

APA-1
11/96

**TRANSMITTAL SHEET FOR
NOTICE OF INTENDED ACTION**

Control _____ Department or Agency Crime Victims Compensation Commission
Rule No. 262-x-4-.04
Rule Title: Compensation Awards - Amount and Methods of Payment
_____ New _____ x _____ Amend _____ Repeal _____ Adopt by Reference

Would the absence of the proposed rule significantly Harm or endanger the public health, welfare, or safety? Yes

Is there a reasonable relationship between the state's police power and the protection of the public health, safety, or welfare? Yes

Is there another, less restrictive method of Regulation available that could adequately protect the public? No

Does the propounded rule have the effect of directly or indirectly increasing the costs of any goods or services involved and, if so, to what degree? Yes

Is the increase in cost, if any, more harmful to the Public than the harm that might result from the absence of the proposed rule? No

Are all facets of the rulemaking process designed Solely for the purpose of, and so they have, as Their primary effect, the protection of the public? Yes

.....
Does the proposed rule have an economic impact? Yes

If the proposed rule has an economic impact, the proposed rule is Required to be accompanied by a fiscal note prepared in accordance with Subsection (f) of Section 41-22-23, Code of Alabama 1975.

.....
Certification of Authorized Official

I certify that the attached proposed rule has been proposed in full Compliance with the requirements of Chapter 22, Title 41, Code of Alabama 1975, and that it conforms to all applicable filing requirements of the Administrative Procedures Division of the Legislative Reference Service.

Signature of certifying officer Cassie T. Jones Cassie T. Jones, Ed.D.

Date 11/13/14

REC'D & FILED

NOV 13 2014

(DATE FILED)
(STAMP)

LEGISLATIVE REF SERVICE

ALABAMA CRIME VICTIMS' COMPENSATION COMMISSION

NOTICE OF INTENDED ACTION

RULE NO. & TITLE: 262-X-4-.04, Compensation Awards – Amounts and Methods of Payments

INTENDED ACTION: Amend

SUBSTANCE OF PROPOSED ACTION: The Commission proposes to amend the existing rule to increase compensation to providers of medical services to 100% of eligible expenses. The maximum possible award is \$20,000.

TIME, PLACE, MANNER OF PRESENTING VIEWS: Interested persons may present their views in writing to the Alabama Crime Victims' Compensation Commission, Post Office Box 231267, Montgomery, Alabama 36123-1267 or oral comments at 334.290.4420.

FINAL DATE FOR COMMENT AND COMPLETION OF NOTICE: Written comments shall be received until the close of record at 5:00 p.m. on January 5, 2015. All comments should be addressed to the contact person listed below.

CONTACT PERSON AT AGENCY: Kim Martin, General Counsel, Alabama Crime Victims' Compensation Commission, Post Office Box 231267, Montgomery, Alabama 36123-1267 or oral comments at 334.290.4420.



Cassie T. Jones, Ed.D.
Executive Director

**ECONOMIC IMPACT STATEMENT
FOR APA RULE
(Section 41-22-23(f))**

Control No. _____ Department or Agency

Rule No: 262-X-4-.04

Rule Title: Compensation Awards - Amount and Methods of Payment

_____ New _____ Amend _____ Repeal _____ Adopt by Reference

_____ This rule has no economic impact.

This rule has an economic impact, as explained below:

1. NEED/EXPECTED BENEFIT OF RULE:

This rule will increase payment to medical service providers who have provided treatment to victims of violent crime. This rule will assist victims of violent crime by increasing reimbursement for medical services from 50% to 100% of eligible expenses, up to the potential maximum award of \$20,000.

2. COSTS/BENEFITS OF RULE AND WHY RULE IS THE MOST EFFECTIVE, EFFICIENT, AND FEASIBLE MEANS FOR ALLOCATING RESOURCES AND ACHIEVING THE STATED PURPOSE:

This rule will better serve victims of violent crime by lessening the financial burden victimization has placed upon them.

3. EFFECT OF THIS RULE ON COMPETITION:

No effect.

4. EFFECT OF THIS RULE ON COST-OF-LIVING AND DOING BUSINESS IN THE GEOGRAPHICAL AREA WHERE THE RULE IS TO BE IMPLEMENTED:

No effect.

5. EFFECT OF THIS RULE ON EMPLOYMENT IN THE GEOGRAPHICAL AREA WHERE THE RULE IS TO BE IMPLEMENTED:

No effect on employment, it is only designed to assist victims of violent crime.

6. SOURCE OF REVENUE TO BE USED FOR IMPLEMENTING AND ENFORCING THIS RULE:

Court-ordered fines, fees and restitution. Federal grant money will also be used in the implementation of this rule.

7. THE SHORT-TERM/LONG-TERM ECONOMIC IMPACT OF THIS RULE ON AFFECTED PERSONS, INCLUDING ANALYSIS OF PERSONS WHO WILL BEAR THE COSTS AND THOSE WHO WILL BENEFIT FROM THE RULE:

It will positively impact victims by defraying more of the medical expenses they have incurred. Only non-general fund money will be used for this increase.

8. UNCERTAINTIES ASSOCIATED WITH THE ESTIMATED BENEFITS AND BURDENS OF THE RULE, INCLUDING QUALITATIVE/QUANTITATIVE BENEFITS AND BURDEN COMPARISON:

No uncertainties are foreseen or anticipated.

9. THE EFFECT OF THIS RULE ON THE ENVIRONMENT AND PUBLIC HEALTH:

Improves the public health by offering crime victims greater assistance with medical needs.

10. DETRIMENTAL EFFECT ON THE ENVIRONMENT AND PUBLIC HEALTH IF THE RULE IS NOT IMPLEMENTED:

Violent crime victims will have less access to needed medical services.

**Additional pages may be used if needed.

262-X-4-.04 Compensation Awards - Amounts and Methods of Payment.

(1) Compensation payable to a victim or claimant sustaining economic loss due to injury or death may not exceed a total of fifteen thousand dollars (\$15,000.00). For incidents of criminally injurious conduct occurring on or after October 1, 2014, compensation payable to a victim or claimant sustaining economic loss due to injury or death may not exceed a total of twenty thousand dollars (\$20,000).

(2) Compensation for lost wages may not exceed four hundred (\$400.00) dollars per week. For incidents of criminally injurious conduct occurring on or after October 1, 2014, compensation for lost wages may not exceed six hundred (\$600.00) dollars per week.

(3) (a) The Commission may provide for the payment to a claimant in a lump sum or installments or the Commission may choose to make payments directly to the service provider. Compensation payable to service providers for medical treatment ~~may be awarded at 100% of eligible expenses. shall be compensated at a reduced rate.~~ ~~Outstanding charges for medical treatment, excluding psychiatric care, dental treatment and counseling, shall be compensated at a reduced rate of fifty percent (50%) for eligible charges up to a maximum amount of seven thousand five hundred dollars (\$7,500).~~ For incidents of criminally injurious conduct occurring on or after October 1, 2014, outstanding charges for medical treatment, excluding psychiatric care, dental treatment and counseling, shall be compensated at a reduced rate of fifty percent (50%) for eligible charges up to a maximum amount of ten thousand dollars (\$10,000). When the victim/claimant has already paid out of pocket for medical treatment and services, the victim/claimant shall be fully reimbursed for all eligible expenses.

(b) ~~Advance payment for medical services may be paid at 100% of eligible charges when the victim/claimant cannot receive medical treatment and services without advance payment. The total advance payment for the medical treatment or service shall not exceed fifty percent (50%) of the maximum compensation available. The maximum award for medical expenses is seven thousand five hundred dollars (\$7,500). For incidents of criminally injurious conduct occurring on or after October 1, 2014, the maximum award for medical expenses is ten thousand dollars (\$10,000).~~

(4) Future Economic Loss.

(a) The maximum award for future economic loss is \$5,000 per claim. For incidents of criminally injurious conduct occurring on or after October 1, 2014, the maximum award for future economic loss is \$20,000 per claim. Future economic loss may only be awarded in instances in which the victim's loss of future earning capacity is verifiable through his/her employment history. Future economic loss may be awarded in the following circumstances:

(1) The victim was employed at the time of his/her victimization and the employment is verifiable;

(2) The victim was not employed at the time of his/her victimization but worked at least sixty-five weeks in the 104 weeks preceding victimization and the employment is verifiable. When there is proof the victim suffered an injury or illness during the 104 week period that prevented him/her from working, future economic loss may be considered when it is verifiable that the only reason the victim did not work sixty-five weeks was due to the injury/illness.

(b) All awards for future economic loss shall be diminished or denied to the extent that the future economic loss is recouped from a collateral source.

