

NOTICE OF PROPOSED RULE ADOPTION**STATE OF MISSISSIPPI
Division of Victim Compensation
Office of the Attorney General**

**Office of the Attorney General
c/o Director of Division of Victim Compensation**

**Post Office Box 220
Jackson, MS 39205-0220
1-800-829-7666
1-601-359-6766
www.ago.state.ms.us**

Specific Legal Authority authorizing the promulgation of Rule:

M.S.A. '99-41-1

Reference to Rules repealed, amended or suspended by the Proposed Rule :

N/A

Explanation of the Purpose of the Proposed Rule and the reason(s) for proposing the rule:

These proposed rules are filed pursuant to statutory dictates that the Division of Victim Compensation, Office of the Attorney General, comply with the MS Administrative Procedures Law.

This rule is proposed as a Final Rule, and/or a Temporary Rule (Check one or both boxes as applicable.)

Persons may present their views on the proposed rule by addressing written comments to the agency at the above address. Persons making comments should include their name and address, as well as other contact information, and if you are an agent or attorney, the name, address and telephone number of the party or parties you represent.

Oral Proceeding: Check one box below:

An oral proceeding is scheduled on this rule on Date: {Insert Date} Time: {Insert Time}

Place: {Insert Place}

If you wish to be heard and present evidence at the oral proceeding you must make a written request to the agency at the above address at least five (5) days prior to the proceeding to be placed on the agenda. The request should include your name, address, telephone number as well as other contact information; and if you are an agent or attorney, the name, address and telephone number of the party or parties you represent.

An oral proceeding is not scheduled on this rule. Where an oral proceeding is not scheduled, an oral proceeding will be held if a written request for an oral proceeding is submitted by a political subdivision, an agency or ten (10) persons. The written request should be submitted to the agency contact person at the above address within twenty (20) days after the filing of this notice of proposed rule adoption and should include the name, address and telephone number of the person(s) making the request; and if you are an agent or attorney, the name, address and telephone number of the party or parties you represent.

Economic Impact Statement: Check one box below:

The agency has determined that an economic impact statement is not required for this rule, or

The concise summary of the economic impact statement required is attached.

The entire text of the Proposed Rule including the text of any rule being amended or changed is attached.

Date Rule Proposed: July 29, 2005

Proposed Effective Date of Rule: September 1, 2005

Signature and Title of Person Submitting Rule for Filing

Division of Victim Compensation
Part 1 – Administrative Rules

Chapter 01 General Information and Definitions

100 Purpose

It is the intent of the Legislature to provide a method of compensating and assisting those persons who are innocent victims of criminal acts within the state and who suffer bodily injury or death. To this end, it is the Legislature's intention to provide compensation for injuries suffered as a direct result of the criminal acts of other persons. It is the further intent of the Legislature that all agencies, departments, boards and commissions of the state and political subdivisions of the state shall cooperate with the Attorney General's Office in carrying out the provisions of this chapter. [Miss. Code Ann. §99-41-3]

101 Legal Authority

The Office of the Attorney General is authorized to establish and enforce these rules and procedures by virtue of "The Mississippi Crime Victims' Compensation Act of 1991". [Miss. Code Ann. §99-41-1, as amended]

The following administrative rules reflect the statutory changes pursuant to **Senate Bill 2562 of the 2004 Regular Legislative Session**. The Division of Victim Compensation Program will adjudicate relevant applications under these rules and regulations.

102 Definitions

1. "Contribution or contributory conduct" means a voluntary action by the victim/claimant which, directly or indirectly, produced the victim/claimant's injury at the time of the crime which gave rise to the claim. This action may include, but not limited to provocation, consent or incitement by the victim/claimant.
2. "Criminal proceedings" means any investigative or court proceedings of the case upon which the claim is based. Such proceedings include: appointments with investigators, prosecuting attorney, and/or correction officials; court proceedings and parole board hearings.
3. "Mental health counseling and care" means problem solving and support services which address emotional issues that result from criminal victimization and has as a primary purpose to enhance, protect and restore a person's sense of well being and social functioning after victimization.
4. "Personal injury" means actual bodily harm or extreme psychological trauma as a direct result of a criminally injurious act. For the purposes of this chapter, "extreme

psychological trauma" means a substantial personal disorder of emotional processes, thought or cognition which impairs judgement, behavior or ability to

cope with the ordinary demands of life. **Injury of extreme psychological trauma is considered when a person witnesses a crime and imminent danger to that person was present.**

5. "Division" means the Division of Victim Compensation.
6. "Director" means the position of Director for the Division of Victim Compensation.
7. "Victim" shall not include any coparticipant in the defendant's criminal activities, or any person knowingly participating in a criminal act at the time he became a victim. [Miss. Code Ann. §99-37-1(d)]

103 Program Description

1. The Division of Victim Compensation provides financial assistance to innocent victims of criminal acts who have suffered personal injury or death. Compensation is awarded for medical care, rehabilitation, counseling services for the victim and the victim's family member(s), funeral expenses, work loss for the victim or claimant and loss of economic support of dependents of deceased victims. The Division does not award compensation for expenses which are paid by collateral sources; property loss or damage; pain and suffering; attorneys fees; and expenses which are not directly related to the crime injuries.
2. Awards payable to a victim/claimant, all other claimants and/or providers may not exceed **Fifteen Thousand Dollars (\$15,000.00) in the aggregate. Limitations include Ten Thousand Dollars (\$10,000.00) for medical costs; wage loss and economic loss of dependents payable at Six Hundred Dollars (\$600.00) per week for a maximum of fifty-two (52) weeks; Three Thousand Five Hundred Dollars (\$3,500.00) for mental health counseling; Four Thousand Five Hundred Dollars \$4,500.00 for funeral expenses and Five Hundred Dollars (\$500.00) for funeral transportation.** Other limitations do apply and are discussed further in the following chapters.

104 General Course of Operation

1. A victim/claimant must file a claim application for compensation with the Division of Victim Compensation no later than twenty-four (24) months after the

occurrence of the crime on which the claim is based. The claim shall be filed on the application form described by the Division of Victim Compensation. Upon receipt of a completed application, a thorough investigation is initiated to determine eligibility and compensation award.

2. After processing an application under the rules and regulations promulgated by the Office of the Attorney General, the Director enters an Order of Determination. The Order shall report the following: findings of fact; decision of eligibility; amount (if any) of compensation to be awarded; payee of the compensation award; percentage share of the total of any compensation award; dollar amount each payee shall receive; and method of payment.
3. The victim/claimants who disagree with the decision(s) of the Order have the right to contest by providing a written request for a contested hearing within fifteen (15) days from receipt of notification.

105. Obtaining Program Information

For compensation applications:

Call: 601-359-6766 or 1-800-829-6766

Write: Division of Victim Compensation Program
Office of the Attorney General
Post Office Box 220
Jackson, Mississippi 39205

Fax: 601-576-4445

Website: www.ago.state.ms.us

Chapter 02 Eligibility Requirements

200 Eligible Claimants

1. "Claimant" means any of the following persons applying for compensation under this chapter:
 - a. A victim;
 - b. A dependent of a victim who has died because of criminally injurious conduct;

or

- c. A person authorized to act on behalf of persons enumerated in subparagraphs (a) and (b) of the paragraph; however, "claimant" shall not include any of the following: provider or creditor of victim; assignee of provider or creditor, including a collection agency; or another person or entity other than those enumerated in this paragraph.
- 2. The person authorized to act on behalf of any of the persons enumerated in §200(1) and(b) shall be limited to a legal guardian or conservator.
- 3. Exceptions:
 - a. A person who purchases products or services related to funeral expenses for a deceased victim; and
 - b. The family members of the victim who incur mental health counseling expenses.

