

Crime Victim Compensation QUARTERLY

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OF CRIME VICTIM
COMPENSATION BOARDS

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Regional Conferences Highlight Spring Training Calendar

The Association's Spring Regionals get underway with our Western conference in Phoenix, April 26-28, followed soon after with our Eastern-Southern training in Boston, May 5-7. We hope you'll join us at these events, which have proven so valuable as an opportunity to exchange information and ideas.

Our Western Regional agenda focuses on small-group discussions, bringing together managers, claims processors and other key staff for job-specific sessions. We'll also bring in experts in mental health, restitution recovery, and Native American culture to help us with compensation challenges in those areas.

The Eastern-Southern Regional brings together states from two adjacent regions in Boston early in May. Like our Western Regional, the focus will be on specific challenges faced by all compensation programs, with an emphasis on individual problem-solving as well.

A "State Developments" roundtable highlights both Regionals. This session usually is one of our most popular, since it gives states a chance to identify specific challenges, as well as to share successful strategies. A representative of each state is given an opportunity to talk about some-

thing meaningful that the compensation program has accomplished over the past year, like a new outreach campaign, or implementation of an expansion in benefits or eligibility. Often other states feel encouraged to emulate an initiative, or gain valuable information about a possible change in their own laws or rules. By also focusing on problems, each state may be able to find solutions tried in other states on similar issues.

We're grateful to our host programs for their help in planning and holding the Regionals. The Massachusetts Attorney General's Office operates the victim compensation program there, and will be welcoming conferees. Our Western host is the Arizona Criminal Justice Commission, which super-

vises the work of 15 separate victim compensation boards in each of the state's counties, an unusual administrative structure shared by only one other state, Colorado.

Planning for our National Conference in Chicago, September 27-October 1, sponsored by OVC, also is underway. A conference planning committee meets early in April to go over evaluations from prior conferences and determine what new issues, and new methods, can be used to meet our membership's training needs.



President's Message

Spring always brings outstanding opportunities for networking and training, both within our organization and in concert with other groups. Our Association's Regional Conferences, the National Crime Victims Rights Week observances, and a variety of training academies and conferences in many states provide us with a way to connect with compensation professionals, as well as with colleagues in other branches of victim services. These venues enable us to present information and to expand our own knowledge base, and everyone benefits when we can share information and ideas.

Our Association is holding two Regional Conferences, in Phoenix and Boston, and we've had excellent response from states indicating they're planning to attend. We have a long tradition of bringing compensation programs together for small-group discussions each Spring, and we've been able to keep these events going despite budget difficulties in many states. I also want to note that our planning for our National Conference, September 27—October 1, is now underway, and we look forward to seeing all of you there in the fall.

In the Northeast, I'm participating in planning and as a faculty member at our Maine/New Hampshire Victim Assistance Academy, as I have in the past several years. This is a week-long intensive training, similar to those in other states, but our academy is unique in the nation in offering a two-state curriculum. It's based on the National Victim Assistance

Academy curriculum, but made more state-specific. Our goal is to build the capacity of victim service providers, advocates, criminal justice personnel, and others professionals who work with victims of crime, and victims compensation is one of many topics we cover during the week. I've found it enormously rewarding to reach professionals in the field and give them the tools to help victims apply for financial assistance. I know many of you may have similar opportunities to engage with your colleagues on important issues, and I think we all should take advantage of any chance we have to broaden understanding and build professional relationships.

Our national association exists primarily to promote a network among compensation managers and staff so that we can exchange information and ideas. Through your active participation, we can continue to help all of us improve the administration of our programs, so I hope to see you at one of our Regionals this Spring.

I wanted to note, with sadness, the passing of Richard Anderson on March 20. Rich was an active participant in our Association for 25 years, with an unusual career that included managerial positions in four states: Wisconsin, Minnesota, Texas and California. Many of us remember him warmly, especially for his great willingness to share his wealth of experience and expertise. He was a great asset to our organization. We send our condolences to his family.

— Deb Rice



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VOCA Cap of \$800 million Proposed by President

New and expanded funding for other programs may affect VOCA assistance grants

A spending cap of \$800 million has been proposed in President Obama's FY 2011 budget, an increase of \$95 million over the \$705 million cap set for this fiscal year.