- (c) At the discretion of the Commission, future economic loss may be paid in a lump sum, but only upon a finding that the lump sum award will promote the best interest of the claimant.
- (d) An award payable in installments for future economic loss may be made only for a period as to which the Commission can reasonably determine future economic loss. An award payable in installments for future economic loss may be modified by the Commission upon its finding that a material and substantial change of circumstances has occurred.
- (5) No more than five thousand dollars (\$5,000.00) may be paid for expenses related to funeral, cremation, or burial. For incidents of criminally injurious conduct occurring on or after October 1, 2014, no more than seven thousand dollars (\$7,000.00) may be paid for expenses related to funeral, cremation, or burial.
- (6) Approved claims will be paid in the order of their approval by the Commission as funds become available.
- (7) Payments may be made in lump sums or in installments.
- (8) Lost wages shall be verified by obtaining written documentation from the employer or by submission of a W2 tax document. A tax transcript from the IRS is required if the person seeking reimbursement of his/her lost wages is self-employed or the employer indicated that taxes are not deducted from the person's wages. Proof must be provided that the person seeking reimbursement of his/her lost wages paid federal and state income taxes for the period of time applicable to the requested lost wages.
- (9) The claimant may, with the Commission's approval, elect to be paid for lost wages, future economic losses, replacement services loss, etc., before the service providers are paid.
- (10) Annual leave, sick leave, personal leave or holidays shall not be considered a collateral source and may be reimbursed by the Commission.
- (11) Lost wages may be considered for the victim, claimant and immediate family members at a prorated amount. If the victim was not employed but is now disabled as a result of the crime, the claimant may apply for his/her lost wages only if the claimant took time from work to care for the victim. If the victim died as a result of the crime, the claimant may apply for the victim's lost wages for up to 52 weeks. Anticipated work may be considered for compensation when accompanied by documentation certifying a definite start date.
- (12) Lost wages are limited to \$400.00 per week for a maximum of 52 weeks. The maximum award for lost wages is \$15,000. For incidents of criminally injurious conduct occurring on or after October 1, 2014, lost wages are limited to \$600.00 per week for a maximum of 52 weeks. For incidents of criminally injurious conduct occurring on or after October 1, 2014, the maximum award for lost wages is \$20,000. Life insurance shall be considered a collateral source for all claims. In the event that life insurance does not fully compensate the victim for the eligible expenses he/she incurred as a result of the victimization, the remaining eligible expenses may be eligible for compensation.
- (13) Collateral Source

- a. Life insurance shall be considered a collateral source for compensation.
- b. Charitable donations shall not be considered a collateral source for compensation, unless the donation is specifically designated for an expense. Examples of charitable donations designated for a specific expense include, but are not limited to the following: funeral/burial expenses; medical/dental expenses; and counseling.

(14) The maximum award for moving expenses is \$1,000.00. Written estimates for moving expenses and receipts shall be required. The Commission may award the \$1000 maximum for moving expenses in cases in which the crime occurred in the victim's home, the victim has a reasonable fear for his/her life if he/she does not move from the home, or moving the victim's personal belongings is necessary.

(15) Travel Expenses.

- (a) Airline tickets or mileage at the State of Alabama's current rate for state employees and the current State of Alabama per diem rate and lost wages may be provided for eligible travel expenses. Travel expenses for the victim, immediate family member(s), or person(s) of the victim's choosing, may be awarded to travel out of town to attend the offender's trial, or any post judgment proceeding. When the victim is deceased, travel may be awarded to immediate family members. Travel may be allowed for immediate family members to travel out of town to attend the offender's trial or any post judgment proceeding. When the prosecutor's office or any other entity pays for all or part of the victim's or immediate family member's travel expenses, that amount shall be deducted from the compensation award for travel expenses. Out of town travel may be allowed for medical and psychological treatment that is needed as a result of the victimization. Out of town travel required to procure needed services may be considered for the victim, claimant, and immediate family members. Out of town travel expenses may be awarded for emergency circumstances, as determined by the Commission.
- (b) Travel expenses and lost wages for the victim, immediate family member(s), or person(s) of the victim's choosing, may be awarded for attendance of the offender's parole hearing. When the victim is deceased, travel expenses and lost wages may be awarded to immediate family members or victim representatives. Eligible travel expenses shall be reimbursed at the current State of Alabama per diem rate, and airline tickets or mileage at the State of Alabama's current rate for state employees. These requests will only be considered as a supplemental to an original claim. (There must be a timely, approved compensation claim in order for parole travel expenses to be considered. The Commission will not consider parole travel expenses filed as an original claim.) Eligible parole travel expenses will be reimbursed at the current State of Alabama per diem rate, and airline tickets or mileage at the State of Alabama's current rate for state employees. 262-X-4-.04 (15)(b) shall be retroactive to the date of the Commission's inception.
- (c) Travel expenses for immediate family members to travel out of town to attend the victim's funeral may be considered for reimbursement. Eligible funeral travel expenses may be reimbursed at the current State of Alabama per diem rate, and airline tickets or mileage at the State of Alabama's current rate for state employees.
- (d) In order to qualify for reimbursement for out of town travel, the destination must be greater than ten miles from the home of the person requesting compensation.
- (e) Rental Cars. When the person requesting compensation has rented an automobile for eligible travel expenses, the person may be reimbursed for mileage or a daily rental car fee of \$35. Under no circumstances shall the requesting person receive both.

(16) Property Reimbursement and Replacement. Eligible damaged property may be replaced or restored to its condition immediately prior to victimization. Stolen property shall not be eligible for reimbursement. Compensation may be awarded for eligible property taken as evidence by law enforcement. In order for damaged property to be eligible for reimbursement it must be listed in the law enforcement incident/offense report.

- 1) The maximum award for property reimbursement and replacement is \$2,000 per claim.
- 2) The claimant shall provide estimates or receipts for the damaged property for which reimbursement is requested.
- 3) The maximum reimbursement for damaged clothing is \$500. This shall be considered as part of the \$2,000 maximum award for damaged property. Damaged clothing may be reimbursed as follows:
 - a) Pants, jeans or skirt - \$60 maximum per item;
 - b) Shorts or capri pants - \$40 maximum per item;
 - c) Dresses - \$80 maximum per item;
 - d) Shirts and tops - \$50 maximum per item;
 - e) Footwear - \$100 maximum per pair;
 - f) Jacket, coat or blazer - \$100 maximum per item;
 - g) Underwear - \$10 maximum per item;
 - h) Socks and hosiery - \$8 maximum per pair;
 - i) Sleepwear - \$30 maximum;
 - j) Bra - \$25
 - k) Purse - \$25
 - l) Wallet - \$15
 - m) Belt - \$30
- 4) Additional property eligible for reimbursement:
 - a) Security enhancement - alarm systems, fencing, security doors and burglar bars for real property owned by the claimant/victim; repair of rental property leased by the claimant/victim when the claimant/victim is financially responsible for repair(s) to the leased property;
 - b) Prescription eyeglasses and contact lenses. The maximum award for damaged prescription eyeglasses is \$350. A receipt/estimate must be provided for the eyeglasses. The maximum award for damaged prescription contact lenses is \$10.
 - c) Medically necessitated hairpieces used by the victim because he/she suffers from a condition such as alopecia, or he/she sustained hair loss due to an injury to the scalp or he/she received or is receiving medical treatment that resulted/results in hair loss. Documentation from a licensed health care provider substantiating the victim's hair loss is required;
 - d) Furniture, appliances and bedding damaged during the victimization. Damaged furniture, appliances and bedding may be reimbursed as follows:
 - 1) Sofa/couch - \$ 650 maximum;
 - 2) Loveseat/chair and a half - \$350 maximum;
 - 3) Upholstered chair/recliner - \$300 maximum;

- 4) Coffee table - \$150 maximum;
- 5) End table/side table - \$100 maximum;
- 6) Bed - \$500 maximum;
- 7) Dresser/armoire/chest of drawers - \$300 maximum;
- 8) Nightstand - \$100 maximum;
- 9) Mattress set - \$800 maximum;
- 10) Sheet Set - \$40 maximum;
- 11) Pillow - \$15 maximum;
- 12) Comforter/bedspread - \$65 maximum;
- 13) Blanket - \$30 maximum;
- 14) Dinette/dining set - \$300 maximum;
- 15) Lamp - \$40 maximum;
- 16) Refrigerator - \$500 maximum;
- 17) Microwave - \$100;
- 18) Eligible property in this category that is not specifically addressed shall be reimbursed at a reasonable rate as determined by the Commission.

