

CHAPTER 3050
CRIME VICTIMS REPARATIONS BOARD
CRIME VICTIMS REPARATIONS

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3050.0100 DEFINITIONS.

Subpart 1. **Scope.** The terms used in this chapter have the meanings given them in this part.

Subp. 1a. **Adult.** "Adult" means a person who is 21 years of age or older.

Subp. 2. **Board.** "Board" means the Crime Victims Reparations Board.

Subp. 3. **Party.** "Party" means any claimant.

Subp. 4. [Repealed by amendment, 13 SR 661]

Subp. 5. **Witness.** "Witness" means a person who was present at the scene of a crime and personally saw or heard the crime.

Subp. 6. **Net income.** "Net income" means gross income minus federal, state, and social security taxes and any wage deductions for benefits or union dues.

Subp. 7. **Family or household members.** "Family or household members" means spouses, former spouses, parents, children, grandparents, siblings, persons who are presently residing together, and persons who have a child in common regardless of whether they have been married or have lived together at any time.

Statutory Authority: *MS s 611A.56*

History: *13 SR 661; 16 SR 2025; 23 SR 519; 25 SR 1718*

3050.0200 PURPOSE.

This chapter is intended to assure that no person before this board shall have his or her rights, privileges, or duties determined without regard to fundamental fairness.

Statutory Authority: *MS s 611A.56*

History: *13 SR 661; 23 SR 519*

3050.0300 LEGAL REPRESENTATION.

Any claimant, or any party in a contested case, may be represented by counsel throughout any proceedings before the board.

Statutory Authority: *MS s 611A.56*

History: *23 SR 519*

3050.0400 COMMENCEMENT OF CLAIM.

A claim shall be deemed to have been commenced upon receipt by the board of a claim form completed and signed by a claimant or the claimant's representative.

Statutory Authority: *MS s 611A.56*

History: *13 SR 661; 23 SR 519*

3050.0600 SCOPE OF DISCOVERY.

Subpart 1. **Information obtainable.** Pursuant to the investigation of a claim, the board may obtain from the claimant and other persons all information reasonably related to the validity of the claim, including but not limited to information relating to the following subjects:

- A. the occurrence of a crime;
- B. the extent of the claimant's economic loss;
- C. the extent to which collateral sources are available to the claimant;
- D. the extent to which the claimant, or the victim through whom the claim is made, has cooperated with law enforcement officials; and
- E. the extent to which the claimant, or the victim through whom the claim is made, has been guilty of contributory misconduct.

Subp. 2. **Subpoena.** In the course of an investigation the board may issue subpoenas for the appearance of witnesses or for the production of books, records, or other documents or initiate such other discovery proceedings as by law are allowed.

Statutory Authority: *MS s 611A.56*

History: *13 SR 661; 17 SR 1279; 23 SR 519*

3050.0700 COOPERATION WITH BOARD, ASSIGNMENT, SUBROGATION.

Failure by a claimant or claimant's representative or claimant's service provider to complete forms or submit requested reports or records, or otherwise to cooperate with the board's investigation, may constitute a ground for denial or reduction of a claim.

The claimant shall assign his or her rights to recover benefits or advantages from any source which is, or if readily available to the claimant would be, a collateral source and which is not deducted from the final award; provided that the assignment shall not exceed the amount of the final award. The claimant shall further agree to cooperate fully with the board in any subrogation action brought by the board or the claimant.

If a defendant is convicted of a crime and ordered to pay restitution, the board may seek to recover any or all of the restitution paid. Any excess amount recovered over the reparations amount awarded and paid shall be paid to the victim or claimant.

Statutory Authority: *MS s 611A.56*

History: *13 SR 661; 23 SR 519*

3050.0750 BOARD DETERMINATION OF FULL COOPERATION.

Subpart 1. **Board finding of full cooperation.** The board, in determining whether a victim or claimant has fully cooperated with law enforcement and prosecutorial authorities, shall consider items A and B as necessary for an affirmative finding.

