

Crime Victim Compensation QUARTERLY

Issue #1

2008

I N S I D E

- **VOCA Funding Takes a Hit; Assistance Programs Likely to Suffer Cutbacks**
- **Southern-Western Regional Registration Info**
- **States Apply Medical-Bill Reduction Strategies**
- **National Survey Details Program Operations**

THE NATIONAL ASSOCIATION
OF CRIME VICTIM
COMPENSATION BOARDS

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Regionals Highlight Early 2008 Training Conference Calendar

The combined Southern and Western Regional in San Antonio, February 17-20, gets the Association's 2008's training calendar off to a great start. Hosted by the Crime Victim Compensation Program in the Texas Attorney General's Office, the conference is open to all compensation programs, regardless of location.

See the form on page 7 of this Quarterly for registration information for the Southern and Western Conference.

The Eastern Regional in Mystic, Connecticut, will be held May 6-8. New England and Mid-Atlantic compensation programs have been among the most active participants in prior Eastern Regionals, but attendees have come from states throughout the South as well as from the Midwest and West.

A registration flyer for the Eastern Regional will be sent shortly to all compensation programs.

Regionals generally attract from 25 to 50 participants, making small-group discussions easy to facilitate. There's ample opportunity to raise individual issues and gain perspective from other programs that have some experience dealing with the problem.

Each Regional usually has at least two or three outside experts to provide training on areas relevant to compensation program operation. At last year's Western Regional,

for example, the nation's leading proponent of Child Advocacy Centers spoke, and one of the country's best-known prosecutors of elder abuse cases also gave a presentation. At the Eastern Regional, a renowned therapist helped states consider how best to communicate with victims over the telephone and in writing (this workshop was also a part of our National Conference in 2007).

Looking further ahead, the Association's National Training Conference will be held in San Diego, September 6-10. Our planning committee will meet in early April to set our agenda, and registration information will be sent out shortly after that.

Other conferences during the year that compensation pro-

grams have benefited from attending include the annual conference of the National Organization for Victim Assistance (NOVA), held in Lexington, Kentucky, September 8—October 3 (www.try-nova.org); and the national conference of the National Center for Victims of Crime (NCVC), held in Portland, Oregon, June 2-4 (www.ncvc.org).

Contact the Association if you have any suggestions regarding items for inclusion in any of our Regionals or our National Conference.

*Southern-Western Regional
San Antonio
February 17-20*

*Eastern Regional
Mystic, CT
May 6-8*

President's Message

We're looking forward to some outstanding conferences in 2008, which will offer great opportunities for training and networking. As always, our Association's goal is to provide you with the information and ideas you need to improve your program's performance. We hope you will join us at one of our Regionals early in the year, and that you'll make plans to be at our National Training Conference in San Diego in September.

Details about the Southern and Western Regional in San Antonio are included in this newsletter. We'll send more information about the Eastern Regional in Mystic shortly.

The news about VOCA funding for 2008 is not good. Congress set a cap of \$590 million on spending, down from last year's \$625 million. While VOCA's distribution formula guarantees that compensation grants will remain at the normal 60% level, VOCA assistance grants will drop dramatically. Many of our own Association's member agencies administer VOCA assistance as well as compensation, so they'll be dealing directly with these cutbacks. Other compensation programs may see less help out in the field for victims seeking to apply for benefits. We have been working with our colleagues in NAVAA as well as national victim advocacy organizations to try to educate Congress about the need for increases in fund-

ing for victim service programs. Without victim assistants providing information about compensation opportunities to victims, many will never know about our programs, and fewer will get help in filling out forms and gathering documentation. We all need to work together to find the resources that the victims field needs to provide full and effective help to victims.

The latest news is that many state government budgets also will be under pressure this year. But budgets shouldn't be balanced at the expense of victims who need crucial help in recovering. Keep us informed if you face a budget crisis, and let us know if we can help in any way.

As we begin a new year, I want to thank you for choosing to work in victim services. There is no answer to the question of why one human would commit a senseless act of violence against another. There is a reason, though, for good people doing good things for good reasons. Each of you want to make the world a better place.