201 Persons who may receive compensation

1. Eligible claimants as defined above in §200.
2. Crime victims who suffer physical injury or death as a direct result of criminally injurious conduct;
3. Crime victims who suffer extreme psychological trauma as a direct result of criminally injurious conduct;
4. The surviving parent, spouse or child who is legally obligated to pay or has paid medical, funeral, or other allowable expenses incurred as a result of the victim's death;
5. Person who purchases products or services related to funeral expenses for the deceased victim;
6. Person legally dependent upon financial support from the victim at the time of the victim's death;
7. Family members of the victim who incur mental health counseling expenses;
8. A Mississippi resident who suffers physical injury or death while in any other state or foreign country, provided that state or foreign country does not have a crime victim compensation program and all other eligibility criteria are met. Except in cases of foreign or mass terrorism, other crime victim compensation programs will not be considered as a collateral source; and,

9. An individual who witnesses a crime, suffers extreme psychological trauma and the threat of imminent danger to the individual was present.

202 Application Procedures

1. A claim for compensation must be filed on the application form prescribed by the Division of Victim Compensation and received by the Division no later than twenty-four (24) months after the occurrence of the crime; except in child sexual abuse cases, the claim must be filed within twenty-four (24) months after the crime was reported to law enforcement or the Department of Human Services, but in no event later than the child's twenty-first birthday.
2. An application postmarked within the prescribed time period shall be considered timely filed.

203 Seventy-two (72) hour reporting requirement

1. Compensation shall be denied if the crime was not reported to a law enforcement officer within seventy-two (72) hours after its occurrence, or the victim/claimant must show good cause for failing to report within such time.
2. Victim/claimant is considered to have made a report to law enforcement when the victim/claimant has provided a true and accurate report of the incident, which shall include to the best of the victim/claimant's knowledge:
 - a. The nature of the crime;
 - b. The location of the crime;
 - c. The name, whereabouts and description of the suspect, if known; and,
 - d. The names of witnesses.
3. This requirement is not met if the victim/claimant provides only his/her name and the fact that they were victimized.
4. Good cause will be determined on a case-by-case situation. Lack of knowledge about the Division of Victim Compensation is not an example of good cause. Determining good cause for not reporting within seventy-two (72) hours includes, but not limited to, the following:
 - a. The victim's age;
 - b. The physical incapacity of a victim/claimant. If the crime was not reported within seventy-two (72) hours, it must have been reported within seventy-two (72) hours after the victim's release from the hospital; and/or,
 - c. The psychological state and any compelling health or safety reasons that would jeopardize the well-being of the victim/claimant.
5. The Division of Victim Compensation may waive the seventy-two (72) hour time

period required if good cause is shown.

204 Participation/Commission of a crime

1. Compensation shall be denied if the injury or death was caused by the victim/claimant assisting, attempting or committing a criminal act at the time he/she became a victim.
2. In determining participation in or commission of a crime, the Division of Victim Compensation may consider all relevant information and circumstances, including, but not limited to:
 - a. Whether the victim/claimant was convicted of a crime relating to the incident which gave rise to the claim;
 - b. Whether there is good cause to believe that the victim/claimant was participating in a criminal act relating to the crime which gave rise to the claim;
 - c. Whether there is good cause to believe that the victim/claimant engaged in an ongoing course of criminal conduct within a reasonable time of the date of the crime which gave rise to the claim;
 - d. Whether the victim/claimant was buying, selling or using illegal drugs at the time of the incident which gave rise to the claim;
 - e. Whether the victim/claimant was under the legal age and drinking alcohol at the time of the crime which gave rise to the claim; or,
 - f. Whether the victim/claimant was frequenting a place where drugs and/or alcohol are illegally bought, sold or consumed; where there is solicitation of prostitution; or where there is illegal gambling.
3. When it is determined that the provisions of §204 apply, the burden of proof shall be upon the victim/claimant to prove the eligibility of the claim.

205 Unjust Benefits

1. Compensation shall be denied if the award will unjustly benefit the offender.
2. The Division of Victim Compensation may consider all relevant information and circumstances in determining if compensation would unjustly benefit the offender, including but not limited to:
 - a. Whether the victim/claimant has reported the crime and is cooperating with the criminal justice system in the investigation and the prosecution of the offender; or,
 - b. Whether the victim/claimant will prevent access by the offender to compensation paid to the victim/claimant.
3. A determination of "unjust benefit" will not be based solely on the following:
 - a. Victim/claimant's familial relationship to the offender;

- b. Sharing of a residence by the victim/claimant and the offender; or,
 - c. Presence of the offender in the household at the time of the award.
4. The presence of the offender in the household is only one factor to be considered in determining unjust benefit, and a case-by-case determination will be made according to the facts of each situation.

206 Motor Vehicle Incidences

1. Compensation shall be denied if the victim was injured as a result of the operation of a motor vehicle, boat or airplane unless:
 - a. The vehicle was used by the offender while under the influence of alcohol or drugs;
 - b. The driver's conduct was in violation of Miss. Code Ann. §63-3-401(4), (hit and run or leaving the scene of a personal injury accident);
 - c. The driver's conduct was in violation of Miss. Code Ann. §63-11-30(5), as amended (vehicular homicide) or Miss. Code Ann. §97-3-47(vehicular manslaughter); or,
 - d. The vehicle was used by the offender as a weapon in a deliberate attempt to injure or cause the death of the victim;
2. Incidents involving hit and runs or leaving the scene of an accident will be evaluated on a case-by-case situation. Factors to consider include, but not limited to:
 - a. If offender is apprehended, whether charges are filed against the offender;
 - b. Whether the victim/claimant's actions were reckless or seriously negligent, thereby directly causing the accident;
 - c. Whether the victim/claimant is cited in the law enforcement report as the primary collision factor or proximate cause of the accident;
 - d. Whether charges are filed against the victim/claimant; and,
 - e. Whether there is a preponderance of evidence that the offender was driving while under the influence of alcohol and/or drugs (DUI).
3. Incidents involving the victim/claimant as a passenger of a DUI driver will be evaluated on a case-by-case situation. A claim shall be denied for contributory conduct if the victim/claimant:
 - a. Knew reasonably should have known that the driver was DUI and nevertheless was a willing passenger; or,
 - b. Was under the influence of alcohol and/or drugs and was a passenger with a DUI driver, regardless of whether the victim/claimant realized the driver was under the influence of alcohol and/or drugs.
4. Exceptions to §206(3) above include:
 - a. Victim is a minor child or dependent child of the driver; or,

- b. Evidence demonstrates the victim/claimant was an unwilling passenger.
5. Incidents involving victim/claimant who is DUI shall be denied if the victim/claimant:
- a. Was driving with a blood alcohol content that is equal to or exceeds the legal limit for driving;
 - b. Was driving while under the influence of drugs; and,
 - c. The above, 5(a) or (b) are corroborated by law enforcement or medical evidence.
 - d. These conditions apply regardless of whether the victim/claimant's condition caused the accident.