A. The victim or claimant, or, in the case of a minor, the parent or guardian of the victim or claimant, must have made a reasonable effort to comply with any specific and direct requests that law enforcement professionals made a reasonable effort to communicate to them.

B. The victim or claimant, or, in the case of a minor, the parent or guardian of the victim or claimant, must have cooperated from the time the crime was reported, during the entire time the investigation remains active, and through all prosecution proceedings.

Subp. 2. **Ability to cooperate.** The board may not deny benefits on the basis that the victim or claimant did not fully cooperate unless the board finds that the victim or claimant was able to cooperate at the time the cooperation was requested. In determining whether a victim or claimant was able to cooperate, the board shall consider physical or mental impairments or disabilities that might have affected the victim or claimant's ability to respond to the requests.

Statutory Authority: *MS s 611A.56*

History: *16 SR 2025; 23 SR 519*

3050.1900 DISQUALIFICATION BY PREJUDICE.

A hearing officer or any board member shall withdraw from participation in a contested case at any time prior to the final determination if he or she deems himself or herself disqualified for any reason. Upon the filing in good faith of a timely and sufficient petition of prejudice the hearing officer shall determine the matter as a part of the record and decision in the case. A withdrawal must be noted in the minutes of the board's monthly meetings.

Statutory Authority: *MS s 611A.56*

History: *13 SR 661; 23 SR 519*

3050.2600 CRIMINAL PROSECUTION.

Nothing contained in this chapter is intended to preempt or repeal the board's power to suspend or postpone the proceedings on a claim if a criminal prosecution arising out of the incident which is the basis of the claim has been commenced or is imminent.

Statutory Authority: *MS s 611A.56*

History: *23 SR 519*

3050.2700 TREATMENT PLANS.

Subpart 1. **Applicability.** The board, when necessary to evaluate the reasonableness of treatment provided claimants under parts 3050.2700, subpart 5, and 3050.2800, may require suppliers of mental health, physical therapy, chiropractic, medical, and home care services to submit treatment plans before consideration of their charges as a part of a reparations claim.

Subp. 2. **Treatment plan contents.** Treatment plans must include, but not be limited to, information concerning the date treatment began and the actual or expected date of termination, the diagnosis of record, measurable treatment goals, and the proposed method for treatment including measurable outcomes, information regarding preexisting conditions, and prognosis.

Subp. 3. **Submission procedures.** Forms for the submission of treatment plans must be provided by the board. Forms will be supplied at the time the board requests certification of charges for treatment provided a claimant. Suppliers shall submit treatment plans, where required by subpart 1, at the time the certificate is returned to the board.

Subp. 4. **Treatment plan updates.** Treatment plans must be revised to reflect current treatment status after the first six months of treatment for which the board has provided compensation and quarterly after that. The board may withhold or deny benefits for failure to submit revisions as required in this subpart.

Subp. 5. **Board action.** The board may use treatment plans to aid in the determination of reasonableness of care, and may grant or deny compensation for a specific service based upon information submitted in a treatment plan. The board may also request a provider of services to revise or restate information provided in order to meet the board's requirements for compensation.

Subp. 6. **Extension beyond termination dates.** If treatment is likely to continue more than 30 days beyond the projected date of termination submitted in the treatment plan, the provider is responsible for submitting a new treatment plan and a revised termination date. No compensation must be authorized for services rendered more than 30 days beyond a projected termination date without staff approval of an extension.

Statutory Authority: *MS s 611A.56*

History: *13 SR 661; 23 SR 519*

3050.2800 BOARD DETERMINATION OF REASONABLENESS.

Subpart 1. **Board consideration.** The board, in determining reasonableness, shall consider any and all of the following relative to a specific claim, or to a claim for compensation for a specific service:

- A. quantity of service proposed or provided;
- B. time span and duration of actual or proposed service;
- C. adherence of service provider to professional standards, with consideration to ethnic and cultural needs of a claimant;
- D. progress of treatment against standards presented to the board in the professional treatment plan, where a plan has been submitted;
- E. relationship of provider to claimant; and
- F. possible consequences of denial or reparations.