5) The following property shall not be eligible for reimbursement:

- a) Guard dogs;
- b) Weapons of any type;
- c) Automobile repair or replacement costs;
- d) Cash and/or checks;
- e) Computers, telephones, Blackberries, I-pods and other similar devices;
- f) Jewelry;
- g) All-terrain vehicles and similar devices;
- h) Bicycles, scooters and similar devices;
- i) Toys;
- j) Hairpieces that were not obtained due to hair loss;
- k) Televisions, DVD players and discs, VCRs and tapes, stereos, CD players and discs, cameras, video-recorders, game systems and other similar devices.

(17) Exclusion from Payment. The following expenses shall not be eligible for compensation:

- a) Any expense related to the prosecution of the criminal case. (Examples: expert testimony and witnesses; DNA testing and analysis; evidence photographs and videos; blood samples and travel expenses for witnesses subpoenaed to testify.) However, compensation may be awarded for eligible property taken as evidence by law enforcement;
- b) All legal fees shall be excluded from payment except legal fees incurred to establish a legal guardian for the victim as defined by Alabama Administrative Code (ACVCC) 262-X-4-.04(22).

(18) Replacement services loss may not exceed four hundred (\$400.00) dollars per week. For incidents of criminally injurious conduct occurring on or after October 1, 2014, compensation for replacement services loss may not exceed six hundred (\$600.00) dollars per week. Replacement services loss is limited to a maximum of 52 weeks.

(19) Supplemental awards: The expenses submitted in the supplemental claim must be related to the original injury and must be supported by documentation.

(20) Checks issued by the ACVCC may contain the following language: "Cashing this check constitutes payment in full." This shall not be construed to apply to future compensation benefits for which the victim/claimant may be eligible. It shall be the responsibility of the victim/claimant to assert this defense in any type of collection proceeding against him/her. In the event that the service provider refuses the check, the compensation shall be paid directly to the victim/claimant.

(21) When a victim/claimant is approved for charity by a service provider, the charity approval shall be considered a collateral source and compensation shall not be paid to the service provider.

(22) When the claimant must seek legal guardianship of a minor and/or disabled victim in order to qualify for crime victims' compensation benefits, the Commission may consider reimbursement of legal fees incurred for obtaining guardianship. The maximum that may be awarded for legal fees is \$1,000. Legal fees incurred for any reason other than obtaining guardianship shall not be eligible for reimbursement. The Commission shall not reimburse legal fees in the instance the claimant is not granted guardianship of the victim.

(23) Bereavement Leave. Bereavement leave may only be granted to the victim's immediate family members. A victim's immediate family member may be granted compensation for a maximum of four weeks of lost wages without a doctor's excuse. A doctor's excuse must be provided for lost wages in excess of four weeks to be considered for reimbursement. Employer verification is required for all bereavement leave requests.

(24) Crime Scene Clean-Up. The Commission may provide compensation to an individual or to the service provider if the expense is outstanding, for the reasonable costs to clean the scene of the crime in an amount not to exceed \$2,500. The service provider must be certified, licensed, and in compliance with all applicable federal and state regulations. Crime scene clean-up expenses may only be awarded for the cleaning and removal of biohazards.

(25) Birth Certificates. Reimbursement may be provided for one certified copy of the claimant's and/or victim's birth certificate(s) obtained after the date of the criminally injurious conduct made the basis of the claim. The birth certificate(s) must have been obtained for the purpose of applying for crime victims' compensation benefits.

(26) Government-Issued Photo Identification. Reimbursement may be provided for one state-issued driver's license or one state-issued non-driver's ID obtained after the date of the criminally injurious conduct made the basis of the claim.

(27) Reimbursement may be provided for certified victims of human trafficking and all qualified victims of violent crime for the removal/cover-up of tattoos that were physically forced on them by the alleged offender in the incident made the basis of the compensation claim. The Commission shall decide reasonable reimbursement on a case-by-case basis. The provider must be licensed by the appropriate governmental body to perform the service rendered in order to qualify for payment/reimbursement.

(28) Lost Wages for Victims of Sexual Assault. A victim of sexual assault may be granted compensation for a maximum of two weeks of lost wages without a doctor's excuse. A doctor's excuse must be provided for lost wages in excess of two weeks to be considered for reimbursement. Employer verification is required for all lost wages requests.

(29) Payment to Non-Claimants. A claimant may assign compensation benefits to a person for allowable expense to the extent that the compensation benefits are for the cost of products, services, or accommodations necessitated by the criminally injurious conduct made the basis of the claim. The claimant must submit a completed Permission for Another Individual to Receive Payments on a Limited Basis form in order for payment to be issued to the person who incurred the expense.

Author: Dr. Cassie T. Jones

Statutory Authority: ALA. CODE § 15-23-5(14) (1995)

History: Filed November 13, 2014

CERTIFICATION OF EMERGENCY RULES
FILED WITH LEGISLATIVE REFERENCE SERVICE
JERRY L. BASSETT, DIRECTOR

Pursuant to Code of Alabama 1975, §§41-22-5(b) and 41-22-6(c) (2)a. and b.

I certify that the attached emergency (amendment, new rule, new chapter, repeal or adoption by reference) is a correct copy as promulgated and adopted on the 13th day of November, 2014.

AGENCY NAME: Alabama Crime Victims' Compensation Commission

RULE NO. AND TITLE: 262-x-4-.04, Compensation Awards - Amounts and Methods of Payment.

EFFECTIVE DATE OF RULE: November 13, 2014

EXPIRATION DATE (If less than 120 days): _____

NATURE OF EMERGENCY:

Victims of violent crime are currently experiencing extreme financial hardship as a result of overwhelming medicals bill they have incurred as a result of violent crime victimization. This rule will help lessen that burden.

STATUTORY AUTHORITY: § 15-23-5(14), Code of Alabama (1995)

SUBJECT OF RULE TO BE ADOPTED ON PERMATTENT BASIS YES NO

NAME, ADDRESS, AND TELEPHONE NUMBER OF PERSON TO CONTACT FOR COPY OF RULE:

Kim Martin
P.O. Box 231267
Montgomery, AL 36123-1267
334.290.4420

REC'D & FILED

NOV 13 2014

LEGISLATIVE REF SERVICE

Cassie T. Jones Cassie T. Jones, Ed.D.

Signature of officer authorized to promulgate and adopt rules and regulations or his or her deputy

FILING DATE
(For APA Use Only)

262-X-4-.04 Compensation Awards - Amounts and Methods of Payment.

(1) Compensation payable to a victim or claimant sustaining economic loss due to injury or death may not exceed a total of fifteen thousand dollars (\$15,000.00). For incidents of criminally injurious conduct occurring on or after October 1, 2014, compensation payable to a victim or claimant sustaining economic loss due to injury or death may not exceed a total of twenty thousand dollars (\$20,000).

(2) Compensation for lost wages may not exceed four hundred (\$400.00) dollars per week. For incidents of criminally injurious conduct occurring on or after October 1, 2014, compensation for lost wages may not exceed six hundred (\$600.00) dollars per week.

(3) (a) The Commission may provide for the payment to a claimant in a lump sum or installments or the Commission may choose to make payments directly to the service provider. Compensation payable to service providers for medical treatment may be awarded at 100% of eligible expenses. ~~shall be compensated at a reduced rate. Outstanding charges for medical treatment, excluding psychiatric care, dental treatment and counseling, shall be compensated at a reduced rate of fifty percent (50%) for eligible charges up to a maximum amount of seven thousand five hundred dollars (\$7,500). For incidents of criminally injurious conduct occurring on or after October 1, 2014, outstanding charges for medical treatment, excluding psychiatric care, dental treatment and counseling, shall be compensated at a reduced rate of fifty percent (50%) for eligible charges up to a maximum amount of ten thousand dollars (\$10,000). When the victim/claimant has already paid out of pocket for medical treatment and services, the victim/claimant shall be fully reimbursed for all eligible expenses.~~

~~(b) Advance payment for medical services may be paid at 100% of eligible charges when the victim/claimant cannot receive medical treatment and services without advance payment. The total advance payment for the medical treatment or service shall not exceed fifty percent (50%) of the maximum compensation available. The maximum award for medical expenses is seven thousand five hundred dollars (\$7,500). For incidents of criminally injurious conduct occurring on or after October 1, 2014, the maximum award for medical expenses is ten thousand dollars (\$10,000).~~

(4) Future Economic Loss.

(a) The maximum award for future economic loss is \$5,000 per claim. For incidents of criminally injurious conduct occurring on or after October 1, 2014, the maximum award for future economic loss is \$20,000 per claim. Future economic loss may only be awarded in instances in which the victim's loss of future earning capacity is verifiable through his/her employment history. Future economic loss may be awarded in the following circumstances:

(1) The victim was employed at the time of his/her victimization and the employment is verifiable;

(2) The victim was not employed at the time of his/her victimization but worked at least sixty-five weeks in the 104 weeks preceding victimization and the employment is verifiable. When there is proof the victim suffered an injury or illness during the 104 week period that prevented him/her from working, future economic loss may be considered when it is verifiable that the only reason the victim did not work sixty-five weeks was due to the injury/illness.