207 Victim or Claimant Provided False or Misleading Information to the Program

The claim shall be denied if the claimant and/or victim knowingly furnished any false or misleading information, or knowingly failed or omitted to disclose a material fact or circumstance with the intent to defraud the Division for compensation.

208 Cooperation with Law Enforcement and Prosecutors

1. Compensation may be denied, withdrawn or reduced upon a finding that the claimant and/or victim have not fully cooperated with law enforcement agencies and prosecuting attorneys.
2. Cooperation with law enforcement and prosecuting attorneys means the victim/claimant has cooperated with their reasonable requests of the investigation and prosecution of the incident.
3. Reasonable cooperation will be determined on a case-by-case situation taking into consideration the victim/claimant's age, physical condition and psychological state. Reasonable cooperation includes, but not limited to the following:
 - a. The victim/claimant provided law enforcement with a true and accurate report of the crime (see §204 above);
 - b. Participation in the investigation of the crime to assist law enforcement in the identification of an offender as requested, including the review of photos and police line ups; and,
 - c. Participation in prosecuting procedures, including deposition and trial testimony as requested.
4. Consideration of relevant circumstances may be given in cases of domestic violence and sexual assault. The Division may waive this requirement if there are

compelling health or safety reasons that would jeopardize the well being of the victim/claimant.

209 Contributory Conduct

1. Compensation shall be diminished upon finding that the victim/claimant's conduct contributed to the events that led to the crime.
2. Compensation is diminished to the extent of the degree of responsibility for the cause of injury or death attributable to the victim/claimant's actions and/or involvement to the events that led to the crime. Compensation may be diminished, in whole or part, if contributory conduct is determined.
3. Eligibility for compensation can be affected by a victim/claimant's involvement in the events that led to the crime. The victim/claimant's actions do not have to be illegal to be considered contributory conduct. Such actions must relate significantly to the occurrence that caused the victimization and be such that a reasonable or prudent individual would know that the actions could lead to their victimization.
4. For the purposes of this chapter, "contributory conduct" means a voluntary action by the victim/claimant which, directly or indirectly, produced the victim/claimant's injury at the time of the crime which gave rise to the claim. This action may include, but not limited to provocation, consent or incitement by the victim/claimant. (See §102(1))
5. Contributory conduct is a factor when the victim/claimant knowingly participated in conduct that:
 - a. Caused, resulted in, or reasonably could have led to the specific crime which caused the crime or death; or
 - b. Was itself clearly wrongful or illegal, thereby placing himself or herself in a position to be injured or to become a victim; or,
 - c. Clearly put himself or herself into a situation where the crime was a reasonably expected result and/or which a prudent individual would have avoided.
6. Contributory conduct to the offense is determined by the victim/claimant's action or nature of the victim/claimant's involvement in the events leading up to the crime. The following factors will serve as a guideline in determining the degree of contribution assessed:
 - a. If it appears the victim/claimant provoked, consented, incited or continued the escalation of the crime, a contribution factor shall be assessed;

- b. If it appears the victim/claimant was provoked by the offender in a manner where bodily harm to the victim/claimant appeared unlikely, and the victim/claimant used poor judgement, a contribution factor shall be assessed;
 - c. If it appears the victim/claimant was injured as a result of poor judgement or as a result of his conduct not being that of a prudent person, a contribution factor shall be assessed;
 - d. If it appears the victim/claimant's use of alcohol or drugs impeded his or her condition at the time of the crime in such a manner that their injuries were caused and/or greater because of alcohol or drug use, a contribution factor shall be assessed; and/or,
 - e. If it appears that the offender was provoked by the victim/claimant in a manner where bodily harm to the offender appears intentional or unquestionable, a contribution factor shall be assessed the claim shall be denied.
7. The Division may consider all relevant information and circumstances, including but not limited to:
- a. Level of responsibility of the victim/claimant's conduct;
 - b. Foreseeability of the consequences of such conduct;
 - c. Ability to avoid the situation (victim/claimant's failure to retreat or withdraw from a situation where an option to do so was readily available);
 - d. The degree of harm that occurred as a result of the crime based upon clear evidence that the victim/claimant was armed or acting in a provoking manner greater than or equal to that of the offender;
 - e. Whether the victim/claimant used fighting words, obscene or threatening gestures;
 - f. Whether there is a direct causal relationship between the victim/claimant's actions and the crime; and/or,
 - g. §209(5) and §209(6).
8. When it is determined that the provisions of §209. apply, the burden of proof shall be upon the victim/claimant to prove the eligibility of the claim.

210 Collateral Sources

1. Compensation otherwise payable to a victim/claimant shall be diminished to the extent that the economic loss is recouped from other sources, including collateral sources.
2. In determining the amount of an award, compensation shall be reduced by any collateral benefits available to the victim and/or claimant.

3. Collateral sources include, but not limited to, Aid to Families with Dependent Children, Social Security Benefits, Supplemental Security Income, disability insurance, life insurance, burial insurance, Medicare, Medicaid, health insurance, Workers' Compensation, Veteran Benefits, income from estate, restitution, homeowners/renters insurance, automobile insurance, donations and benevolence from family, friends and/or community-at-large.
4. Collateral sources do not include, but not limited to, a home, car, bank accounts, credit available through banks or other financial institutions, income from parent or guardian when the victim is a minor, any other assets owned by the victim, sick or vacation/annual leave accrued at work.
5. Exceptions to §210(3):
 - a. The first **One Hundred and Fifty Thousand Dollars (\$150,000.00)** of life insurance is not calculated as a collateral source.
 - b. Life insurance is not calculated as a collateral source for mental health counseling and care expenses.
6. Compensation otherwise payable to a claimant shall be denied or reduced to the extent that it is reasonable, if the claimant failed to fully pursue benefits under a collateral source or otherwise failed to provide requested information to a source of benefits that would have been available to the claimant and that would have reimbursed the claimant for all or a portion of an eligible expense.
7. The Victims of Crime Act (VOCA) defines compensation programs as payor of last resort. All federal benefit programs, including Medicaid, Veteran Administration, CHAMPUS and Indian Health Service, must provide benefits prior to compensation.
(42 U. S. C. 10602, §1403 of VOCA.)
8. Counselors who are funded in whole or part or used as match funds for federal, state or local grant funds shall not be eligible for compensation payments.

211 Burden of Proof

1. There must be proof that a crime occurred. It is not necessary that the offender be prosecuted or convicted to show that a crime occurred. Additionally, although a conviction is not required as conclusive evidence that a crime has been committed, the victim/claimant must fully cooperate with the law enforcement agencies and prosecuting attorneys.

2. Victim/claimants filing applications have the burden of proving eligibility of the claim filed and all its elements and items of compensation. Burden of proof is met by a preponderance of credible evidence.
3. The Division may give substantial weight to conclusions of investigative law enforcement agencies and dispositions of criminal proceedings, including, but not limited to, pleas of guilt and jury verdicts, but considered along with all other evidence. The ultimate determination made on a claim application is the obligation of the Division uncontrolled by determinations of others.