Subp. 2. **Utilization review.** Where the board is unable, due to multiple caregivers or complex treatment issues, to determine reasonableness, it may use the services of outside experts to assist in a determination. This review shall include, but is not limited to:

- A. review of clinical records;
 - B. submission of a questionnaire to the claimant to elicit specific information;
- and
- C. interview or examination of the claimant.

Subp. 3. **Accessibility remodeling.** The board may use the services of outside consultants to assist in determining the reasonableness of remodeling to improve the accessibility of a living space for an injured victim. Accessibility remodeling projects must be approved by the board prior to payment.

Statutory Authority: *MS s 611A.56*

History: *13 SR 661; 23 SR 519; 25 SR 1718*

3050.2900 CONTRIBUTORY MISCONDUCT.

The board shall reduce, by a minimum of 25 percent, any claim submitted by or on behalf of a person who the board finds has engaged in any of the following acts or behavior that contributed to the injury for which the claim is filed:

- A. used fighting words, obscene or threatening gestures, or other provocation;
- B. knowingly and willingly been in a vehicle operated by a person who is under the influence of alcohol or a controlled substance;
- C. consumed alcohol or other mood altering substances; or
- D. failed to retreat or withdraw from a situation where an option to do so was readily available.

Any of these provisions may be waived in cases of domestic abuse or sexual assault.

Statutory Authority: *MS s 611A.56*

History: *13 SR 661; 23 SR 519*

3050.3100 LOSS OF SUPPORT.

Subpart 1. **Determination of amount.** To calculate compensation for the loss of support to a dependent of a deceased victim, the board must take the monthly net income of the victim and divide it by the number of surviving dependents. This amount must be decreased by payments received from collateral sources by the dependent, including social security and AFDC benefits. If the victim's dependents are eligible for social security benefits as a result of the victim's death, then the monthly amount which the board may pay to each dependent must not exceed the monthly rate the dependent is eligible to receive from the Social Security Administration.

Subp. 2. **Employed spouse.** If the victim's spouse was employed at the time of the crime, the amount of loss of support to be paid to the spouse shall be reduced by a percentage equal to the spouse's income divided by the total income of the victim and the spouse.

Subp. 3. **Net income.** The board shall determine the net income of the victim using the following:

A. net income of the deceased during the previous 12 months as documented by tax returns, W-2's, employer records, signed contracts or receipts, or other government agency records;

B. the total amount of other government benefits received by the victim, including AFDC payments, food stamps or food support, and housing grants; and

C. if the claimant and the victim were divorced, court-ordered child support and alimony payments in the monthly amount that the victim had been ordered to pay.

Subp. 4. **Three-year review.** The board shall review a claim for loss of support every three years to determine whether the claimant is still eligible for benefits. The board shall evaluate the claim giving consideration to the claimant's financial need and to the availability of funds to the board. If the claimant's gross annual income reported on the claimant's tax return for the prior year is more than 185 percent of the federal poverty level for that year, the claimant is not considered to have a continuing financial need and benefits must be discontinued. After benefits are discontinued, they cannot be resumed at a later time.

Statutory Authority: *MS s 611A.56*

History: *16 SR 2025; 17 SR 2284; 20 SR 2376; 23 SR 519; L 2003 1Sp14 art 1 s 106*

3050.3200 LOSS OF INCOME.

Subpart 1. **Computation of lost income: employed victim.** If the victim was employed at the time of the crime for which the claim is filed, the board shall compute lost income using a certification of lost wages provided by the victim's employer at the time of the crime for which a claim has been filed.

Income to be replaced must be calculated at a rate which equals the victim's net income at the time of the crime for which the claim has been filed. If a certification of lost wages is unavailable, the board shall compute lost income as indicated in subpart 2.

