injury or death was not reasonably discoverable within three years of the injury, the claim can be made within three years of the time when the injury or death was reasonably discoverable.

**Child abuse:** The three-year period begins on the date the crime was reported to the police.

**Kidnapping:** The three-year period begins on the date the child was located, rather than the date the child was taken.

**Harassment/Stalking:** The three-year period begins on the date of the most recent reported incident of harassment or stalking.

**Parole/Pardon/ECRC hearing:** The "reasonable discovery" exception may be applied in cases where the victim needs counseling due to a parole or pardon board or end-of-confinement review hearing, as the trauma is not discoverable until that event takes place.

There are no exceptions for circumstances where: 1) the victim/claimant did not know reparations existed, 2) victim was incompetent, but his or her affairs were being managed by a guardian or parent, 3) victim was a minor at the time, or 4) the police or county attorney failed to inform the victim/claimant of reparations, even though they are required by law to do so.

## **What specific types of crimes are covered?**

The types of crimes listed below are the most common crimes for which we receive claims. This list is not exclusive.

- Homicide
- Assault
- Domestic Abuse
- Sexual Assault
- Human Trafficking
- Child Abuse (Physical and Sexual)
- Victims of Child Pornography
- Kidnapping
- Arson
- Robbery
- Stalking
- Harassment
- Felony Hit and Run
- Drunk Driving
- Criminal Vehicular Operation

## **What types of crimes are not covered?**

Crime, for the purpose of Reparations compensation, must include conduct prohibited by statute, which also poses a substantial threat of personal injury or death. Property crimes, such as burglary or theft, are not covered by the Reparations program unless injuries were involved. The Reparations program does not compensate for injuries sustained in crashes involving motor vehicles, bicycles, airplanes, or boats unless: the injury or death was intentionally inflicted; the driver was using the vehicle while fleeing the scene of a crime he/she committed, criminal vehicular operation, felony hit and run, or drunk driving. Car crashes involving failure to yield, careless driving, and lack of insurance are not covered.

In cases of harassment/stalking, arson, or other serious property crimes, the property damage is not covered. However, the Board will consider

payment for counseling and lost wages incurred by the victim as long as there was a substantial threat of personal injury or death. The Reparations Board will also pay for medical care for any injuries (such as smoke inhalation in arson).

People who commit suicide, or witness someone committing suicide, are not eligible for reparations.

### **What types of expenses are covered?**

- Hospital and physician
- Prescriptions
- Physical therapy
- Chiropractic care (1 year maximum)
- Acupuncture (1 year maximum)
- Chemical dependency treatment
- Mental health care (\$7500 maximum)
- Mileage to and from appointments
- Lost wages
- Funeral (\$7500 maximum)
- Headstone/Marker (\$1000 maximum)
- Alternative cultural healing (\$1500 maximum)
- Home health care performed by licensed professional
- Substitute child care
- Ambulance
- Prosthesis/Wheelchair
- Dental care
- Return of an abducted child
- Crime scene cleanup
- Remodeling of household for accessibility
- Eyeglasses (if broken during the assault)
- Abortions or prenatal care and delivery (if pregnancy is a result of sexual assault)

## What types of expenses are not covered?

- Damaged or stolen property
- Stolen cash or checks
- New locks, security devices, or alarm systems
- School tuition
- Foster care and shelter fees
- Long distance phone calls
- Attorney / Private investigator fees
- Court related expenses (lost wages, mileage)
- Hotel costs
- Memberships to a health club
- Parking
- Moving expenses
- Massage therapy

## What is contributory misconduct?

By law, the Reparations Board must reduce claims where the victim contributed to the incident through misconduct or negligence. Under the rules, contributory misconduct includes the following acts that contributed to the injury for which the claim was filed:

- 1) Using fighting words, obscene or threatening gestures, or other provocation, including use of gang or hate group hand signs, colors, symbols, or statements.
- 2) Knowingly and willingly riding in a vehicle operated by a person under the influence of alcohol or a controlled substance.
- 3) Consuming alcohol or a controlled substance or other mood altering substance.
- 4) Unlawfully possessing a controlled substance.
- 5) Planning, conspiring or attempting to unlawfully use, procure, distribute or sell a controlled substance.
- 6) Was a confirmed member or associate of a gang or hate group.
- 7) Failing to retreat or withdraw from a situation where an option to do so was readily available.

These acts constitute contributory misconduct only when they **directly** contributed to the claimant's victimization. The Board may reduce the claim by 25%, 50%, 75%, or they may deny the claim completely. If you have any questions regarding specific cases of contributory misconduct, please contact the Reparations staff. No reparations will be awarded if the victim or claimant was in the act of committing a serious crime at the time the injury occurred. This is similar to contributory misconduct except that the Board must deny the award completely if the victim was committing a crime. This is required by statute and there is no discretion by the Board to reduce the claim.