If someone you know enriches your life by the way they live theirs, and their outlook on life makes you a better person, let them know it now. I thank you for your part in making this Association what it is today. On behalf of all the victims that we serve, have a blessed 2008!

—Frank S. Henderson, Jr.



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Congress Cuts VOCA Cap; Assistance Programs to Suffer

Despite a record year for VOCA deposits, Congress reduced the VOCA cap for funding in federal fiscal year 2008 to \$590 million, a cut of \$35 million from last year, and the lowest level in more than five years.

VOCA assistance grants to states will be down 17% from the level of two years ago. Assistance grants will be \$42 million less than last year, which comes on top of a \$25 million cut from FY 2006.

VOCA apparently became one of many programs caught up in budget wrangling in efforts to meet Congressional and Presidential budget priorities. But in contrast, funding for Violence Against Women Act (VAWA) programs will rise \$17 million this fiscal year.

Compensation grants to states this fiscal year will not be affected, and will remain at 60% of each state's payout in federal fiscal year 2006.

Why are compensation grants unchanged, while VOCA assistance grants are cut so severely? It has to do with the way VOCA's formula works in distributing the total amount available within the VOCA cap set by Congress. After a number of earmarks are satisfied (principally for victim-witness staff in U.S. Attorney's and FBI offices, and for Children's Justice Act grants), the remainder of the VOCA cap amount is divided three ways: OVC gets 5% for grants and projects, and then the rest is split equally between VOCA's two major grant streams: crime victim compensation, and victim assistance. If there's enough in that compensation set-aside to give each compensation program a grant equal to 60% of its state-dollar payout, then any left-over amount flows over to the assistance side to increase those grants. This always has been the case—money flowing from the compensation set-aside to the VOCA assistance side—since the total of all the state's 60% grants is far less than what is initially set aside. But if compensation grants grow—and this also has been the case recently, as compensation programs pay more money to victims—then less flows over to assistance. And if the total VOCA cap is smaller, as is the situation this year, then there is less money in the VOCA assistance set-aside and the compensation set-aside to begin with.

The following chart shows the VOCA cap set by Congress for each fiscal year, as well as the VOCA collection amounts for the previous fiscal year.

	VOCA Cap	Comp. Grants	VA Grants
FY 2000	500.0	81.4	370.2
FY 2001	537.5	90.7	360.9
FY 2002	550.0	94.0	383.0
FY 2003	600.0	164.9	353.0
FY 2004	621.3	186.1	356.0
FY 2005	620.0	169.7	372.8
FY 2006	625.0	143.4	395.9
FY 2007	625.0	165.8	370.6
FY 2008	590.0	171.3	329.0*

**estimated amount*



Cuts in Assistance Funds May Mean a Drop in Compensation Claims

Because compensation programs depend so heavily on victim assistance programs to refer clients and to help victims fill out application forms, any cut in victim service programs or staffing could easily lead to a decrease in claims. Forecasts of cuts of 17% in state victim assistance grants likely will mean fewer advocates, fewer shelters, fewer people helping victims — and that means fewer victims will get information about compensation opportunities.

States Use Strategies to Reduce Medical Bills

About half of the nation's victim compensation programs are using various strategies to reduce payments on medical bills, in an effort to save funds and come into parity with other third-party payers. These states do not report problems in medical providers accepting the lowered payment rates, and providers generally are not billing victims for the balance of what is owed.

Some states have specific statutory authorization to pay reduced amounts. Minnesota, for example, is required within 30 days of the start of each fiscal year to set the percentage of medical, dental, and mental health expenses to be paid each year. More frequently, a program's reduction is authorized by some general language that gives it the power to make "reasonable" payments.

Twelve states apply an across-the-board percentage reduction to all medical bills. The reduction ranges from 20% to 35% in various states, though one state has gone as low as a 70% reduction recently, and another state paid 50% last fiscal year.

Eight states use a fee schedule that sets a specific dollar amount for each type of medical procedure. Several use the workers compensation fee schedule; one uses Medicaid plus 20%; and other programs use a medical schedule set by a state rate-setting commission. Massachusetts compensation law says that "in no event shall the amounts awarded for hospital services exceed the rates for services established by the division of health care finance and policy if rates have been established for such services."