Subp. 2. **Computation of lost income: victim self-employed or unemployed.** If the victim was self-employed or unemployed at the time of the crime for which the claim has been filed, loss of income must be calculated at a rate which is based upon the victim's average net income in the 12 months before the crime for which the claim was filed as evidenced by tax returns, W-2 forms, check stubs, or other government agency records.

The board shall deny an award for lost wages when it is determined the victim failed to report those wages upon which the loss is based to state or federal revenue departments as required by law. No compensation may be provided for unreported wages.

No anticipated work may be considered for compensation, unless the victim had been hired by an employer and was unable to begin employment as a result of the crime-related injuries.

Subp. 2a. **Estimated tax.** If the tax rate cannot be determined from the information received by the board under subpart 1 or 2, the board shall estimate the tax at a rate of 15 percent for victims with a gross annual income less than \$20,000 and 25 percent for victims with a gross annual income greater than \$20,000.

Subp. 3. **Proof of inability to work.** If necessary to determine the extent of disability and the length of compensation for lost income, the board shall request that the victim provide a statement from a licensed physician or psychologist indicating that the victim is or was unable to work due to injuries sustained as a result of the crime for which the victim has filed a claim.

The board shall withhold payment for loss of income if a statement has been requested and not received.

Subp. 4. **Paid leave.** The board must not pay for lost wages covered by a claimant's accumulated sick leave, vacation leave, compensatory time, or holiday pay.

Subp. 5. **Maximum number of weeks.** Compensation for loss of income usually may not exceed 26 weeks. If the victim's disability continues past 26 weeks, the victim may request an extension for up to 26 additional weeks. This request must include an evaluation by a physician that states continuing disability and explains any extenuating circumstances.

Subp. 6. **Maximum number of hours.** The board may not compensate for hours missed in excess of 40 hours per week. If the victim was employed at the time of the crime for which the claim is filed, the board shall compute lost income using a certification of lost wages provided by the victim's employer at the time of the crime for which a claim has been filed.

Income to be replaced must be calculated at a rate which equals the victim's net income at the time of the crime for which the claim has been filed. If a certification of lost wages is unavailable, the board shall compute lost income as indicated in subpart 2.

Subp. 7. **Family members of deceased.** Payment of wage loss compensation for a parent or spouse of a victim who died as the direct result of a crime usually may not exceed six weeks. If the emotional disability of the parent or spouse continues past six weeks, the parent or spouse may make a request for an extension of the lost wages. The request must include an evaluation by a physician or psychologist stating that there is a continuing emotional disability due to the crime and a date by which the claimant is expected to return to work. The extension may not exceed 46 weeks. Payment of wage loss compensation for children, grandparents, or siblings of a victim who died as the direct result of a crime may not exceed one week. No extension of lost wages for other family members is allowed, unless there are extraordinary circumstances where the limit imposes undue hardship on the secondary victim.

Subp. 8. **Students.** The board must not reimburse a claimant for loss of tuition, scholarship, or student loan funds or loss of income due to a delay in completion of schooling related to the crime.

Subp. 9. **Timeliness of request.** A request for replacement of lost income must be made to the board within two years after the claim is filed.

Statutory Authority: *MS s 611A.56*

History: *16 SR 2025; 17 SR 2284; 20 SR 2376; 23 SR 519; 25 SR 1718*

3050.3300 PAYMENT BENEFITING OFFENDER.

Subpart 1. **Domestic abuse; clarification.** The board shall determine the eligibility of claims for injuries sustained as the result of domestic abuse in the same manner as other claims. No claim resulting from an incident of domestic abuse may be denied based solely upon a finding that a claimant resides or has resided with the alleged offender of the crime for which the claim has been filed. The board shall not reduce or deny an award when enrichment of the offender is inconsequential or minimal. The board shall not deny payments to service providers based upon a finding that the claimant and offender are maintaining a relationship.

Subp. 2. **Claim denial.** No claim may be denied because it succeeds previous claims for victimization by the same offender.