### **What is full cooperation?**

The Board's rules state that victims must make a reasonable effort to comply with any specific and direct requests that law enforcement personnel made to them. The victim must cooperate during the entire time the investigation remains active, and through all prosecution proceedings. The victim must cooperate by giving a statement to the police, submitting evidence if requested, looking at mug shots, and agreeing to pursue charges. The victim must also cooperate with the county or city attorney by agreeing to give a statement or testify as requested. In determining whether a victim cooperated, the Board takes into consideration physical or mental impairments or disabilities which may have affected the victim's ability to respond to such requests. Failure to cooperate because of fear of retaliation is not an exception to the Board's rule.

### **How does the Board make decisions?**

The Board is composed of five members appointed by the Commissioner of the Department of Public Safety. Members and staff meet once a month to discuss claims where the claimant may not meet all eligibility criteria or where services may be questionable. The Board votes to either pay, reduce or deny the claim. Board decisions are based on information submitted by the claimant, police reports, and records from medical and mental health providers.

## How can reductions or denials be appealed?

The victim or claimant may appeal a decision made by the staff or Board by sending a letter to the Reparations office within 30 days. The letter should state that the claimant is requesting reconsideration and include why they believe the Board's decision was incorrect. The Board discusses all requests for reconsideration at their monthly meeting. Claimants are welcome to attend the meeting to discuss their claim with the Board. **If a claimant wishes to attend a Board meeting, he/she must call 651-201-7300 to make an appointment.**

**All denial or reduction letters include a brochure explaining appeal rights in detail.**

If, after reconsideration, a claimant is still unhappy with the Board's decision, they may send a letter requesting a hearing before a state administrative law judge. The Board's attorney and the Reparations Director will attend the hearing. The claimant must attend the hearing and may bring an advocate. Telephone hearings are possible if the claimant lives outside of the metro area. **The administrative law judge can only make a recommendation to the Board.** The Board then discusses whether to accept the recommendation and issues a final decision.

## When should a claim be filed?

Individuals who have suffered injury as a result of a violent crime should file a Reparations claim immediately. Victims have three years from the date of injury to file a claim; however the claim should be filed as soon after the incident as possible. All expenses directly related to the crime should be included on the claim form. Medical treatment or court proceedings do not need to be completed prior to filing a Reparations claim. If there is a question regarding eligibility, contact the Reparations staff for further assistance.

## **How is a claim processed?**

After a claim form has been received, a claim file number and a claims specialist are assigned. A form is sent to the investigating law enforcement agency to verify that: 1) a crime was committed, 2) the crime was reported within 30 days of occurrence, 3) the victim has cooperated fully and 4) there was no contributory misconduct on the part of the victim. After a completed form and the police reports are received, the claims specialist reviews the claim for eligibility. If all eligibility requirements are not met, the claim is forwarded to the Board for review. If all eligibility requirements are met, the claim is approved. Billing forms are then sent to all service providers (e.g., hospitals) listed on the claim form. If lost wages are requested, a form is sent to the victim's employer to verify the amount of lost wages. Be sure to have victims provide a complete list of expenses and complete addresses of service providers and their employer.

When all requested information is received, the assigned claims specialist reviews all expenses to assure they are reasonable and necessary, related to the crime, and all collateral sources such as insurance and Medical Assistance were billed first. The claims specialist then calculates the amount of the award.

## **How long does it take to process a claim?**

It takes about four months for a claim to be processed and paid. Please feel free to have victims contact the Reparations office to check the status of a claim if payment has not been received within four to five months. Also, *please remind claimants to notify our office if they have moved or changed phone numbers.*

## **When will the victim receive a check?**

After an award is calculated and approved by the claims specialist, an award notice is sent to the claimant in the mail. If there is a mistake on the award notice, the victim should contact their claims specialist immediately.

Payments are made from the Department of Finance directly to the victim or to the service provider if there is an outstanding bill. Payments are usually made within three to four weeks after the award notice has been received by the claimant.

### **What if the victim has additional expenses after the award is made?**

Claims are kept on file with the Reparations Board permanently and may be reopened at any time. If the claimant has additional crime related expenses that were not paid on the first award, they may be submitted to the Board for a supplementary award. The claimant should send in the additional bills or send a letter explaining the additional expense(s). Ongoing expenses such as mental health counseling, chiropractic care and lost wages are paid on a quarterly basis. Loss of support is paid annually.

### **What is the maximum award?**

The maximum amount of reparations allowed as a result of one crime is \$50,000. \* However, there are caps for specific services. Very few claimants reach the maximum amount.

\*If multiple claimants file on behalf of one victim, the maximum for all claimants combined is \$50,000.