(b) All awards for future economic loss shall be diminished or denied to the extent that the future economic loss is recouped from a collateral source.

(c) At the discretion of the Commission, future economic loss may be paid in a lump sum, but only upon a finding that the lump sum award will promote the best interest of the claimant.

(d) An award payable in installments for future economic loss may be made only for a period as to which the Commission can reasonably determine future economic loss. An award payable in installments for future economic loss may be modified by the Commission upon its finding that a material and substantial change of circumstances has occurred.

(5) No more than five thousand dollars (\$5,000.00) may be paid for expenses related to funeral, cremation, or burial. For incidents of criminally injurious conduct occurring on or after October 1, 2014, no more than seven thousand dollars (\$7,000.00) may be paid for expenses related to funeral, cremation, or burial.

(6) Approved claims will be paid in the order of their approval by the Commission as funds become available.

(7) Payments may be made in lump sums or in installments.

(8) Lost wages shall be verified by obtaining written documentation from the employer or by submission of a W2 tax document. A tax transcript from the IRS is required if the person seeking reimbursement of his/her lost wages is self-employed or the employer indicated that taxes are not deducted from the person's wages. Proof must be provided that the person seeking reimbursement of his/her lost wages paid federal and state income taxes for the period of time applicable to the requested lost wages.

(9) The claimant may, with the Commission's approval, elect to be paid for lost wages, future economic losses, replacement services loss, etc., before the service providers are paid.

(10) Annual leave, sick leave, personal leave or holidays shall not be considered a collateral source and may be reimbursed by the Commission.

(11) Lost wages may be considered for the victim, claimant and immediate family members at a prorated amount. If the victim was not employed but is now disabled as a result of the crime, the claimant may apply for his/her lost wages only if the claimant took time from work to care for the victim. If the victim died as a result of the crime, the claimant may apply for the victim's lost wages for up to 52 weeks. Anticipated work may be considered for compensation when accompanied by documentation certifying a definite start date.

(12) Lost wages are limited to \$400.00 per week for a maximum of 52 weeks. The maximum award for lost wages is \$15,000. For incidents of criminally injurious conduct occurring on or after October 1, 2014, lost wages are limited to \$600.00 per week for a maximum of 52 weeks. For incidents of criminally injurious conduct occurring on or after October 1, 2014, the maximum award for lost wages is \$20,000. Life insurance shall be considered a collateral source for all claims. In the event that life insurance does not fully compensate the victim for the eligible expenses he/she incurred as a result of the victimization, the remaining eligible expenses may be eligible for compensation.

(13) Collateral Source

- a. Life insurance shall be considered a collateral source for compensation.
- b. Charitable donations shall not be considered a collateral source for compensation, unless the donation is specifically designated for an expense. Examples of charitable donations designated for a specific expense include, but are not limited to the following: funeral/burial expenses; medical/dental expenses; and counseling.

(14) The maximum award for moving expenses is \$1,000.00. Written estimates for moving expenses and receipts shall be required. The Commission may award the \$1000 maximum for moving expenses in cases in which the crime occurred in the victim's home, the victim has a reasonable fear for his/her life if he/she does not move from the home, or moving the victim's personal belongings is necessary.

(15) Travel Expenses.

(a) Airline tickets or mileage at the State of Alabama's current rate for state employees and the current State of Alabama per diem rate and lost wages may be provided for eligible travel expenses. Travel expenses for the victim, immediate family member(s), or person(s) of the victim's choosing, may be awarded to travel out of town to attend the offender's trial, or any post judgment proceeding. When the victim is deceased, travel may be awarded to immediate family members. Travel may be allowed for immediate family members to travel out of town to attend the offender's trial or any post judgment proceeding. When the prosecutor's office or any other entity pays for all or part of the victim's or immediate family member's travel expenses, that amount shall be deducted from the compensation award for travel expenses. Out of town travel may be allowed for medical and psychological treatment that is needed as a result of the victimization. Out of town travel required to procure needed services may be considered for the victim, claimant, and immediate family members. Out of town travel expenses may be awarded for emergency circumstances, as determined by the Commission.

(b) Travel expenses and lost wages for the victim, immediate family member(s), or person(s) of the victim's choosing, may be awarded for attendance of the offender's parole hearing. When the victim is deceased, travel expenses and lost wages may be awarded to immediate family members or victim representatives. Eligible travel expenses shall be reimbursed at the current State of Alabama per diem rate, and airline tickets or mileage at the State of Alabama's current rate for state employees.

These requests will only be considered as a supplemental to an original claim. (There must be a timely, approved compensation claim in order for parole travel expenses to be considered. The Commission will not consider parole travel expenses filed as an original claim.) Eligible parole travel expenses will be reimbursed at the current State of Alabama per diem rate, and airline tickets or mileage at the State of Alabama's current rate for state employees. 262-X-4-.04 (15)(b) shall be retroactive to the date of the Commission's inception.

(c) Travel expenses for immediate family members to travel out of town to attend the victim's funeral may be considered for reimbursement. Eligible funeral travel expenses may be reimbursed at the current State of Alabama per diem rate, and airline tickets or mileage at the State of Alabama's current rate for state employees.

(d) In order to qualify for reimbursement for out of town travel, the destination must be greater than ten miles from the home of the person requesting compensation.

(e) Rental Cars. When the person requesting compensation has rented an automobile for eligible travel expenses, the person may be reimbursed for mileage or a daily rental car fee of \$35. Under no circumstances shall the requesting person receive both.

(16) Property Reimbursement and Replacement. Eligible damaged property may be replaced or restored to its condition immediately prior to victimization. Stolen property shall not be eligible for reimbursement. Compensation may be awarded for eligible property taken as evidence by law enforcement. In order for damaged property to be eligible for reimbursement it must be listed in the law enforcement incident/offense report.

- 1) The maximum award for property reimbursement and replacement is \$2,000 per claim.
- 2) The claimant shall provide estimates or receipts for the damaged property for which reimbursement is requested.
- 3) The maximum reimbursement for damaged clothing is \$500. This shall be considered as part of the \$2,000 maximum award for damaged property. Damaged clothing may be reimbursed as follows:
 - a) Pants, jeans or skirt - \$60 maximum per item;
 - b) Shorts or capri pants - \$40 maximum per item;
 - c) Dresses - \$80 maximum per item;
 - d) Shirts and tops - \$50 maximum per item;
 - e) Footwear - \$100 maximum per pair;
 - f) Jacket, coat or blazer - \$100 maximum per item;
 - g) Underwear - \$10 maximum per item;
 - h) Socks and hosiery - \$8 maximum per pair;
 - i) Sleepwear - \$30 maximum;
 - j) Bra- \$25
 - k) Purse - \$25
 - l) Wallet - \$15
 - m) Belt - \$30
- 4) Additional property eligible for reimbursement:
 - a) Security enhancement - alarm systems, fencing, security doors and burglar bars for real property owned by the claimant/victim; repair of rental property leased by the claimant/victim when the claimant/victim is financially responsible for repair(s) to the leased property;
 - b) Prescription eyeglasses and contact lenses. The maximum award for damaged prescription eyeglasses is \$350. A receipt/estimate must be provided for the eyeglasses. The maximum award for damaged prescription contact lenses is \$10.
 - c) Medically necessitated hairpieces used by the victim because he/she suffers from a condition such as alopecia, or he/she sustained hair loss due to an injury to the scalp or he/she received or is receiving medical treatment that resulted/results in hair loss. Documentation from a licensed health care provider substantiating the victim's hair loss is required;
 - d) Furniture, appliances and bedding damaged during the victimization. Damaged furniture, appliances and bedding may be reimbursed as follows:
 - 1) Sofa/couch - \$ 650 maximum;
 - 2) Loveseat/chair and a half - \$350 maximum;
 - 3) Upholstered chair/recliner - \$300 maximum;

- 4) Coffee table - \$150 maximum;
- 5) End table/side table - \$100 maximum;
- 6) Bed - \$500 maximum;
- 7) Dresser/armoire/chest of drawers - \$300 maximum;
- 8) Nightstand - \$100 maximum;
- 9) Mattress set - \$800 maximum;
- 10) Sheet Set - \$40 maximum;
- 11) Pillow - \$15 maximum;
- 12) Comforter/bedspread - \$65 maximum;
- 13) Blanket - \$30 maximum;
- 14) Dinette/dining set - \$300 maximum;
- 15) Lamp - \$40 maximum;
- 16) Refrigerator - \$500 maximum;
- 17) Microwave - \$100;
- 18) Eligible property in this category that is not specifically addressed shall be reimbursed at a reasonable rate as determined by the Commission.