Chapter 03 Eligible Expenses

300 Eligible Expenses

1. Claimants must show that they have suffered an economic loss as a result of the criminally injurious conduct in order to be eligible for compensation. All eligible expenses shall be verified and substantiated by supporting documentation.
2. Eligible expenses:
 - a. Medical - reasonable charges incurred for reasonably needed **and medically necessary** products, services and accommodations, including, but not limited to, medical care, rehabilitation, rehabilitative occupational training, and other remedial treatment and care.
 - b. Mental health services - reasonable charges incurred for reasonably needed mental health counseling and care for the victim/claimant and the victim/claimant's family members.
 - c. Medical/Mental Health Counseling (MHC) Transportation costs - reasonable non-emergency transportation services for (1) victim to attend doctor appointments and/or mental health counseling sessions; and (2) claimant and/or victim's family member(s) to attend appointments for mental health counseling and care.
 - d. Funeral - reasonable charges incurred for usual and customary expenses related to funeral, cremation or burial services and products.
 - e. Funeral Transportation costs - reasonable charges for claimant(s) to make arrangements and/or attend services.
 - f. Lost wages - victim or claimant's lost wages for work missed during the victim's recovery of crime related injuries; victim or claimant's lost wages for work missed to attend criminal proceedings; and claimant's lost wages to make funeral arrangements and/or attend services.
 - g. Loss of Support - economic loss of a dependent of a deceased victim.

Other limitations do apply and are discussed further in the following chapters.

3. Compensation may not exceed **Fifteen Thousand Dollars (\$15,000.00)** in the

aggregate. Additional limits apply, see below §301, 302, 303, 304, 305 and 306.

301 Medical Expenses

1. Some examples of medical expenses include, but not limited to, hospital, physicians, prescriptions, ambulance, prosthetics, medically necessary equipment, rehabilitation, medical supplies, dental and chiropractic services. Expenses may also include rehabilitative occupational services, including treatment for the purpose of training or retraining for employment based on the victim's medical and employment history.

Other limitations do apply and are discussed further in this chapter.

2. Verification: Supporting documentation as determined by the Division shall be submitted to verify and substantiate the expense eligibility. The following shall apply:
 - a. The victim/claimant shall provide an itemized statement indicating date of service, type of service, diagnostic code, treatment code and charge for each service, product or treatment.
 - b. The victim/claimant shall provide collateral source information.
 - c. Additional information and supporting documentation may be requested for further determination on an as-needed basis.
3. Dental care - dental care and services may be eligible if treatment is directly related to the crime injury. Expenses for routine dental checkup, cleaning or pre-existing problems are not eligible.
4. Medically necessary equipment - may be eligible if the item became necessary as a direct result of the injury, is prescribed by the victim's physician and is necessary to facilitate the victim's physical recovery. Equipment includes, but not limited to, wheelchair, bed, walker and crutches.
5. Medical supplies - supplies not prescribed by a physician may be eligible if medically necessary for victim's physical recovery and costs are supported with an itemized receipt that clearly indicates the item. Medical supplies include, but not limited to, over-the-counter medications and bandages.
6. Prosthetic devices, eyeglasses, hearing aids and dentures - may be eligible if the item was destroyed during the crime or became necessary as a direct result of the crime injury and is prescribed by the victim's physician.
7. **Medical/MHC** Transportation for non-emergency services - transportation for non-emergency services may be eligible. The following shall apply:
 - a. Transportation costs shall be limited for (1) victim to attend doctor appointments

- and/or mental health counseling sessions; and (2) claimant and/or victim's family member(s) to attend appointments for mental health counseling and care.
- b. Needed medical attention and/or mental health counseling is not available in the victim/claimant's community.
 - c. Travel to a medical or mental health counseling facility is at least forty-five (45) miles, one way from the victim/claimant's residence.
 - d. Award for transportation costs shall be limited to mileage and bus, train, and air fare.
 - e. Award for mileage shall be reimbursed at the current state rate as determined by the State of Mississippi, Department of Finance and Administration, Office of Purchasing and Travel.
 - f. If there is more than one (1) claimant per request for transportation costs, the amount of compensation shall be prorated among the claimants and the total amount of the award may not exceed Five Hundred Dollars (\$500.00).
 - g. The victim/claimant shall submit a copy of the bill substantiating office visit and date of travel.
 - h. The victim/claimant shall submit a travel reimbursement request form as prescribed by the Program.
 - i. Overall maximum amount allowable for travel reimbursement may not exceed \$500.00.
8. In-patient mental health services and hospitalization - these expenses are considered mental health expenses. See §302 below for guidelines and limitations.
 9. Sexual assault/Rape exams - Effective July 1, 2005 expenses for the initial medical examination conducted for the procurement of evidence will be eligible for compensation. Treatment provided for crime related injuries may be considered for payment if the claim is otherwise eligible. For the purposes of this chapter, the following shall apply:
 - a. Initial Medical Examination - initial (sexual assault) medical examination expenses include, but not limited to: rape kit, physician fees, emergency room fees, venipuncture services and any tests conducted (sexually transmitted disease tests, pregnancy tests, etc.).
 - b. Medications - medications, as part of the initial examination, will be considered for payment if the claim is otherwise eligible.
 - c. Future Medical Expenses - medications and subsequent tests, administered after the date of the initial medical examination, may be considered for payment if the claim is otherwise eligible.
 - d. Physical Injuries Sustained During the Sexual Assault - medical services provided during the initial medical examination for treatment of crime related

injuries may be considered for payment if the claim is otherwise eligible. Costs such as emergency room fees and physician fees will be prorated.

- e. Other - treatment, services and/or expenses as a part of the initial medical examination not previously mentioned above will be considered on a case-by-case situation.
10. Health Insurance Premiums - the victim's health insurance premium may be eligible for payment if the victim was covered at the time of the crime. The following shall apply:
- a. The victim is unable to return to work due to crime related injuries.
 - b. Premiums paid by someone other than the victim or the victim's employer will not be considered.
 - c. If the premium includes additional individuals or family members, only the victim's portion is eligible.
 - d. The victim or claimant shall provide verification of the health insurance coverage and monthly premium payment amount.
 - e. The victim or claimant shall provide a disability statement from the victim's attending physician indicating the duration of the victim's disability.
 - e. The disability statement shall be signed by a licensed medical professional. Disability statements signed by any other provider, such as therapist, shall not be accepted for consideration.
 - f. Payment of health insurance premiums shall be limited to the disability duration or up to twelve months, whichever ever occurs first and shall be based upon a reasonable charge as determined by the Crime Victim Compensation Program.
11. Limitations for medical expenses include, but not limited to the following:
- a. Compensation for medical expenses may not exceed Ten Thousand Dollars (\$10,000.00).
 - b. Expenses for treatment which is not directly related to crime injuries and/or provided by a non-licensed medical professional or facility (if applicable) shall not be eligible.
 - c. The medical expenses of a deceased victim shall not be eligible if the claimant does not have legal obligation or liability of losses incurred by the victim. However, the expenses may be eligible, if the claimant signed for financial responsibility of the expenses or made voluntary payments.

302 Mental Health Counseling and Care

1. For the purposes of determining eligibility "mental health counseling and care" means problem solving and support services which address emotional issues that result from criminal victimization and has as a primary purpose to enhance,

protect and restore a person's sense of well being and social functioning after victimization. (See 102(4))

Other limitations do apply and are discussed further in this chapter.