### **What is the minimum award?**

A claimant must have more than \$50 of out-of-pocket losses as a result of the crime.

## **What if losses are less than \$50?**

To be eligible for reparations, the claimant must have more than \$50 of out-of-pocket losses due to the crime. If losses are less than \$50, the claimant will receive a letter saying that the claim has been placed on inactive status. If the claimant incurs further losses, the Reparations office should be contacted to reactivate the file.

## **The Board only covered a percentage of the medical, mental health and dental expenses. Is the victim responsible for the remaining amount?**

The Board pays only a percentage of medical, dental, and mental health counseling expenses. The provider is required to write-off the remaining amount.

Providers are required by MN Rule 3050.3700 to accept the Board's reduced payment as payment in full and should not charge the victim for the remaining balance. If the provider is trying to collect the balance from the victim, the victim should notify our office immediately. If the victim has already paid the bill, the Board will reimburse the victim at 100%.

### **Medical expenses**

The current payment rate for medical expenses is 60%. The reduction applies to all medical expenses except for the following: eye exams and glasses, prescriptions, prosthetic devices, rehabilitative items, co-payments, deductibles, and spend downs.

### **Dental expenses**

The current payment rate for dental expenses is 90%. The reduction applies to all dental expenses, including exams, x-rays, extractions, implants, root canals, crowns, bridges, dentures, etc.

## Mental health expenses

The current payment rate for mental health expenses is 70%. The reduction applies to diagnostic interviews and testing, and individual, family, and group sessions.

## How does insurance or Medical Assistance affect Reparations claims?

### Insurance

All other sources of payment available, including health insurance or Medical Assistance, must be used before receiving a Reparations award for the same services. If the victim's health plan only covers certain doctors or clinics, those providers must be used. **If the claimant has been using a medical or mental health provider not covered by their health insurance, the claimant is required to switch to a provider covered under their insurance.** The Board will pay bills accumulated prior to the claimant being informed of this policy by receipt of the Claimant Handbook.

### Medical Assistance

Claimants who have Medical Assistance may not receive payment for medical expenses because Medical Assistance normally covers those expenses. Claimants who might be eligible for Medical Assistance must apply for it and follow through with the application process.

If Medical Assistance is discontinued or did not become effective immediately following the crime and the claimant is being held personally responsible for the medical bills, the Board will pay those bills.

## **Are sexual assault exams covered?**

Claimants must first submit the bill for a sexual assault exam to the county for payment. Usually the County Attorney's office or the County Sheriff's office administers a sexual assault fund to pay for exams. If the cost of the exam exceeds any payment by the county, the Board will cover the additional costs.

## **Who is eligible for mental health counseling?**

The Reparations Board will pay for counseling expenses for:

- Victims
- Family members (spouse/domestic partner, parents, children, siblings, and grandparents) of injured or deceased victims
- Witnesses to a violent crime
- Persons who discover the body of a homicide victim

### **Procedure for preauthorization of sessions**

The victim or claimant should contact their claims specialist if preauthorization for counseling is needed. The claims specialist may notify the counselor that the Board is approving payment for the counseling sessions.

### **Pre-existing or unrelated conditions**

If a counselor indicates that only a portion of the counseling is related to the crime, or if the victim or claimant had a pre-existing condition, the award may be reduced.

### **Maximum for outpatient mental health counseling**

The total accumulated expenses for outpatient counseling must not exceed \$7500 per victim or claimant. This cap does not include inpatient hospitalization or medication management.

## **Is inpatient mental health care covered?**

In extreme cases, the Board may cover inpatient mental health care. Victims must get preauthorization from their claims specialist to assure payment by the Board. The emotional impact of the crime must be the reason for the hospitalization.

Inpatient mental health care is paid as a medical expense and is not included in the \$7500 mental health maximum.

## **Who is eligible for lost wages?**

The Board will reimburse the victim for a limited amount of lost income due to the crime. The rate of payment will be approximately the same rate as their net income. A form will be sent to the victim's employer to verify wages and dates missed. For requests that exceed a two week period (six weeks for sexual assault victims), a physician or mental health professional must provide verification of the victim's inability to work. The Board compensates victims for a maximum of 40 hours per week for up to 52 weeks. Any long-term disability, short-term disability, worker's compensation, county assistance or SSI will be subtracted off the total lost wages.

If a victim is unemployed or self-employed, they must submit a copy of the previous year's federal tax return. The Board uses the reported adjusted gross income to calculate lost wages. There can be no compensation for unreported or anticipated income. A request for lost wages must be made within two years after the Reparations claim is filed.

### **Family members of homicide victims**

The spouse or domestic partner and parents of deceased victims are eligible for up to 52 weeks of lost wages. For requests that exceed a 6 week time period, a physician or mental health professional must provide verification of the claimant's inability to work.