Compensation grants will remain at current formula levels — 60% of whatever a state spends out of its own funds for benefits in federal fiscal year 2009 will be the basis for your FY 2011 grant. But since the President's proposal includes increased funding for victim witness coordinators in U.S. Attorneys' offices and in the FBI, and a new set aside of \$100 million "for discretionary grants to aid victims of domestic violence and violence against women," state VOCA assistance grants actually could be smaller in FY 2011. The National Association of VOCA Assistance Administrators (NAVAA) estimates that VOCA assistance grants may go down \$20 million, because of the new and expanded funding for other priorities. However, with the additional \$100 million in funding included in the proposal for "domestic violence shelters, transitional housing, and other services," funding for the local programs themselves should increase. It's unclear at this point whether the new funding will be administered at the state or federal level.



Welcome!

Emily Paulsen, the new director of South Dakota's Crime Victims' Compensation Program (as well as victim services), has worked for the past 11 years in the domestic violence field as an advocate, executive director, and funding administrator. She also served for the past five years as a site consultant for the program she now heads.

Rubia Packard is the new deputy executive officer for the Victim Compensation Program in California. Previously, she served as the chief deputy director for the Integrated Waste Management Board, and she has 24 years of service within the California Environmental Protection Agency.

Cortney Fisher has become the director of the Maryland Criminal Injuries Compensation Board, after managing the Office of Victim Services in the Division of Parole and Probation. She's also worked as a policy attorney for the Maryland Crime Victims Resource Center, served as president of the Maryland Coalition Against Sexual Assault, and developed the Office of the Victim Advocate at the University of Maryland while an adjunct faculty member there.

Brad Bucher is the court administrator of the Illinois Court of Claims, where the Crime Victim Compensation Program is housed. Brad has worked in the general law division of the Illinois Attorney General's Office for the past 12 years, defending suits filed in federal and state courts.

Lisa Solecki, the director of the Massachusetts Attorney General's Victim Compensation and Assistance Division, has worked for 12 years in victim services, including as a victim-witness advocate in the A.G.'s Criminal Bureau. She also developed the victim assistance program at Eglin Air Force Base when she lived in Florida.

National Training Conference
45 Years of Crime Victim Compensation: 1965—2010
September 27 - October 1, 2010

National Health-Care Reform Enacted; Questions Remain for Victim Comp.

The national health-care reform law just enacted raises a number of important questions for victim compensation programs that pay more than half of their benefits to cover medical costs, and another five to 10 per cent for mental health counseling. Will this picture change, if more Americans (and victims) are covered through Medicaid and private insurance because of expanded eligibility and new mandates to purchase coverage?

It's important to note that major changes in the nation's health-care system won't occur until 2014, when everyone will be required to have insurance, and when new state-based insurance exchanges would be established to serve people who can't get insurance through their employers. So any significant effect in a reduction of demand because of greater insurance coverage of victims won't likely be felt for several more years. There are a few provisions that will go into effect sooner; for example, within six months after enactment of the plan, insurers would be barred from dropping beneficiaries when they become sick and from imposing lifetime limits on coverage. Insurers also must allow young people to remain on their parents' policies until age 26.

So what are the likely implications for compensation programs?

Fewer Uninsured Victims

Estimates indicate that the number of uninsured individuals in the U.S. will be cut by more than half as a result of the new law, but as many as 17 million to 23 million would remain uninsured. The reduction in the uninsured population will result from an expansion of Medicaid eligibility to more of the working poor (people with incomes below 133 percent of the poverty level), and by giving subsidies to others with incomes between 133 percent and 400 percent of the poverty level (the equivalent of \$29,326 to \$88,200 for a family of four). People who refuse to buy insurance, and immigrants without legal residence status, would not be covered in the new system.

Some Victims Uninsured, Despite Mandates

The new health care law requires everyone to have health insurance, starting in 2014. The penalty for not having insurance will be phased in, starting at \$95 or 1% of income, whichever is higher, by the year 2014, and rising to \$695 or 2.5% of income by 2016. The penalty is not a criminal violation, or a civil fine; it will be paid as a tax levy, through the Internal Revenue Service.

Employers generally must provide coverage, though some small businesses may be exempt from this requirement.

Uninsured victims still will be able to get emergency treatment; federal law requires this. So, presumably, bills will be generated that those uninsured victims have to pay. Since these are out-of-pocket expenses, not covered by collateral resources, these

bills could be presented to compensation programs for payment. And there still will be deductibles and co-pays; those aren't going away, and these will show up on claims as well.

Mental Health Parity

Many insurance policies have typically provided far less coverage for mental health treatment than for physical injury and illness. The new law requires that by 2014, insurers must provide mental health coverage, and that it must be equal to that for any other medical condition. (A different federal law passed in 2008, and effective this year, already requires group plans covering 50 or more employees

to offer mental health parity; the new health reform law expands this to all insurance policies.) So counseling costs could be cut dramatically, because not only will every plan pay for mental health treatment, there no longer will be substantial co-pays for victims to cover.