2. Victim/claimant Eligibility:
 - a. The victim/claimant must otherwise qualify for compensation before any award can be considered;
 - b. The victim/claimant must have suffered personal injury or extreme psychological trauma as a direct result of the criminally injurious conduct; and,
 - c. Counseling must be causally related to the crime and focus must be for treatment to assist in the victim/claimant's recovery.
3. Family Member Eligibility:
 - a. The victim/claimant must otherwise qualify for compensation before any award can be considered;
 - b. The victim/claimant must have suffered death, personal injury or extreme psychological trauma as a direct result of the criminally injurious conduct;
 - c. Family member is defined as victim's spouse, parent, grandparent, stepparent, child, stepchild, grandchild, brother, sister, half brother, half sister and spouse's parent and must otherwise qualify for compensation before any award can be considered; and,
 - d. Counseling must be causally related to the crime and focus must be for treatment to assist in the recovery of the victim's family member.
4. Verification: Supporting documentation as determined by the Division be submitted to verify and substantiate the expense eligibility. The following shall apply:
 - a. The victim/claimant shall provide an itemized bill indicating date(s) of service, type of service, length of each session and charges for each session.
 - b. Mental health providers shall provide a report to include: the presenting problem/complaint, a detailed treatment plan, estimated duration of therapy, assurance that the therapy is directly related to the crime; a treatment summary or progress report for dates of service, a copy of their license and an itemized bill indicating date(s) of service, type of service, length of each session and charge for each session.
 - c. The victim/claimant shall provide collateral source information.
 - d. Additional information and supporting documentation may be required from the mental health provider on an as needed basis for further determination of expense eligibility.
5. Mental health services and limitations:
 - a. Compensation for mental health counseling and care for the victim/claimant and the victim's family members may not exceed **Three Thousand Five Hundred Dollars (\$3,500.00)**; provided, however, if there is more than one

- (1) family member per victim, the amount of compensation awarded shall be prorated among the family members not to exceed **Three Thousand Five Hundred Dollars (\$3,500.00)**.
- b. The focus of treatment is to assist in the victim/claimant's recovery or the recovery of the family member by utilizing problem solving and support services which address emotional issues that result from criminal victimization. Primary purpose is to enhance, protect and restore a person's sense of well being and social functioning after the victimization.
 - c. Treatment must follow an accepted modality for the treatment of crime victims as determined by the Crime Victim Compensation Program.
 - d. If treatment addresses issues not directly related to the crime, then only that percentage of treatment which addressed the victimization shall be compensated.
 - e. Expenses for intake services may not exceed One Hundred Dollars (\$100.00).
 - f. Expenses for evaluation and testing may not exceed One Hundred Fifty Dollars (\$150.00).
 - g. Allowable expenses for individual counseling sessions are based upon licensure requirements of the therapist/counselor, see Section 3-3.08.
 - h. Family counseling sessions are eligible only if the victim/claimant is present in the session and the focus is to assist in the victim/claimant's recovery. Allowable expenses for family counseling sessions are based upon licensure requirements of the therapist/counselor, see Section 3-3.08.
 - i. Expenses for group sessions may not exceed \$40.00 per session.
 - j. Case management or staff conferences may not exceed \$20.00 per session, per month.
 - k. Medication management and evaluation sessions may not exceed \$25.00 per 15-20 minute session.
6. Additional limitations and verification:
- a. Sliding scale fees are to be based on the victim/claimant's or family member's income and only that portion will be eligible for compensation.
 - b. Counselors who are funded in whole or part or used as match funds for federal, state or local grant funds shall not be eligible for compensation payments. (See §210 (8))
 - c. Additional information and supporting documentation may be required from the mental health provider on an as needed basis for further determination of expense eligibility.
7. Ineligible expenses:
- a. preparation of reports and court support time;

- b. expenses for missed or canceled appointments;
- c. treatment for pre-existing physical or emotional conditions;
- d. services and/or products provided at no cost to the victim/claimant or family member; and,
- e. sessions in which the offender is present.

8. Qualified Mental Health Providers and Fee Schedule:

- a. Mental health providers must meet or exceed the licensure requirements of Mississippi and expenses are awarded at the following rates, for the standard hourly individual or family session:

1. Licensed Psychiatrist, (M.D.)	\$120.00
2. Licensed Psychologist (Ph.D.).....	\$100.00
3. Licensed Clinical Level Social Worker:	
(LCSW).....	\$ 80.00
(Ph.D.).....	\$100.00
4. Licensed Master Social Worker (LMSW).....	\$ 60.00
5. Licensed Social Worker (LSW).....	\$50.00
6. Licensed Professional Counselor:	
(Master Level).....	\$80.00
(Ph.D. Level).....	\$100.00
7. Licensed Marital and Family Therapist (LMFT).....	\$ 80.00

- b. Providers whose credentials are not recognized in the above, are not eligible as a qualified mental health provider.
- c. Mental health providers not licensed in Mississippi, *may* be considered as qualified providers in certain circumstances. Those individuals shall be supervised by a qualified mental health professional as listed above. **The non-licensed provider must submit formal documentation indicating that supervision was provided and/or supervisory conferences were held.** The Division will determine on a case-by-case situation whether the provider will be considered as a qualified mental health provider and the fee schedule.
- d. Mental health providers not practicing in Mississippi must meet or exceed those qualifications of licensure requirements of Mississippi.

- e. Individuals providing services through a student internship or other academic requirements are not eligible as a qualified mental health provider.
9. Other mental health care benefits:
- a. In-patient mental health services for the victim/claimant or the victim/claimant's family members are considered as mental health counseling and care expenses and the maximum of **Three Thousand Five Hundred Dollars (\$3,500.00)** shall be applied.
 - b. Expenses incurred by victim/claimants and/or family members receiving medical attention for anxiety, depression and other related conditions, including medications, are considered mental health care expenses and the maximum of **Three Thousand Five Hundred Dollars (\$3,500.00)** shall be applied.

303 Lost Wages

1. Eligible expenses:
- a. Lost wages may be eligible for work missed by the victim during recovery of physical injuries and/or psychological trauma, herein known as victim lost wages.
 - b. Lost wages may be eligible for work missed by the claimant during the victim's recovery of physical injuries and/or psychological trauma, herein known as claimant lost wages.
 - c. Lost wages may be eligible for work missed by the victim or claimant to attend criminal proceedings of the case which the claim is based, herein known as court related lost wages.
 - d. Lost wages may be eligible for work missed by the claimant to make funeral arrangements, attend services and for bereavement, herein known as bereavement lost wages.

Other limitations do apply and are discussed further in this chapter.

2. Victim eligibility:
- a. The victim must otherwise qualify for compensation before any award can be considered.
 - b. Wage loss for the victim shall be limited to:
 - 1. cases in which the victim had a loss of earnings during recovery of physical injuries and/or psychological trauma, attended medical appointments and/or attended mental health counseling sessions; and
 - 2. cases in which the victim had a loss of earnings to attend criminal proceedings.