Children, grandparents and siblings of a deceased victim are eligible for up to 6 weeks of lost wages. No extension is allowed, unless there are extraordinary circumstances where the limit imposes undue hardship on the family member. Extensions must be approved by the Board.

### Family members of injured victims

The spouse or domestic partner, parents, children, grandparents and siblings of an injured victim may be reimbursed for lost wages and reasonable expenses for transportation and lodging, up to \$5000 combined.

### **What is the maximum payment for funeral expenses?**

The Reparations Board covers reasonable expenses for funeral, burial or cremation up to \$7500. Claimants may use up to \$1000 of the maximum funeral benefit to pay for transportation and lodging for family members to attend the funeral. An additional \$1000 is available to purchase a headstone.

### **What is loss of support?**

In homicide cases and drunk driving, hit and run, and criminal vehicular operation crashes resulting in death, the victim's dependents may be eligible for loss of support payments. Dependents usually include the spouse or domestic partner and children under the age of 18. The person who has custody of the children should file the claim for loss of support.

To request loss of support, the claimant should send copies of the following information to our office: federal tax return of the deceased, W-2 forms of the deceased and spouse, and birth certificates for the children. The spouse or domestic partner must provide a marriage certificate or other supporting documentation proving they qualify as a domestic partner. The amount of the loss of support is based on a monthly rate determined by the Board each fiscal year. The current

rate is \$400/month per dependent. Loss of support is paid once a year for 3 years or until the child reaches the age of 18. The claim will be reviewed after 3 years for continued eligibility.

### **What is preauthorization of expenses and how is it obtained?**

Upon request, staff may preauthorize payment for medical procedures, dental care, mental health counseling or funeral expenses. **Preauthorization is necessary for certain expenses such as dental work, reconstructive surgery, chiropractic care and mental health care to assure payment.** If the claim meets all of the Board's eligibility requirements, a letter guaranteeing payment of an approved amount can be faxed to the provider. *Call our office at (651) 201-7300 and ask to speak to the assigned claims specialist to request preauthorization.*

### **Is crime scene cleanup covered?**

The Board will consider paying for costs related to cleaning an apartment or home after a homicide if a relative of the deceased victim is being charged for the cleanup costs. Claims are considered on a case-by-case basis. Home owner's insurance or renter's insurance should be billed first. The maximum amount covered is \$10,000.

Expenses considered include the cost to clean the blood at the crime scene, including the cleaning supplies or the fees charged by a cleaning service.

Cleanup costs or damage to property related to the police investigation and evidence collection is not covered. In addition, the cleanup of a property used as a methamphetamine lab is not covered.

## **When is child care covered?**

The Board will reimburse the victim or claimant for reasonable expenses incurred for substitute child care if the services were those which the victim would have performed had the victim not been injured or killed. In cases of injury, there must be verification from a physician that the victim is unable to perform the child care services due to his or her injuries resulting from the crime.

Child care services need not be provided by a licensed facility, and may be provided by a family member. If child care services are licensed, the standard rate will be paid. If services are not licensed, the maximum the Board will pay is \$3 per hour for daytime care and \$4 per hour for evening care. There is a cap on 24 hour childcare of \$250 per week for one child and \$350 per week for 2 or more children.

## **Are home health care services covered?**

The Board will consider payment for reasonable home health care costs if services are needed due to the injury from the crime. There must be verification from a physician or other supporting information showing that the victim is in need of home health care due to crime related injuries. Services must be provided by a licensed professional and cannot be performed by a family or household member.

## **Where does Reparations funding come from?**

The greatest portion of funding comes from the State of Minnesota General Fund appropriation. Additional funds are received from the federal Victims of Crime Act program from fines levied on federal prisoners, the Minnesota Department of Corrections inmate wages, and reimbursements to the Board in the form of restitution, refunds, or subrogation of civil awards.

## **What if money is received from another source, such as the offender, an insurance settlement, or a lawsuit?**

A victim must notify the Reparations office if he/she pursues any type of lawsuit related to the crime, or receives an insurance settlement or restitution from the offender.

The Board has the right to recover money paid to the victim from other sources, such as a civil lawsuit, insurance settlement or restitution. If a civil case is won and a settlement received, the Board is entitled to reimbursement of up to the total amount of awards paid minus one-third for the attorney's fees. The claimant may also be asked to sign an agreement not to submit any further expenses to the Board.

### **Restitution**

The Board may request restitution from the offender. If the Board has paid reparations, the court should order restitution payments to be made directly to the Board. *Please contact our office at 651-201-7300 if restitution has been ordered and/or if the victim is receiving payments from the offender.*





## OFFICE OF JUSTICE PROGRAMS

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