5) The following property shall not be eligible for reimbursement:

- a) Guard dogs;
- b) Weapons of any type;
- c) Automobile repair or replacement costs;
- d) Cash and/or checks;
- e) Computers, telephones, Blackberries, I-pods and other similar devices;
- f) Jewelry;
- g) All-terrain vehicles and similar devices;
- h) Bicycles, scooters and similar devices;
- i) Toys;
- j) Hairpieces that were not obtained due to hair loss;
- k) Televisions, DVD players and discs, VCRs and tapes, stereos, CD players and discs, cameras, video-recorders, game systems and other similar devices.

(17) Exclusion from Payment. The following expenses shall not be eligible for compensation:

- a) Any expense related to the prosecution of the criminal case. (Examples: expert testimony and witnesses; DNA testing and analysis; evidence photographs and videos; blood samples and travel expenses for witnesses subpoenaed to testify.) However, compensation may be awarded for eligible property taken as evidence by law enforcement;
- b) All legal fees shall be excluded from payment except legal fees incurred to establish a legal guardian for the victim as defined by Alabama Administrative Code (ACVCC) 262-X-4-.04(22).

(18) Replacement services loss may not exceed four hundred (\$400.00) dollars per week. For incidents of criminally injurious conduct occurring on or after October 1, 2014, compensation for replacement services loss may not exceed six hundred (\$600.00) dollars per week. Replacement services loss is limited to a maximum of 52 weeks.

(19) Supplemental awards: The expenses submitted in the supplemental claim must be related to the original injury and must be supported by documentation.

- (20) Checks issued by the ACVCC may contain the following language: "Cashing this check constitutes payment in full." This shall not be construed to apply to future compensation benefits for which the victim/claimant may be eligible. It shall be the responsibility of the victim/claimant to assert this defense in any type of collection proceeding against him/her. In the event that the service provider refuses the check, the compensation shall be paid directly to the victim/claimant.
- (21) When a victim/claimant is approved for charity by a service provider, the charity approval shall be considered a collateral source and compensation shall not be paid to the service provider.
- (22) When the claimant must seek legal guardianship of a minor and/or disabled victim in order to qualify for crime victims' compensation benefits, the Commission may consider reimbursement of legal fees incurred for obtaining guardianship. The maximum that may be awarded for legal fees is \$1,000. Legal fees incurred for any reason other than obtaining guardianship shall not be eligible for reimbursement. The Commission shall not reimburse legal fees in the instance the claimant is not granted guardianship of the victim.
- (23) Bereavement Leave. Bereavement leave may only be granted to the victim's immediate family members. A victim's immediate family member may be granted compensation for a maximum of four weeks of lost wages without a doctor's excuse. A doctor's excuse must be provided for lost wages in excess of four weeks to be considered for reimbursement. Employer verification is required for all bereavement leave requests.
- (24) Crime Scene Clean-Up. The Commission may provide compensation to an individual or to the service provider if the expense is outstanding, for the reasonable costs to clean the scene of the crime in an amount not to exceed \$2,500. The service provider must be certified, licensed, and in compliance with all applicable federal and state regulations. Crime scene clean-up expenses may only be awarded for the cleaning and removal of biohazards.
- (25) Birth Certificates. Reimbursement may be provided for one certified copy of the claimant's and/or victim's birth certificate(s) obtained after the date of the criminally injurious conduct made the basis of the claim. The birth certificate(s) must have been obtained for the purpose of applying for crime victims' compensation benefits.
- (26) Government-Issued Photo Identification. Reimbursement may be provided for one state-issued driver's license or one state-issued non-driver's ID obtained after the date of the criminally injurious conduct made the basis of the claim.
- (27) Reimbursement may be provided for certified victims of human trafficking and all qualified victims of violent crime for the removal/cover-up of tattoos that were physically forced on them by the alleged offender in the incident made the basis of the compensation claim. The Commission shall decide reasonable reimbursement on a case-by-case basis. The provider must be licensed by the appropriate governmental body to perform the service rendered in order to qualify for payment/reimbursement.
- (28) Lost Wages for Victims of Sexual Assault. A victim of sexual assault may be granted compensation for a maximum of two weeks of lost wages without a doctor's excuse. A doctor's excuse must be provided for lost wages in excess of two weeks to be considered for reimbursement. Employer verification is required for all lost wages requests.

(29) Payment to Non-Claimants. A claimant may assign compensation benefits to a person for allowable expense to the extent that the compensation benefits are for the cost of products, services, or accommodations necessitated by the criminally injurious conduct made the basis of the claim. The claimant must submit a completed Permission for Another Individual to Receive Payments on a Limited Basis form in order for payment to be issued to the person who incurred the expense.

Author: Dr. Cassie T. Jones

Statutory Authority: ALA. CODE § 15-23-5(14) (1995)

History: Filed November 13, 2014

APA-1
11/96

**TRANSMITTAL SHEET FOR
NOTICE OF INTENDED ACTION**

Control _____ Department or Agency Crime Victims Compensation Commission
Rule No. 262-x-1-.01

Rule Title: General Information and Definitions.

_____ New _____ x _____ Amend _____ Repeal _____ Adopt by Reference

Would the absence of the proposed rule significantly
Harm or endanger the public health, welfare, or safety? Yes

Is there a reasonable relationship between the
state's police power and the protection of the
public health, safety, or welfare? Yes

Is there another, less restrictive method of
regulation available that could adequately protect
the public? No

Does the propounded rule have the effect of directly
or indirectly increasing the costs of any goods or
services involved and, if so, to what degree? No

Is the increase in cost, if any, more harmful to the
Public than the harm that might result from the
absence of the proposed rule? No

Are all facets of the rulemaking process designed
Solely for the purpose of, and so they have, as
Their primary effect, the protection of the public? Yes

.....
Does the proposed rule have an economic impact? No

If the proposed rule has an economic impact, the proposed rule is
Required to be accompanied by a fiscal note prepared in accordance with
Subsection (f) of Section 41-22-23, Code of Alabama 1975.

.....
Certification of Authorized Official

I certify that the attached proposed rule has been proposed in full
Compliance with the requirements of Chapter 22, Title 41, Code of Alabama
1975, and that it conforms to all applicable filing requirements of the
Administrative Procedures Division of the Legislative Reference Service.

Signature of certifying officer Cassie T. Jones Cassie T. Jones, Ed.D.

Date 11/13/14

REC'D & FILED

NOV 13 2014

(DATE FILED)
(STAMP)

LEGISLATIVE REF SERVICE

ALABAMA CRIME VICTIMS' COMPENSATION COMMISSION

NOTICE OF INTENDED ACTION

RULE NO. & TITLE: 262-X-1-.01, General Information and Definitions.

INTENDED ACTION: Amend

SUBSTANCE OF PROPOSED ACTION: The Commission proposes to amend the existing rule to provide additional information about the Commission.

TIME, PLACE, MANNER OF PRESENTING VIEWS: Interested persons may present their views in writing to the Alabama Crime Victims' Compensation Commission, Post Office Box 231267, Montgomery, Alabama 36123-1267 or oral comments at 334.290.4420.

FINAL DATE FOR COMMENT AND COMPLETION OF NOTICE: Written comments shall be received until the close of record at 5:00 p.m. on January 5, 2015. All comments should be addressed to the contact person listed below.

CONTACT PERSON AT AGENCY: Kim Martin, General Counsel, Alabama Crime Victims' Compensation Commission, Post Office Box 231267, Montgomery, Alabama 36123-1267 or oral comments at 334.290.4420.



Cassie T. Jones, Ed.D.

Executive Director

262-X-1-.01 General Information and Definitions.

(1) Purpose: It is the intent of the Legislature and the purpose of the Alabama Crime Victims' Compensation Commission (ACVCC) to provide financial and other assistance for victims of violent crime for the allowable expenses that are incurred as a direct result of victimization. Applicants must not have contributed to their victimization or have been convicted of felonies or acts of violence against others after making application for compensation. Other eligibility requirements that must be met are listed in the following sections.

(2) Program Description: ACVCC provides financial assistance for allowable expenses to victims of violent crime who have suffered personal injury, psychological injury or death. Compensation may be reduced or denied based on contribution to one's own victimization as defined in the following sections. The program provides compensation for a number of services, which are listed in the following sections. ACVCC does not award compensation for expenses, which are paid by a collateral source. The program also has a statutory entitlement to subrogation in instances in which a claimant has received recovery from a collateral source after having been paid by ACVCC.