- c. The victim must provide all requested supporting documentation.
3. Claimant eligibility:
- a. The victim/claimant must otherwise qualify for compensation before any award can be considered;
 - b. Wage loss for the claimant shall be limited to:
 - 1. cases in which the claimant had a loss of earnings in order to assist victim during the victim's recovery of physical injuries, accompanied victim to mental health counseling sessions and/or accompanied victim to medical appointments;
 - 2. cases in which the claimant had a loss of earnings to attend criminal proceedings; and
 - 3. cases in which the claimant had a loss of earnings to make funeral arrangements, attend the services and/or for bereavement time; and
 - c. The victim/claimant must provide all requested supporting documentation.
4. Verification: Supporting documentation as determined by the Program shall be submitted to verify and substantiate the expense eligibility. The following shall apply:
- a. The victim and/or claimant shall provide report of earnings and collateral source information.
 - b. If loss of work due to victim's physical injuries and/or psychological trauma is longer than one work week, the victim or claimant shall provide a disability statement from the victim's attending physician indicating the duration of the victim's disability.
 - c. The disability statement shall be signed by a licensed medical professional. Disability statements signed by any other provider, such as therapists, shall not be accepted for consideration.
 - d. The disability statement may not be required if there was a loss of work for the victim to attend medical appointments and/or mental health counseling sessions. These claims will be determined on a case-by-case situation.
 - e. If the victim or claimant is self-employed, the victim or claimant shall provide documentation of wage loss. The victim or claimant's federal income tax return for the year prior to the crime or the year in which the crime occurred is required.
 - f. If the wages are based upon variable earnings, the victim or claimant shall provide documentation as determined by the Program to substantiate continuous employment and earnings information. Estimated earnings not supported by past employment information or earnings statements shall not be eligible. Employment with variable earnings includes, but not limited to: seasonal work, part-time work or work with payment of sales commissions.
 - g. If the victim or claimant is paid in cash, the victim or claimant must submit a

federal income tax return for the year prior to the crime and/or the year in which the crime occurred in order to substantiate wages. If the victim or claimant failed to file income taxes with the Internal Revenue Service or state of residency as required by law, then lost wages shall be denied.

- h. If the victim or claimant fails to provide a copy of a federal income tax return as requested, the lost wages shall be denied.
 - i. Lost wages to attend criminal proceedings shall be verified by the appropriate law enforcement agency, court official or district attorney's office.
 - j. Additional information and supporting documentation may be requested for further determination on an as-needed basis.
5. Limitations: The following shall apply:
- a. Victim must have been employed, or receiving unemployment or Workers' Compensation benefits, at time of the crime.
 - b. Claimant must have been employed at time of the crime.
 - c. The amount of the award shall be based on net wages and reduced by any available collateral sources.
 - d. The amount of the award shall be reduced by any income from substitute work actually performed by the victim or claimant.
 - e. The amount of the award shall be reduced by income the victim or claimant would have earned if appropriate substitute work the victim or claimant was capable of performing was available, but the victim or claimant unreasonably failed to undertake.
 - f. No anticipated work shall be considered for compensation, unless the victim or claimant had been hired by an employer and was unable to begin employment as a result of the crime related injuries. The victim or claimant shall verify that he or she was employed at the time of the crime, but the beginning employment date was after the date the crime occurred. Employment and the duration of disability must be verified in the same manner as above.
 - g. Compensation for victim lost wages may not exceed **Six Hundred Dollars (\$600.00) per week**, not to exceed fifty-two (52) weeks.
 - h. Compensation for claimant lost wages may not exceed **Six Hundred Dollars (\$600.00) per week**, not to exceed fifty-two (52) weeks.
 - i. Compensation for court related lost wages to attend criminal proceedings may not exceed **Six Hundred Dollars (\$600.00) per week**, not to exceed one (1) week.
 - j. Compensation for court related lost wages will be determined on a case-by-case situation.
 - k. Compensation for bereavement lost wages may not exceed **Six Hundred Dollars (\$600.00) per week**, not to exceed one (1) week.
 - l. Bereavement lost wages will be determined on a case-by-case situation.

- m. If there is more than one (1) claimant per request for bereavement lost wages, the amount of compensation shall be prorated among the claimants and the total amount of the award may not exceed **Six Hundred Dollars (\$600.00)**.
- n. The total amount for victim or claimant lost wages may not exceed the aggregate limitation of **Fifteen Thousand Dollars (\$15,000.00)**.
- o. **The victim and/or claimant may both receive compensation for lost wages during the victim's recovery of crime related injuries and/or to attend criminal proceedings. The amount of compensation shall be prorated among the victim and claimant and the total amount of the award may not exceed Six Hundred Dollars (\$600.00) per week.**
- p. The Program will evaluate each request for lost wages on a case-by-case situation to determine reasonableness and duration of work loss.
- q. Payment may be provided in a lump sum, but any payment for future economic loss may not exceed One Thousand Dollars (\$1,000.00) and may be made only for a period as to which future economic loss can reasonably be determined.
- r. An award for future economic loss may be modified upon findings that a material and substantial change of circumstances has occurred.

304 Loss of Support for Dependent(s)

1. Surviving dependent(s) of the deceased victim may be eligible to receive loss of support. Other limitations do apply and are discussed further in this chapter.
2. Claimant and Dependent Eligibility:
 - a. The victim must otherwise qualify for compensation before any award can be considered;
 - b. The claimant must otherwise qualify for compensation before any award can be considered;
 - c. The dependent must otherwise qualify for compensation and was wholly or partially dependent upon the victim for care and support at the time of the victim's death; and,
 - d. The claimant must provide all requested supporting documentation.
3. Verification: Supporting documentation as determined by the Division shall be submitted to verify and substantiate the expense eligibility. The following shall apply:
 - a. The claimant shall provide a report of the victim's earnings and available collateral information.
 - b. The claimant shall provide verification that the dependent was wholly or partially dependent upon the victim for care and support at the time of the victim's death.

- c. The claimant shall provide verification that he or she is legally authorized to act on behalf of victim's dependent.
 - d. Additional information and supporting documentation may be requested for further determination on an as-needed basis.
4. Limitations: The following shall apply:
- a. Compensation for dependent's loss of support may not exceed **Six Hundred Dollars (\$600.00)** per week, not to exceed fifty-two (52) weeks; provided, however, if there is more than one (1) dependent per victim, the amount of compensation awarded shall be prorated among the dependents.
 - b. The total amount for loss of support may not exceed the aggregate limitation of **Fifteen Thousand Dollars (\$15,000.00)**.
 - c. The amount of loss is based on the victim's net income at the time of death. The net income is determined by utilizing rules of wage loss in §303.
 - d. All relevant collateral sources will be considered and shall be reduced from the eligible award. (See §210)
 - e. The first **One Hundred Fifty Thousand Dollars (\$150,000.00)** of life insurance may not be considered as a collateral source. Any amount more than **One Hundred Fifty Thousand Dollars (\$150,000.00)** shall be deducted from the eligible award.
 - f. The Division will evaluate each request for lost of support on a case-by-case situation to determine reasonableness and relationships of victim, dependent and claimant.
 - g. Payment may be provided in a lump sum, but any payment for future economic loss may not exceed One Thousand Dollars (\$1,000.00) and may be made only for a period as to which future economic loss can reasonably be determined.
 - h. An award for future economic loss may be modified upon findings that a material and substantial change of circumstances has occurred.

305 Funeral

1. Eligible Expenses:
 - a. Reasonable charges for usual and customary expenses related to funeral, cremation or burial services and products include, but not limited to: funeral home professional and staff services, embalming, viewing facilities, wake facilities, equipment for grave side, newspaper announcements, transfer and transportation costs of deceased, casket, burial container, clothing for deceased, programs, register book, flowers, monument, cemetery plot, opening/closing of

the grave and death certificates, not to exceed **Four Thousand Five Hundred Dollars (\$4,500.00)**; and

- b. Necessary and reasonable transportation costs to make arrangements and/or attend funeral services, not to exceed Five Hundred Dollars (\$500.00).