So it's clear that the implications of the new health reform law could be significant for victim compensation programs. Complicating the picture, however, are legal challenges to health reform, and the chance that changes may be made after the fall elections. The ultimate impact is still unknown.



Pennsylvania Launches New Victims Website

Online Application Enabled

Victims of crime in Pennsylvania now have a new resource to help them recover, thanks to a new website recently unveiled by the Pennsylvania Commission on Crime and Delinquency (the home agency for the Victim Compensation Assistance Program, or VCAP).

The website, www.pacimevictims.com, provides victims with information on their rights, services available to them in their community, information on how to apply for victims compensation, and resources to help victims and their families navigate the criminal justice system.

The website also offers valuable and timely advice on the effects a crime can have on the victim, family members and loved ones, including information on understanding trauma, and how to help others, particularly children, deal with grief and trauma. Information on how to sign up for PA SAVIN, the statewide victim information and notification system, is also provided on the new website.

The website was created more than eight months ago and was overseen by Lynn Shiner, deputy director of PCCD's Office of Victims' Services. From the beginning, Ms. Shiner worked with victims of crime to ensure that any information provided on the website would be useful to them, regardless of when the crime occurred - be it days, weeks, months or years ago. These partners, including victim service providers and experts in the criminal and juvenile justice fields, provided information and content to include on the website - with the overall goal of empowering victims of crime and providing them with vital information in an easy-to-read, easy-to-use format.

One key part of the site relating to victim compensation allows the filing of an online claim by victims. Pennsylvania's VCAP is one of the few programs that has the capability to accept online applications.



National Crime Victims' Rights Week

crime victims' rights:

**FAIRNESS.
DIGNITY.
RESPECT.**

**If you or someone you know
is a victim of crime,
help is available.**

April 18 - 24, 2010

Survey Notes

An advisory board composed of the Association's officers and Board of Directors (18 program managers in all) provides crucial help with individual questions that come in from our member programs. Some of the results of these surveys show a kind of consensus in states' approaches to certain issues — or not, when there is a significant disagreement among the programs. At times, we widen our survey net to include all compensation programs, if we need a more comprehensive picture.

Some of the recent questions and answers are shown below.

Paperless Systems

Fully paperless claims management systems are quite rare — but a number of states responded to a recent question and indicated they either have them or are about to, in the near future.

“Nevada has a paperless claims management system and we are working on launching our electronic application soon. We process all of our claims electronically and have eliminated paper files. Our system is internet based and I would be happy to demo it for interested parties.”

“Ohio has been ‘paperless’ for about 9 years. As you might imagine, we occasionally still need paper documents to process our claims due to the inability to read the documents on the screen. We have also had online applications for about the same time and are currently looking to improve those applications as there have been some glitches that need to be corrected.”

“California advanced to a paperless claims management system beginning in June of 2006, with fiscal year 2009 as our first completely paperless year: all 54,977 applications were scanned directly into our system, which is Web-based. We image applications, bills, other documents, and our staff works from images.”

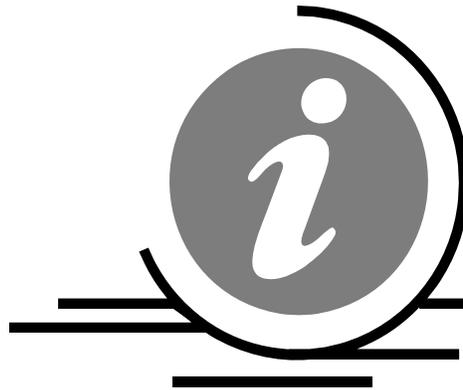
“We are ‘paperless’ in Texas. We scan applications, bills, and other documents to create what we call a virtual file. The documents are routed via a workflow system to each employee, and each employee has an electronic inbox which has their pending work and their incoming work. Original documents are destroyed after scanning.”

“Florida implemented its Store Index Retrieve Exchange (SIRE) claims management system in 2004. All claims staff work directly from their computer screens. Paper documents are retained for 30 days after imaging.”

“In New York, the actual processing of all new claims and all new information on existing claims is done with a ‘paperless’ claims management system.

All incoming documentation is scanned and included in a virtual ‘file,’ investigators document their related calls/conversations in the file’s case notes, and all outgoing correspondence to the claimant or any other third party is electronically documented in the file.”