(a) The maximum amount of compensation that may be awarded in any one claim is \$15,000. Other limitations for specific categories are addressed in the following chapters. For incidents of criminally injurious conduct occurring on or after October 1, 2014, the maximum amount of compensation that may be awarded in any one claim is (\$20,000).

(3) The public may obtain information about the Commission by visiting its website at www.acvcc.alabama.gov or calling the Commission at 334.290.4420. Submissions to the agency should be mailed to PO Box 231267; Montgomery, AL 36123-1267 or emailed to info@acvcc.alabama.gov. Requests for public records should be directed to the Commission's Access Officer. Public records will be provided at the Commission's cost.

(4) The Commission will maintain a Departmental Forms Index. The Departmental Forms Index (Appendix A) contains a listing of all forms a claimant/victim may be required to complete and submit in order to receive compensation benefits.

(a) The Index will be updated when forms are added or removed.

(b) A copy of forms may be obtained by following the guidelines in 262-X-1-.01(3).

(c) A list of internal forms excluded from the Departmental Forms Index may be obtained by following the guidelines in 262-X-1-.01(3).

~~(3)~~ (5) Definitions: As used in these rules the following words shall include but are not limited to the following meanings unless the context clearly requires a different meaning:

(a) Commission. The Alabama Crime Victims' Compensation Commission as described in Chapter 262-X-2 of these rules.

(b) Criminally Injurious Conduct.

(c) An act occurring or attempted within the geographical boundaries of this state which results in serious personal injury or death to a victim for which punishment by fine, imprisonment or death may be imposed; or

(d) An act occurring or attempted outside the geographical boundaries of this state in another state of the United States of America which is punishable by fine, imprisonment or death and which results in personal injury or death to a citizen of this state; and shall include an act of terrorism, as defined in Section 2331 of Title 18, United States Code, committed outside of the United States, against a resident of this state; provided, however, such a citizen at the time such act was committed had a permanent place of residence in the geographical boundaries of this state, and in addition thereto:

(e) Had a permanent place of employment located within the geographical boundaries of this state; or

(f) Was a member of the regular armed forces of the United States of America; or the United States Coast Guard; or was a full-time member of the Alabama National Guard, Alabama Air National Guard, U.S. Army Reserve, U.S. Naval Reserve, U.S. Air Force Reserve; or

(g) Was retired and receiving Social Security or other retirement income; or

(h) Was 60 years of age or older; or

(i) Was temporarily in another state of the United States of America for the purpose of receiving medical treatment; or

(j) Was temporarily in another state of the United States of America for the purpose of performing employment related duties required by an employer located within the geographical boundaries of this state as an expressed condition of employment or employee benefits; or

(k) Was temporarily in another state of the United States of America for the purpose of receiving occupational, vocational or other job-related training or instruction required by an employer located within the geographical boundaries of this state as an expressed condition of full-time employment or employee benefits; or

(l) Was a full-time student at an academic institution, college or university located in another state of the United States of America; or

(m) Had not departed the geographical boundaries of this state for a period exceeding 30 days or with the intention of becoming a citizen of another state or establishing a permanent place of residence in another state.

(n) The term 'criminally injurious conduct' shall not mean: An act committed outside the geographical boundaries of this state upon a person who was not at the time such act was committed a citizen of the State of Alabama or an act committed outside the geographical boundaries of this state upon a person who at the time such act was committed had departed the geographical boundaries of this state for the purpose of becoming a citizen of another state or for the purpose of establishing a permanent place of residence in another state.

(o) Victim. A person who suffered serious personal injury, psychological injury as a result of a direct face to face threat of physical injury or actual physical injury or death as a result of criminally injurious conduct.

(p) Dependent. A natural person wholly or partially dependent upon the victim for care or support, and includes a child of the victim born after the death of the victim when the death occurred as the result of criminally injurious conduct.

(q) Claimant. Any of the following persons applying for compensation under this chapter:

1. A victim;

2. A dependent of a deceased victim, if such victim died as result of criminally injurious conduct; or

3. A person authorized to act on behalf of a victim, or a dependent of a deceased victim if such victim died as a result of criminally injurious conduct.

(r) Allowance Expense. Charges incurred for needed products, services and accommodations, including but not limited to, medical care, rehabilitation, rehabilitative occupational training, and other remedial treatment and care. It also includes a total amount not to exceed \$5,000.00 for expenses related to a funeral, cremation or burial. For incidents of criminally injurious conduct occurring on or after October 1, 2014, no more than seven thousand dollars (\$7,000.00) may be paid for expenses related to funeral, cremation, or burial.

(s) Work Loss. Loss of income from work the victim would have performed if such person had not been injured or died, reduced by any income from substitute work actually performed by the victim or by income the victim would have earned in available appropriate substitute work which he or she was capable of performing but unreasonably failed to undertake;

(t) Replacement Services Loss. Expenses reasonably incurred in obtaining ordinary and necessary services in lieu of those the victim would have performed, not for income, but for the benefit of self or family, if the victim had not been injured or died.

(u) Economic Loss of a Dependent. A loss after the death of the victim of contributions of things of economic value to the dependent, not including services which would have been received from the victim if he or she had not suffered the fatal injury, less expenses of the dependent avoided by reason of death of the victim.

(v) Replacement Services Loss of Dependent. The loss reasonably incurred by dependents after death of the victim in obtaining ordinary and necessary services in lieu of those that the deceased victim would have performed for their benefit had the deceased victim not suffered the fatal injury, less expenses of the dependent avoided by reason of death of the victim and not subtracted in calculating the economic loss of the dependent.

(w) Economic Loss. Monetary detriment consisting only of allowable expense, work loss, replacement services loss and, if injury causes death, economic loss and replacement services loss of the dependent, but shall not include noneconomic loss, or noneconomic detriment.

(x) Noneconomic Loss or Detriment. Pain, suffering, inconvenience, physical impairment and nonpecuniary damage.

(y) Collateral Source. The source of income, financial or other benefits or advantages for economic loss other than the compensation paid by the Compensation Commission which the claimant has received or is entitled to receive or is readily available to the claimant from any or more of the following:

1. The offender;
2. The government of the United States or any agency thereof, in the form of benefits, such as social security, medicare and medicaid, a state or any of its subdivisions or an instrumentality of two or more states, unless the law providing for the benefits or advantages makes them excessive or secondary to the benefits under this chapter;
3. Any temporary nonoccupational disability insurance;
4. Workman's compensation;
5. Wage continuation programs of any employer;
6. Proceeds of a contract of insurance payable to the claimant for loss which the victim sustained because of the criminally injurious conduct; or
7. A contract providing prepaid hospital and other health care services or benefits for disability.

(z) Immediate Family. Immediate family for purposes of determining compensation eligibility shall mean spouse, child, parent/legal guardian, siblings, aunts/uncles, grandparents, and grandchildren. Except when unusually strong personal ties exist, due to the victim or family member having been reared by a person of some relationship other than which is provided for in this definition for a period of twenty-four consecutive months or longer, this relationship may be considered as immediate family at the discretion of the Commission.

Author: Dr. Cassie T. Jones

Statutory Authority: ALA. CODE § 15-23-5(14) (1995)

History: Filed November 13, 2014

Appendix A

Alabama Crime Victims' Compensation Commission (ACVCC) Departmental Forms Index

This index contains a listing of all forms a claimant/victim may be required to complete and submit in order to receive compensation benefits.

- ACVCC Claim Application
- ACVCC Affidavit for the Surviving Spouse or Next-of-Kin
- ACVCC Affidavit for the Parent or Legal Guardian of a Minor Crime Victim
- ACVCC Permission for Another Individual to Receive Payments on a Limited Basis
- ACVCC Power of Attorney
- ACVCC Rent Affidavit
- ACVCC Employment Affidavit
- Internal Revenue Service (IRS) Form 4506-T, Request for Transcript of Tax Return

**CERTIFICATION OF EMERGENCY RULES
FILED WITH LEGISLATIVE REFERENCE SERVICE
JERRY L. BASSETT, DIRECTOR**

Pursuant to Code of Alabama 1975, §§41-22-5(b) and 41-22-6(c)(2)a. and b.

I certify that the attached emergency (amendment) new rule, new chapter, repeal or adoption by reference) is a correct copy as promulgated and adopted on the 13th day of November, 2014.

AGENCY NAME: Alabama Crime Victims' Compensation Commission

RULE NO. AND TITLE: 262-x-1-.01, General Information and Definitions.

EFFECTIVE DATE OF RULE: November 13, 2014

EXPIRATION DATE (If less than 120 days): _____

NATURE OF EMERGENCY:

The need to provide additional critical, information to the public.