Other limitations do apply and are discussed further in this chapter.

2. Victim and Claimant Eligibility:
 - a. Victim must otherwise qualify for compensation before any award can be considered.
 - b. Claimant or responsible party must otherwise qualify for compensation before any award can be considered.
3. Verification: Supporting documentation as determined by the Division shall be submitted to verify and substantiate the expense eligibility. The following shall apply:
 - a. The claimant or responsible party shall provide expense and collateral source information.
 - b. The claimant or responsible party shall provide appropriate documentation indicating the responsible party for the funeral expenses.
 - c. Additional information and supporting documentation may be requested for further determination on an as-needed basis.
4. Limitations: The following shall apply:
 - a. Compensation for eligible funeral expenses may not exceed a total of Four Thousand Five Hundred Dollars (\$4,500.00)
 - b. Compensation for transportation costs to make arrangements and/or to attend funeral services may not exceed Five Hundred Dollars (\$500.00)
 - c. Total benefits for funeral and transportation may not exceed Five Thousand Dollars (\$5,000.00).
 - d. Award for clothing for the victim may not exceed Three Hundred Dollars (\$300.00).
 - e. Award for flowers may not exceed **Two Hundred Dollars (\$200.00)**.
 - f. Award for a headstone and/or monument may not exceed Eight Hundred Fifty Dollars (\$850.00).
 - g. Award for printing costs associated with funeral expenses may not exceed **One Hundred Fifty Dollars (\$150.00)**. Examples include but not limited to: printing of funeral programs, acknowledgment cards, thank you cards, newspaper notice, obituaries, memorial cards, and/or other relevant documents.
 - h. Transportation to arrange and attend services shall be at least forty-five (45) miles, one way from the claimant's residence.
 - i. Award for transportation costs shall be limited to mileage and bus, train and air fare.

- j. Award for transportation costs shall be reimbursed at the current state rate as determined by the State of Mississippi, Department of Finance and Administration, Office of Purchasing and Travel.
 - k. If there is more than one (1) claimant per request for transportation costs, the amount of compensation shall be prorated among the claimants and the total amount of the award may not exceed Five Hundred Dollars (\$500.00).
 - l. Social Security Death Benefits, memorials, benevolent funds, donations and burial insurance are considered as collateral sources and shall be reduced from the award.
 - m. The Division will evaluate each request on a case-by-case situation to determine reasonableness of charges incurred for usual and customary expenses for funeral, cremation or burial services and products; and transportation costs.
5. Ineligible funeral expenses:
- a. Clothing for the victim's family members or dependents are not eligible.

306 Other Expenses

- 1. Other crime related expenses not previously mentioned above may be considered. Expenses must be reasonable and reasonably charged for actual services and products directly related to crime injuries and as allowable by law.
- 2. Victim and Claimant Eligibility:
 - a. Victim must otherwise qualify for compensation before any award can be considered.
 - b. Claimant must otherwise qualify for compensation before any award can be considered.
- 3. Verification: Supporting documentation as determined by the Program shall be submitted to verify and substantiate the expense eligibility. The following shall apply:
 - a. The victim/claimant shall provide expense information.
 - b. The victim/claimant shall provide collateral source information.
 - c. Additional information and supporting documentation may be requested for further determination on an as-needed basis.
- 4. Limitations: Each request will be processed on a case-by-case basis to determine reasonableness of service or product and expense.

307 Ineligible Expenses

1. Ineligible expenses include, but not limited to, damaged or stolen property, pain and suffering, expenses not directly related to the crime injuries, attorney's fees, or treatment not rendered by a licensed medical professional, mental health provider or facility.

Chapter 04 Administration

400 Repayment of Award

1. The Office of the Attorney General shall have a right to commence a civil action for the recovery of overpayment of compensation awards pursuant to Miss. Code Ann. §99-41-27(3), as amended.
2. The defendant as in § 400(1) shall be responsible for the fees, court costs, and other expenses of litigation.

401 Shortage of Funds for Awards

1. In the event the amount of approved claims exceeds the available funds during any defined period, the department, at its sole discretion, may proportionately reduce benefits paid to claimants.
2. Eligible claims may be held until completion of the defined period and proportioned reductions may be computed accordingly at that time.
3. A claimant who has received a proportioned reduction of benefits shall not be entitled to future retroactive reimbursements.
4. Compensation payments may be awarded in the order in which the claim application was received and completed.
5. When a purchase invoice is made, the funds for payment of the award are thereby encumbered.
6. This rule shall be effective upon the filing date and apply to claims pending, claims having prior approval or claims henceforth received.

402 Filing a False Claim, Furnishing False Information and Failing to Disclose Information

1. The Office of the Attorney General shall have a right to commence a civil action for the recovery of compensation awards obtained by the claimant upon filing a false claim, furnishing false information and/or failing to disclose pertinent information.
2. The defendant as in §402 shall be responsible for the fees, court costs, and other expenses of litigation.

Chapter 05 Appeal Process

500 Overview

1. If the Division denies a claim for any reason, the victim/claimant has the right to appeal. The appeal process consists of three steps: reconsideration, contested hearing and circuit court appeal, and which are governed by law and regulations promulgated for the purposes of this chapter.
2. The first step, reconsideration, is intended to be an informal resolution of a claim. If the victim/claimant disagrees with the Division's original determination, he or she may request a reconsideration. If after the victim/claimant disagrees with the Director of the Division's decision of reconsideration, he or she may request a contested hearing before a hearing officer. This hearing is also informal; however, the victim/claimant must appear in person at the hearing and a record of the hearing is made. Finally, there is the right to appeal the contested hearing decision to the circuit court.
3. The appeal must be filed in a timely manner and written notice and other requested information must be sent within the time limits set. If information is not submitted within the time limits, the appeal may be denied on that basis alone. Each appeal must be exhausted in order before the victim/claimant moves onto the next step.

501 Reconsideration

1. The Division Director, on his/her own motion or on request of the victim/claimant, may reconsider a decision granting or denying an award or determining its amount. An Order of Reconsideration of an award shall not require a refund of amounts previously paid unless the award was obtained by fraud. The right of reconsideration does not affect the finality of the decision concerning the amount of compensation for the purpose of judicial review.
2. All parties shall be afforded an opportunity for a reconsideration of a decision after reasonable notice pursuant to regulations promulgated pursuant to this chapter.

3. Verification to support request:
 - a. The victim/claimant must provide a written request for a reconsideration within fifteen (15) days from the date of notification of the original determination.
 - b. The written request shall contain:
 1. a brief position statement and the reason(s) why the decision is wrong and why he or she is dissatisfied with the decision; and,
 2. newly discovered information that would have resulted in a different determination had the information been known to the victim/claimant and the Division at the time of the original determination.
 - c. The victim/claimant may also provide oral evidence to support their request.
4. When a request for a reconsideration is received, the Program will:
 - a. Review the claim, as well as any additional written and/or oral evidence;
 - b. Talk to the victim/claimant and/or witnesses; and,
 - c. Conduct any additional investigation.
5. Order of Reconsideration:
 - a. After the reconsideration, the Division shall enter the findings of the reconsideration into an Order.
 - b. The Division will notify the victim/claimant in writing of the decision of the reconsideration.
 - c. The victim/claimant who disagrees with the Order may request a contested hearing within fifteen (15) days from the date of receipt of the notification. A contested hearing will be conducted pursuant to regulations promulgated in this chapter.
 - d. The decision of the reconsideration becomes the final ruling of the department within fifteen (15) days of notification of the decision if no request for a contested hearing is received.