Nevada has contracted with a private company that uses software to search out the lowest payment amount for each procedure that each medical provider is willing to accept in private insurance contracts, and then applies that rate to the bill submitted by the victim. For example, if a doctor is contracted with Blue Cross as well as Cigna to cover a procedure for which the doctor charges \$400, and Blue Cross pays \$250 for that procedure while Cigna pays \$300, then \$250

will be what the Nevada program pays for that procedure. (The bill-review company is paid by the compensation program a percentage of however much the bill is reduced.)

Two states have indicated that they've negotiated contracts with individual medical facilities, like public hospitals, to pay a certain percentage of the charged amount. Three other states say they will routinely negotiate medical bills on an individual

basis with various providers. (Many other states may negotiate with providers if the bill is particularly high or exceeds the program's maximum.) Alaska, for example, says it negotiates settlements of medical bills exceeding \$5,000, and that the average settlement is about 68% of the billed amount.

Key to the effort to pay a reduced amount is to ensure that the victim doesn't get billed for the balance of the bill. Such "balance billing" is specifically forbidden in some state compensation

laws. Florida's statute reads: "Payment made to a service provider will be considered payment in full for the services rendered to the victim by said provider. In the event a provider does not accept payment as payment in full, then that payment may be made to the claimant."

Often, programs will send a communication accompanying payment making clear that acceptance of payment by the provider must be acceptance as payment in full. Arkansas, for example, sends a memorandum regarding its rule relating to bill reduction, and stamps each check "payment in full."

Since this "take it or leave it" offer provides at least partial payment of the full bill, medical providers almost always accept the payment along with its condition.

Generally, the percentage reductions are applied to any balance owed by the victim, after all collateral sources are applied. If the victim happens to have paid in full in advance, many programs will reimburse the victim the full amount rather than a reduced amount that leaves the victim out-of-pocket.

Contact the Association for more information.

Reduction Strategies

1. Setting an across-the-board percentage reduction
2. Using a recognized fee schedule
3. Searching for lowest accepted third-party-payment rate for medical provider
4. Entering into general agreements with providers for reductions
5. Negotiating individual bills

Survey Shows Both Accord and Diversity in Compensation Program Operation

A comprehensive national survey of state crime victim compensation programs shows many interesting differences and similarities in the way the programs' statutory requirements and operational practices affect benefits, eligibility, and procedures. While in general, programs work very similarly in providing victims of crime with financial assistance to cover medical care, counseling, lost wages and support, and funerals, there is great diversity in other coverage, and programs exhibit different approaches in interpreting rules and processing claims.

The survey was performed early in 2007, with the help of state compensation programs across the country. The Association will be updating and clarifying the survey findings with each state shortly, but it's not expected that the general trends and conclusions will change significantly, if at all.

The survey looked at five basic areas of importance to crime victim compensation:

- Types of crimes covered, focusing on motor vehicle violations and nonviolent crimes;
- Victims who also are in the criminal justice system as offenders;
- Alternative treatments;
- Domestic violence benefits;
- Other benefits beyond the standard medical, mental health, economic support, and funeral;
- Mental health counseling eligibility; and
- Procedures relating to calculating awards and seeking documentation.

Survey results will be summarized and described below. For further information, contact us at nacvcb@aol.com, or call 703-780-3200. We'll be checking with each state prior to releasing individual state profiles based on the survey, because we want to make sure the information about each state program is accurate and up to date.

Motor Vehicle Coverage

Many programs' coverage of motor vehicle victimizations extends beyond drunk driving and the use of a vehicle as a weapon.

All programs cover drunk driving victimizations. But many state laws were written to say that no victimizations involving motor vehicles were compensable *except* for those involving drunk driving, so it's somewhat surprising to see the number of states that have added some exceptions to cover victims of

other crimes. About 50% of states cover reckless driving, and fully two-thirds will compensate families in vehicle manslaughter cases. About 20% will cover other types of motor vehicle crimes as well; and about two-thirds of the states cover victims of hit-and-run crimes.