Utah, Virginia, and West Virginia indicated that they are rapidly moving to paperless systems in the near future.



Charity Care

A question came in asking whether states required victims (and hospitals) to access charity care funds rather than submit those bills in compensation claims.

The consensus among compensation programs is not to require using charity care funds, with only one state among our advisory board making it mandatory. Another state said it encouraged victims and hospitals to use charity care funds, and would not act on a bill over \$5,000 unless the victim had been denied charity care. But most states, though they would regard charity care coverage as a collateral resource if it was used, would not demand proof that the victim or hospital went through that process before bills were submitted.

Child Sexual Assault

How do victim compensation programs handle claims on behalf of minor children, when the police are unable to establish that a sexual assault took place, or conclude that there is no probable cause to believe that a crime occurred?

There is general consensus among victim compensation programs that their determinations of eligibility are not dependent on the findings or lack thereof by police. While the police report remains a primary source of information on whether a crime took place, compensation program decision makers have the authority and discretion to consider other information and sources, including the victim and counselors treating the victim. Statutory authority for compensation programs to make these determinations on their own is generally found in each compensation law.

This is really no different than the approach compensation programs use in any type of crime. Programs never have to rely entirely on police findings, and they don't require convictions, criminal charges, or apprehension of a suspect. Police reports usually are the most reliable source of information, and as a practical matter may be the only available independent source, and therefore are relied upon heavily. But child sexual assault cases are inherently more difficult to assess because the only witnesses may be the alleged perpetrator, who is silent or denying that a crime took place; and the child, who may be unable to testify or may not provide information sufficient to establish a crime took place. Forensic tests also may not be available, because disclosure by the child may come much later than in a sexual assault against an adult.

Some states say that a finding of no probable cause by police likely would lead to denial, and some say that a counselor's statement would not be enough. One responding state said that they would rule in favor of the child if the police say they can't find either that a crime took place or that it didn't take place.

But most programs confirm that they must make an independent decision, considering all sources of information, and giving proper weight to each one.

Partial Payment as Payment in Full

One compensation program that says it's experienced a recent 40% surge in claims and medical costs wanted to find out how other states get providers to accept partial payment as payment in full. We sent

out an inquiry to the states that pay less than the full amount, either by medical fee schedule or a pre-established percentage-of-cost payment (80% of the bill, for example). About half the states have some kind of mechanism in place for making partial payments. Since the inquiring state didn't have any specific statutory authority to reduce payments or to require providers to accept partial payments without balance billing the victim, it was especially interested in states in that position.

It turned out that many of the compensation programs that make partial payments do have statutory provisions, or rules with the force of law, requiring providers to accept their benefits as payment in full. Arkansas, for example, has this rule: "If the medical provider accepts this payment, it has agreed to accept the payment as the full balance due." Texas's law: "A claimant or victim is not liable for the balance of service charges left as a result of an adjustment of payment for the charges." Minnesota's rule: "Acceptance of payment for medical, dental, and mental health services from the Board shall be considered acceptance of payment in full and bars any legal action against the victim for collection." Min-

nesota, by the way, has gone to a 50% payment of medical bills.

One compensation manager said his program had been forced two years ago to cut payments without statutory authority of the type cited above. He said that they notified all providers, and sought voluntary acceptance of the reduction as "payment in full." At first, providers went along, but as the economy worsened, they began balance billing the victim. Now, the compensa-

tion program must negotiate with providers on reductions on a claim-by-claim basis — which is why they want to get legislation like the other states to protect victims.

The compensation manager in another state said that because the program has nothing statutory regarding partial payment, it had to get a 2/3 payment agreement made with 150 hospitals in the state. These agreements are not in place with dentists, doctors, or other medical providers, so they only relate to hospital bills. One caution: Another state manager said that when they talked about doing contractual agreements with hospitals, they were told by their lawyer that they didn't have authority to do this.

One program manager suggested sending a letter to providers seeking their acceptance of partial payment prior to actually cutting the check.



2010 National Training Conference

Chicago

September 27 – October 1

The nation's crime victim compensation programs meet next year in one of our most exciting cities to discuss how to meet the many challenges facing managers and staff in providing financial assistance to crime victims. The conference will feature a full agenda of workshops for compensation program managers, claims processors, Board members, and other key staff. More details will be made available soon.

Crime Victim Compensation

45 Years

1965—2010

Southern-Eastern Regional

Boston, Massachusetts

May 5 — 7, 2010

Western Regional

Phoenix

April 26-28, 2010