502 Contested Hearing

1. The victim/claimant who disagrees with the decision of the Division of Victim Compensation may contest such decision to the Director of the Division within 15 days after notification of issuance of the decision.
2. All parties shall be afforded an opportunity for a hearing after reasonable notice pursuant to regulations promulgated pursuant to this chapter and may offer evidence and argument on any issue relevant to the claim and may examine witnesses and offer evidence in reply to any matter of an evidentiary nature relevant to the claim.

3. Verification to Support Request:
 - a. The victim/claimant must provide a written request for a contested hearing to the Director within fifteen (15) days from the date of notification of reconsideration determination.
 - b. The written request shall contain:
 1. a brief position statement and the reason(s) why he/she is dissatisfied with the decision of the reconsideration;
 2. newly discovered information that would have resulted in a different determination had the information been known to the victim/claimant and the Division at the time of the original determination and/or reconsideration determination;
 3. that the victim/claimant exercised reasonable diligence to ascertain such information at the time of the original determination and/or reconsideration; and,
 4. the name, address and telephone number of any potential witnesses.
4. Potential Witnesses:
 - a. The victim/claimant may request the attendance of witnesses on his or her behalf for the contested hearing.
 - b. The request for issuance of a subpoena should be made in writing to the Division and received no later than twenty (20) days prior to the hearing date.
 - c. The cost of the issuance of a subpoena shall be the responsibility of the victim/claimant and is payable in advance at the current rate of such cost. The fee shall be in the form of a cashier's check, money order or bona fide attorney's check made payable to the sheriff of the county where the person subpoenaed may be found.
 - d. All witnesses shall testify under oath and shall be subject to cross examination.
5. When a request for a contested hearing is received, the Division shall:
 - a. Send the victim/claimant a letter acknowledging receipt of the request for a hearing;
 - b. Set a date, time and place for the hearing;
 - c. Send the victim/claimant a Notification of the Contested Hearing to include the date, time and place of the hearing;
 - d. Send the victim/claimant the Policies for a Contested Hearing, providing the administrative rules of a hearing; and,
 - e. Send the victim/claimant the Policies for Issuance of Subpoenas, providing instructions for requesting the attendance of any potential witness.
6. The victim/claimant shall provide an acknowledgment that they have received the Notification of the Contested Hearing.

7. Failure to appear, without good cause, at the hearing will be considered as a withdrawal, waiving the right to appeal and will result in dismissal of the claim.
8. Record of the Hearing:
 - a. In order to preserve the record of the hearing, a recording shall be made by a court reporter retained at the expense of the Division.
 - b. A record of the hearing in a contested case shall be made and shall be transcribed upon request of any party who shall pay transcription costs unless otherwise ordered by the Division.
9. The Director shall have the power to subpoena witnesses, compel their attendance and require the production of records and other evidence.
10. The hearing shall be informal and technical rules of evidence shall be relaxed.
11. Order of Contested Hearing:
 - a. After the hearing, the Division shall enter the findings of the contested hearing into an Order.
 - b. The Division will notify the victim/claimant in writing of the decision of the contested hearing.
 - c. The victim/claimant who disagrees with the Order may appeal the decision of the Director to the circuit court within thirty (30) days after being notified of the Order.
 - d. The contested hearing becomes the final ruling of the Division of Victim Compensation within thirty (30) days of notification of the decision if no appeal before the circuit court is made.

Chapter 06 Payment for Medical Forensic Examinations

600 Authority

The Division of Victim Compensation, Office of the Attorney General is authorized to pay for all medical forensic examinations done for the purpose of sexual assault evidence collection. Mississippi Statutes Annotated § 99-37-25 provide that the bill for the medical forensic examination and the preparation of the sexual assault evidence collection kit will be sent to the Division of Victim Compensation, Office of the Attorney General. No bill for the examination will be submitted to the victim, nor shall the medical facility hold the victim responsible for payment.

No payments shall be made that exceed the amount of money in the Crime Victims' Compensation fund. M.S.A. §99-41-29.

601 Application

1. All bills submitted for payment must be accompanied by a copy of State of Mississippi Crime Laboratory Sexual Assault Examination Form and a standard UB-92 form or other official billing form.
2. Payment may be made whether or not the victim pursues prosecution, **however**, the incident **must** be reported to law enforcement.
3. A request for payment for the initial medical forensic examination must include the International Classification of Diseases (ICD-9) code for examination of the victim of sexual assault (V71.5).
4. The following information must be included as applicable:
 - a. Physician/ARNP, Office or other outpatient services; Emergency Department Services (CPT codes 99201-99205; 99211-99215, 99281-99288) which include the collection of evidence **as needed**:
 1. victim's clothing - outer and under garments;
 2. debris;
 3. fingernail scrapings;
 4. dried secretions;
 5. bite mark evidence;
 6. pubic hair combings and pulled pubic and head hair samples;
 7. vulvar/penile/vaginal/rectal swabs;
 8. body diagrams;
 9. known blood sample;
 - b. Venipuncture for the collection of whole blood samples (CPT codes 36406, 36415)
 1. laboratory test for pregnancy (CPT codes 84702, 84703, 81025)
 2. HIV Testing (CPT codes 86701-86703, 86687-86689) **if medically necessary**.
 - c. Medication for prevention of STDs or pregnancy.
5. Expenses for procedures other than those listed above must be justified and submitted in writing, as being necessary and directly related to the medical forensic examination.
6. Payments for admissions, treatment of injuries, medications such as anti-depressants, sedatives or tranquilizers are **NOT ELIGIBLE** under this policy.

602 Eligibility Guidelines

1. In order to be considered for payment, the initial medical forensic examination and collection of evidence must have occurred after June 30, 2005.
2. The crime must be reported to law enforcement within 72 hours of the assault.
3. Other expenses incurred by the victim not payable under these criteria may be eligible for payment through the Division of Victim Compensation.
4. No payment shall be made which exceeds the amount of money in the Crime Victims' Compensation Fund. M.S.A. §99-41-29.

603 Payment Procedures

1. A copy of the State of Mississippi Crime Laboratory Sexual Assault Examination Form and UB-92 form or other official billing form must be mailed to the Division of Victim Compensation, Office of the Attorney General.
2. All requests for payment must be post- marked and received by the Office of the Attorney General, Division of Victim Compensation, within **45** days of the forensic medical examination

604 Payment Amount

1. The Office of the Attorney General will pay up to \$1,000 per case. This includes all physician time, facility fees, lab tests, supplies and medical personnel time.
2. The fee also covers medication for the prevention of STDs, EPC and a three day supply of HIV prophylaxis.
3. Expenses for procedures other than those listed in §602(4) must be justified and submitted in writing, as being necessary and directly related to the medical forensic examination.
4. Payments for admissions, treatment of injuries, medications such as anti-depressants, sedatives or tranquilizers are **NOT ELIGIBLE** under this policy.
5. No payment shall be made which exceeds the amount of money in the Crime Victims' Compensation Fund. M.S.A. §99-41-29.