Nonviolent Crime

A small number of programs provide limited benefits to victims of nonviolent crimes, like burglary, identity theft and fraud.

Coverage of mental health counseling for victims of nonviolent crimes like identity theft and financial fraud occurs in a small number of states (approximately 15% - 20%), but coverage of counseling in burglaries is available in 40% of states. Many of those states covering burglary, however, require that the victim must have been in the house at the time of

the crime and thus presumably suffered some threat. Just a few states offer some property-loss coverage only to specialized populations like the elderly or the disabled. Florida, for example, offers up to \$500 in property loss directly impacting quality of life only for disabled or elderly victims; and Pennsylvania will replace stolen cash up to one month's entitlement for someone whose primary income source is Social Security, pension, retirement, disability, or court-ordered child or spousal support.

About two-thirds of the states said they could compensate victims of stalking, even if no violence had occurred.

Victims in the Criminal Justice System

Half the states deny eligibility to inmates victimized while incarcerated, and about a quarter will not compensate victims who are on parole or probation, or who commit a criminal act shortly after their own victimization.

Inmates victimized while incarcerated are eligible for compensation in only half the states. Close to 25% will deny eligibility to persons on parole or probation, or who commit a criminal act between the time of their own victimization and the time the program makes an eligibility decision.

About 25% of the state compensation programs

**National
Survey**

seek criminal record information on all applicants. Only a handful can use this information alone to make an eligibility decision, regardless of what happened in the current victimization; the rest use the information to help guide decisions, or in at least one state, to determine whether the applicant owes a fine, fee, or restitution.

Alternative Treatments

Chiropractic treatment is normally covered, and most states with significant Indian populations compensate for traditional healing. But other alternative treatments are covered only by a small number of states.

While chiropractic treatment is covered by all states, compensation programs appear skeptical of some other non-medical treatments or therapies.

Massage treatment is one “alternative treatment” covered by a majority of states; in contrast, “aroma therapy” is covered only by a few, and the request to pay for a dog used as a companion (as opposed to a service animal) would

be honored by less than 10% of the states. About 25% would pay for a self-defense class for a victim; only a third would pay for substance-abuse treatment. Most of the states in Indian country indicated that Native American traditional healing could be compensated, but only about 50% of states overall said they could do this (most simply said they had no experience with this type of treatment, and some said the lack of licensure might hamper payment).

Domestic Violence

Nearly half the states will help domestic violence victims and other victims with moving expenses to relocate to a safe home, and about a third will pay for rent or housing costs. Only a fifth will provide lost support based on the offender’s (not the victim’s) income.

Nearly half the states can pay for relocation costs for victims who need to move to a safer location. Somewhat fewer of these states pay for a modest amount of rent (typically a month to three months) and utility hookups. Most programs said they could pay for moving expenses regardless of the type of victimization, but domestic violence victims were most often the persons who sought this help.

About 20% of the states now can pay for lost support from the offender in domestic violence cases. At least one restricted this benefit to the time when the offender was incarcerated.

Other Benefits

A significant number of states are providing coverage for benefits such as replacement services for housekeeping and childcare, retrofitting and remodeling of vehicles and homes for disabled victims, and expenses to attend trials and funerals.

About half the states can pay for some form of “replacement services,” defined as work at home that can no longer be provided by the victim because of criminal injury or death. Either or both the cost of child care and housekeeping can be paid by these states, with a few of them restricting coverage to non-family members providing the care (one state requires the care-giver or housekeeper whose services are being paid for to be a nonresident).

A large majority of states (80%) can pay for remodeling a house or retrofitting a vehicle for someone disabled by crime.

A slight majority will pay lost wages to people who miss work to go to medical appointments. About a fourth will pay for expenses of non-witness family members to attend trial, and about a third will cover expenses of family members to attend a funeral if the person is coming from out of state (often this will come out of the funeral/burial maximum).

Procedures

States vary widely on implementing waivers to requirements; on deducting vacation time, sick leave, and life insurance from awards; and requesting medical reports.

About half the states said that a victim whose excuse for not submitting an application on time was not knowing about the program could qualify for a good-cause exception to the filing requirement.