STATUTORY AUTHORITY: § 15-23-5(14), Code of Alabama (1995)

SUBJECT OF RULE TO BE ADOPTED ON PERMATTENT BASIS YES NO

NAME, ADDRESS, AND TELEPHONE NUMBER OF PERSON TO CONTACT FOR COPY OF RULE:

Kim Martin
P.O. Box 231267
Montgomery, AL 36123-1267
334.290.4420

REC'D & FILED

NOV 18 2014

LEGISLATIVE REFERENCE SERVICE

Cassie T. Jones Cassie T. Jones, Ed.D.
Signature of officer authorized to promulgate and adopt rules and regulations or his or her deputy

FILING DATE
(For APA Use Only)

262-X-1-.01 General Information and Definitions.

(1) Purpose: It is the intent of the Legislature and the purpose of the Alabama Crime Victims' Compensation Commission (ACVCC) to provide financial and other assistance for victims of violent crime for the allowable expenses that are incurred as a direct result of victimization. Applicants must not have contributed to their victimization or have been convicted of felonies or acts of violence against others after making application for compensation. Other eligibility requirements that must be met are listed in the following sections.

(2) Program Description: ACVCC provides financial assistance for allowable expenses to victims of violent crime who have suffered personal injury, psychological injury or death. Compensation may be reduced or denied based on contribution to one's own victimization as defined in the following sections. The program provides compensation for a number of services, which are listed in the following sections. ACVCC does not award compensation for expenses, which are paid by a collateral source. The program also has a statutory entitlement to subrogation in instances in which a claimant has received recovery from a collateral source after having been paid by ACVCC.

(a) The maximum amount of compensation that may be awarded in any one claim is \$15,000. Other limitations for specific categories are addressed in the following chapters. For incidents of criminally injurious conduct occurring on or after October 1, 2014, the maximum amount of compensation that may be awarded in any one claim is (\$20,000).

(3) The public may obtain information about the Commission by visiting its website at www.acvcc.alabama.gov or calling the Commission at 334.290.4420. Submissions to the agency should be mailed to PO Box 231267; Montgomery, AL 36123-1267 or emailed to info@acvcc.alabama.gov. Requests for public records should be directed to the Commission's Access Officer. Public records will be provided at the Commission's cost.

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(a) The Index will be updated when forms are added or removed.

(b) A copy of forms may be obtained by following the guidelines in 262-X-1-.01(3).

(c) A list of internal forms excluded from the Departmental Forms Index may be obtained by following the guidelines in 262-X-1-.01(3).

~~(3)~~ (5) Definitions: As used in these rules the following words shall include but are not limited to the following meanings unless the context clearly requires a different meaning:

(a) Commission. The Alabama Crime Victims' Compensation Commission as described in Chapter 262-X-2 of these rules.

(b) Criminally Injurious Conduct.

- (c) An act occurring or attempted within the geographical boundaries of this state which results in serious personal injury or death to a victim for which punishment by fine, imprisonment or death may be imposed; or
- (d) An act occurring or attempted outside the geographical boundaries of this state in another state of the United States of America which is punishable by fine, imprisonment or death and which results in personal injury or death to a citizen of this state; and shall include an act of terrorism, as defined in Section 2331 of Title 18, United States Code, committed outside of the United States, against a resident of this state; provided, however, such a citizen at the time such act was committed had a permanent place of residence in the geographical boundaries of this state, and in addition thereto:
- (e) Had a permanent place of employment located within the geographical boundaries of this state; or
- (f) Was a member of the regular armed forces of the United States of America; or the United States Coast Guard; or was a full-time member of the Alabama National Guard, Alabama Air National Guard, U.S. Army Reserve, U.S. Naval Reserve, U.S. Air Force Reserve; or
- (g) Was retired and receiving Social Security or other retirement income; or
- (h) Was 60 years of age or older; or
- (i) Was temporarily in another state of the United States of America for the purpose of receiving medical treatment; or
- (j) Was temporarily in another state of the United States of America for the purpose of performing employment related duties required by an employer located within the geographical boundaries of this state as an expressed condition of employment or employee benefits; or
- (k) Was temporarily in another state of the United States of America for the purpose of receiving occupational, vocational or other job-related training or instruction required by an employer located within the geographical boundaries of this state as an expressed condition of full-time employment or employee benefits; or
- (l) Was a full-time student at an academic institution, college or university located in another state of the United States of America; or
- (m) Had not departed the geographical boundaries of this state for a period exceeding 30 days or with the intention of becoming a citizen of another state or establishing a permanent place of residence in another state.
- (n) The term 'criminally injurious conduct' shall not mean: An act committed outside the geographical boundaries of this state upon a person who was not at the time such act was committed a citizen of the State of Alabama or an act committed outside the geographical boundaries of this state upon a person who at the time such act was committed had departed the geographical boundaries of this state for the purpose of becoming a citizen of another state or for the purpose of establishing a permanent place of residence in another state.

(o) Victim. A person who suffered serious personal injury, psychological injury as a result of a direct face to face threat of physical injury or actual physical injury or death as a result of criminally injurious conduct.

(p) Dependent. A natural person wholly or partially dependent upon the victim for care or support, and includes a child of the victim born after the death of the victim when the death occurred as the result of criminally injurious conduct.

(q) Claimant. Any of the following persons applying for compensation under this chapter:

1. A victim;

2. A dependent of a deceased victim, if such victim died as result of criminally injurious conduct; or

3. A person authorized to act on behalf of a victim, or a dependent of a deceased victim if such victim died as a result of criminally injurious conduct.

(r) Allowance Expense. Charges incurred for needed products, services and accommodations, including but not limited to, medical care, rehabilitation, rehabilitative occupational training, and other remedial treatment and care. It also includes a total amount not to exceed \$5,000.00 for expenses related to a funeral, cremation or burial. For incidents of criminally injurious conduct occurring on or after October 1, 2014, no more than seven thousand dollars (\$7,000.00) may be paid for expenses related to funeral, cremation, or burial.

(s) Work Loss. Loss of income from work the victim would have performed if such person had not been injured or died, reduced by any income from substitute work actually performed by the victim or by income the victim would have earned in available appropriate substitute work which he or she was capable of performing but unreasonably failed to undertake;

(t) Replacement Services Loss. Expenses reasonably incurred in obtaining ordinary and necessary services in lieu of those the victim would have performed, not for income, but for the benefit of self or family, if the victim had not been injured or died.

(u) Economic Loss of a Dependent. A loss after the death of the victim of contributions of things of economic value to the dependent, not including services which would have been received from the victim if he or she had not suffered the fatal injury, less expenses of the dependent avoided by reason of death of the victim.

(v) Replacement Services Loss of Dependent. The loss reasonably incurred by dependents after death of the victim in obtaining ordinary and necessary services in lieu of those that the deceased victim would have performed for their benefit had the deceased victim not suffered the fatal injury, less expenses of the dependent avoided by reason of death of the victim and not subtracted in calculating the economic loss of the dependent.

(w) Economic Loss. Monetary detriment consisting only of allowable expense, work loss, replacement services loss and, if injury causes death, economic loss and replacement services loss of the dependent, but shall not include noneconomic loss, or noneconomic detriment.

(x) Noneconomic Loss or Detriment. Pain, suffering, inconvenience, physical impairment and nonpecuniary damage.

(y) Collateral Source. The source of income, financial or other benefits or advantages for economic loss other than the compensation paid by the Compensation Commission which the claimant has received or is entitled to receive or is readily available to the claimant from any or more of the following:

1. The offender;
2. The government of the United States or any agency thereof, in the form of benefits, such as social security, medicare and medicaid, a state or any of its subdivisions or an instrumentality of two or more states, unless the law providing for the benefits or advantages makes them excessive or secondary to the benefits under this chapter;
3. Any temporary nonoccupational disability insurance;
4. Workman's compensation;
5. Wage continuation programs of any employer;
6. Proceeds of a contract of insurance payable to the claimant for loss which the victim sustained because of the criminally injurious conduct; or
7. A contract providing prepaid hospital and other health care services or benefits for disability.

(z) Immediate Family. Immediate family for purposes of determining compensation eligibility shall mean spouse, child, parent/legal guardian, siblings, aunts/uncles, grandparents, and grandchildren. Except when unusually strong personal ties exist, due to the victim or family member having been reared by a person of some relationship other than which is provided for in this definition for a period of twenty-four consecutive months or longer, this relationship may be considered as immediate family at the discretion of the Commission.

Author: Dr. Cassie T. Jones

Statutory Authority: ALA. CODE § 15-23-5(14) (1995)

History: Filed November 13, 2014

Appendix A

Alabama Crime Victims' Compensation Commission (ACVCC) Departmental Forms Index

This index contains a listing of all forms a claimant/victim may be required to complete and submit in order to receive compensation benefits.