Close to three-fourths of the states can both deny and reduce benefits in contributory-conduct cases; the rest only can deny claims involving contribution.

A slight majority of states deduct life insurance from an award, with some of those states allowing an exemption for a certain amount of life insurance (insurance benefits of up to \$50,000, for example). More than two-thirds of the states factor in sick leave when calculating lost wages, and a slightly smaller number also deduct vacation leave.

Slightly less than half the states said they requested medical records in all cases. The rest of the programs indicated these records were sought only when significant questions arose regarding treatment or cost.

National Survey

Southern & Western Regional Conference

San Antonio, Texas
February 17-20, 2008

Two of the Association's most active Regions combine forces this year for a joint conference in San Antonio, featuring discussions of successful strategies for improving outreach, processing claims more efficiently, making better decisions, and enhancing fiscal resources. Managers, claims staff, Board members, and other specialists are encouraged to join their colleagues to discuss issues and explore innovative ideas.

We're fortunate to be hosted by the Crime Victims Compensation Program in the Texas Attorney General's Office. Working with them, the Association is planning an agenda that will help you advance your program's priorities and goals in 2008. A hallmark of our Regionals is small-group discussion, so we're going to devote much of our time working together on the individual issues and problems your program faces today.

Our conference hotel is the Westin Riverwalk in downtown San Antonio, right in the center of the city's restaurants and other attractions. Our special conference rate of \$112 is available by calling 1-888-627-8396 and asking for the block of rooms under "NACVC" or group code 4980. *Make reservations by January 18 to get our rate.*

Our agenda is designed so that conferees can arrive in San Antonio on Sunday, February 17, for our opening session at 8 a.m. on Monday morning, February 18. To attend all conference sessions, you'll want to reserve three nights, arriving Sunday, February 17 and departing Wednesday, February 20. The hotel may be able to accommodate other nights beginning Feb. 14 at our conference rate, depending on availability.

This Regional is open to all compensation programs, regardless of Region or location. (We also will hold an Eastern Regional Conference in Mystic, Connecticut, May 6-8.) A \$65 registration fee per person will cover breakfasts, breaks, and other costs. Please join us for what promises to be our best joint Regional Conference ever!

Agenda

Sunday, February 17

Optional – 6 p.m.:

*Orientation and networking
Meet in hotel lobby*

Monday, February 18

7:30 a.m. Registration and
Continental Breakfast

8:30 – 10:15 a.m. *General Session*

State Roundtable: Problem-
Solving on Current Issues

10:45 – noon

1. Automated Processing
2. Completing Processing
Tasks More Efficiently

Lunch on your own

1:30 – 2:30 p.m.

Cyber/Internet Crime

2:45 – 3:45 p.m.

Violence Against Women:
New Comp. Initiatives

Tuesday, February 19

8 a.m. Continental Breakfast

8:45 – 10:15 a.m. *General Session*
Gang Violence

10:45 – noon

Eligibility Issues: Contribution;
Cooperation, Waivers

Afternoon breakouts:

1:30 – 4:00 p.m.

1. Payment and Benefit
Issues
2. International Trafficking
3. Elder Abuse
4. Outreach and Training
5. Serving Rural Areas
6. Performance Measures

Wednesday, February 20

8 a.m. Continental Breakfast

8:45 – 10:15 p.m. *General Session*
Stress and Burnout

10:30 – 10:45 a.m.

Closing Roundtable
and Conference Summary

A registration fee of \$65 per person will cover continental breakfasts, breaks, and other costs. Checks to NACVCB (tax ID 52-1088705) may be paid before, during, or after the conference. Register by e-mailing your program's participants to nacvcb@aol.com or faxing them to 703-780-3261. Please provide name and title for each person attending. Hotel reservation cutoff is January 18!

National Association of Crime Victim Compensation Boards

Training Calendar

**National Training Conference
San Diego Sheraton Suites
September 8-12, 2008**

Southern & Western
Regional
San Antonio, Texas
February 17-20, 2008

*Eastern Regional Conference
Mystic, Connecticut
May 6-8, 2008*

More information will be sent soon to all programs!