- ACVCC Claim Application
- ACVCC Affidavit for the Surviving Spouse or Next-of-Kin
- ACVCC Affidavit for the Parent or Legal Guardian of a Minor Crime Victim
- ACVCC Permission for Another Individual to Receive Payments on a Limited Basis
- ACVCC Power of Attorney
- ACVCC Rent Affidavit
- ACVCC Employment Affidavit
- Internal Revenue Service (IRS) Form 4506-T, Request for Transcript of Tax Return

APA-1
11/96

**TRANSMITTAL SHEET FOR
NOTICE OF INTENDED ACTION**

Control _____ Department or Agency Crime Victims Compensation Commission
Rule No. 262-x-2-.04
Rule Title: Rulemaking.
_____ New Amend _____ Repeal _____ Adopt by Reference

Would the absence of the proposed rule significantly
Harm or endanger the public health, welfare, or safety? Yes

Is there a reasonable relationship between the
state's police power and the protection of the
public health, safety, or welfare? Yes

Is there another, less restrictive method of
regulation available that could adequately protect
the public? No

Does the propounded rule have the effect of directly
or indirectly increasing the costs of any goods or
services involved and, if so, to what degree? No

Is the increase in cost, if any, more harmful to the
Public than the harm that might result from the
absence of the proposed rule? No

Are all facets of the rulemaking process designed
Solely for the purpose of, and so they have, as
Their primary effect, the protection of the public? Yes

.....

Does the proposed rule have an economic impact? No

If the proposed rule has an economic impact, the proposed rule is
Required to be accompanied by a fiscal note prepared in accordance with
Subsection (f) of Section 41-22-23, Code of Alabama 1975.

.....

Certification of Authorized Official

I certify that the attached proposed rule has been proposed in full
Compliance with the requirements of Chapter 22, Title 41, Code of Alabama
1975, and that it conforms to all applicable filing requirements of the
Administrative Procedures Division of the Legislative Reference Service.

Signature of certifying officer Cassie T. Jones Cassie T. Jones, Ed.D.

Date 11/13/14

REC'D & FILED

NOV 13 2014

(DATE FILED)
(STAMP)

LEGISLATIVE REFERENCE SERVICE

ALABAMA CRIME VICTIMS' COMPENSATION COMMISSION

NOTICE OF INTENDED ACTION

RULE NO. & TITLE: 262-X-2-.04, Rulemaking.

INTENDED ACTION: Amend

SUBSTANCE OF PROPOSED ACTION: The Commission proposes to amend the existing rule to provide additional protocol and guidance for the Commission's rulemaking procedures.

TIME, PLACE, MANNER OF PRESENTING VIEWS: Interested persons may present their views in writing to the Alabama Crime Victims' Compensation Commission, Post Office Box 231267, Montgomery, Alabama 36123-1267 or oral comments at 334.290.4420.

FINAL DATE FOR COMMENT AND COMPLETION OF NOTICE: Written comments shall be received until the close of record at 5:00 p.m. on January 5, 2015. All comments should be addressed to the contact person listed below.

CONTACT PERSON AT AGENCY: Kim Martin, General Counsel, Alabama Crime Victims' Compensation Commission, Post Office Box 231267, Montgomery, Alabama 36123-1267 or oral comments at 334.290.4420.


Cassie T. Jones, Ed.D.
Executive Director

262-X-2-.04 Rulemaking.

(a) From time to time the Commission shall establish rules and regulations for the administration of its duties and responsibilities pursuant to this chapter. All rules shall be passed by a majority vote of the three member Commission. A copy of the current rules shall be published in each year's annual report and shall be made available to the public upon request.

(b) Petitions for Adoption, Repeal, or Change of Rule

1. Any person may petition the Commission for the adoption of a new rule or for the repeal or change of any existing rule.

2. Action by the Commission on any such petition shall be as provided in ALA. CODE § 41-22-8.

3. In order to be considered, a petition for a rule change must be in writing and contain the following minimum information:

(a) A title reflecting that the petition seeks the adoption of a new rule, or the modification or repeal of an existing rule or rules.

(b) The petitioner's name, address, and telephone number.

(c) A statement identifying all rules or statutes that may be involved should the relief sought in the petition be granted in whole or in part.

(d) A clear and concise statement or narrative as to why the new rule, or modification or repeal of an existing rule is needed, specifying:

(i) the persons or class of persons it would affect and how it would affect them;

(ii) the benefits and disadvantages of the proposed rule, modification or repeal;

(iii) the estimated cost or cost savings to the Commission;

(iv) any other reasons why the rule, modification, or repeal should be accepted by the Commission;

(v) the legal authority for the proposed rule, modification or change;

(vi) the names and complete addresses of any persons, firms, organizations, and the identity of any class of persons known to the petitioner who would be or could be adversely affected by the proposed rule, modification, or repeal.

(e) The reason for submitting the petition, if the reason is not apparent from the face of the petition.

(f) Full disclosure of the petitioner's interest.

(g) A statement as to whether the issues presented by the petition are presently under consideration by the Commission or by any judicial or quasi-judicial body in any pending proceedings, and if so, before which body they are pending.

(h) A certification by the petitioner that the information contained in the petition is true and correct to the best of petitioner's knowledge, and that the petition has not been filed for any improper purposes, or for delay or harassment. The certification must be signed by the petitioner and the petitioner's signature must be notarized.

(c) Declaratory Rulings.

1. Any person substantially affected by a rule may petition the Commission for a declaratory ruling with respect to the validity of a rule or the applicability to any person, property or state of facts of any rule or statute enforceable by it or with respect to the meaning and scope of any order of the Commission.

2. The petition shall be in writing and shall include:

- (a) The name and address of the petitioner;
- (b) A statement of facts sufficient to show that the person seeking relief is substantially affected by the rule;
- (c) The rule, statute, or order and the exact question(s) to which an answer is requested;
- (d) The reason(s) for submitting the petition;
- (e) Full disclosure of the petitioner's interest(s);
- (f) Statement as to whether the petitioner's case is presently under consideration by the Commission or in any pending proceeding;
- (g) A certification by the petitioner that the information contained in the petition is true and correct to the best of petitioner's knowledge, and that the petition has not been filed for any improper purposes, or for delay or harassment. The certification must be signed by the petitioner and the petitioner's signature must be notarized.

3. Failure of the Commission to issue a declaratory ruling within forty-five days of date of receipt of request shall constitute a denial of the request.

4. Circumstances in which rulings shall not be issued include, but are not necessarily limited to:

- (a) Lack of jurisdiction;
- (b) Lack of clarity of the issue presented;
- (c) No clear answer determinable;
- (d) On a petition which seeks the immediate payment or non-payment of benefits under the Alabama Crime Victims' Compensation Act;
- (e) If petitioned for by a person not a party to the contested case if the matter is involved in a contested case;
- (f) On matters in litigation.

Author: Dr. Cassie T. Jones

Statutory Authority: ALA. CODE § 15-23-5(14) (1995)

History: Filed November 13, 2014

CERTIFICATION OF EMERGENCY RULES
FILED WITH LEGISLATIVE REFERENCE SERVICE
JERRY L. BASSETT, DIRECTOR

Pursuant to Code of Alabama 1975, §§41-22-5(b) and 41-22-6(c)(2)a. and b.

I certify that the attached emergency (amendment), new rule, new chapter, repeal or adoption by reference) is a correct copy as promulgated and adopted on the 13th day of November, 2014.

AGENCY NAME: Alabama Crime Victims' Compensation Commission

RULE NO. AND TITLE: 262-x-2-.04, Rulemaking.

EFFECTIVE DATE OF RULE: November 13, 2014

EXPIRATION DATE (If less than 120 days): _____

NATURE OF EMERGENCY:

The need to provide additional rulemaking protocol and guidance to the public.

STATUTORY AUTHORITY: § 15-23-5(14), Code of Alabama (1995)

SUBJECT OF RULE TO BE ADOPTED ON PERMATTENT BASIS YES NO

NAME, ADDRESS, AND TELEPHONE NUMBER OF PERSON TO CONTACT FOR COPY OF RULE:

Kim Martin
P.O. Box 231267
Montgomery, AL 36123-1267
334.290.4420

REC'D & FILED

NOV 13 2014

LEGISLATIVE REFERENCE SERVICE

Cassie T. Jones Cassie T. Jones, Ed.D.
Signature of officer authorized to promulgate and adopt rules and regulations or his or her deputy

FILING DATE
(For APA Use Only)

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Author: Dr. Cassie T. Jones

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