Statutory Authority: *MS s 611A.56*

History: *16 SR 2025; 23 SR 519*

3050.3400 SECONDARY VICTIMS.

Subpart 1. **Victim, definition.** For the purposes of this chapter, the term "victim" includes, in addition to those meanings specifically provided in Minnesota Statutes, section 611A.52, the following:

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A. a parent, spouse, or minor child of a victim who died as the direct result of a crime;

B. a witness to a violent crime who suffered physical or emotional injury. Payment for a witness is limited to 20 counseling sessions;

C. a grandparent, sibling, or adult child of a victim who died as the direct result of a crime, if the grandparent, sibling, or child has suffered emotional injury. Payment for a grandparent, sibling, or adult child is limited to 20 counseling sessions;

D. a person who discovered the body of a victim who died as the direct result of a crime, if the person has suffered emotional injury. Payment for a person who discovered a body is limited to 20 counseling sessions; and

E. a spouse, parent, child, grandparent, or sibling of a victim who was injured as a direct result of a crime. Payment for a spouse, parent, child, grandparent, or sibling of an injured victim is limited to 20 counseling sessions.

Subp. 2. **Counseling; discretionary award.** The board may award payment for additional counseling beyond 20 sessions for a secondary victim if the board finds that there is credible evidence showing that the victim may suffer serious, emotional injury without additional mental health treatment.

Statutory Authority: *MS s 611A.56*

History: *16 SR 2025; 17 SR 2284; 23 SR 519; 25 SR 1718*

3050.3500 FAMILY MEMBERS OF INJURED VICTIMS.

The board shall authorize payment for up to 20 counseling sessions for a spouse, parent, child, grandparent, or sibling of an injured victim if the treatment plan filed under and complying with part 3050.2700 indicates that the sessions directly benefit the victim.

When care is needed by a victim and when a determination is made by the board that a spouse, parent, child, grandparent, or sibling of the victim is an appropriate person to provide care to the victim, the board shall authorize payment to reimburse the spouse, parent, child, grandparent, or sibling for lost wages, and reasonable expenses for transportation and lodging. Total payment to claimants on behalf of any one victim under this provision must not exceed \$2,000. Computation of lost wages shall be the same as under part 3050.3200.

Statutory Authority: *MS s 611A.56*

History: *16 SR 2025; 17 SR 2284; 20 SR 2376; 23 SR 519; 25 SR 1718*

3050.3600 HOUSEHOLD SERVICES.

The board shall not award reparations for household services performed by a family or household member.

Statutory Authority: *MS s 611A.56*

History: *16 SR 2025; 23 SR 519; 25 SR 1718*

3050.3700 COST CEILING ON HOSPITAL AND PHYSICIAN EXPENSES.

Within 30 days of the beginning of each fiscal year, the board shall determine the percentage of hospital and physician expenses to be paid on all claims submitted for crimes occurring during that fiscal year. The board shall consider the availability of funds to the board when setting the percentage it will pay. The board must not pay more than this percentage of a victim's total hospital and physician expenses after payment by collateral sources. Acceptance of payment for medical services from the Minnesota Crime Victims Reparations Board shall be considered acceptance of payment in full and bars any legal action against the victim for collection. The board shall compensate the claimant in full if the claimant paid the hospital or physician expenses.

Statutory Authority: *MS s 611A.56*

History: *17 SR 2284; 23 SR 519; 25 SR 1718*

3050.3750 FUNERAL RATE LIMITS.

Within 30 days of the beginning of each fiscal year, the board shall determine the maximum amount allowable for funeral, burial, or cremation. The claimant may use up to \$1,000 of the maximum funeral benefit to pay for airfare or other transportation for family members to attend the funeral.

Statutory Authority: *MS s 611A.56*

History: *23 SR 519*

3050.3800 MENTAL HEALTH TREATMENT RATE LIMITS.

Within 30 days of the beginning of each fiscal year, the board shall determine the maximum hourly rate allowable for mental health therapy. The board shall also determine the maximum amount allowable for the total accumulated expenses for a victim's outpatient counseling.

Statutory Authority: *MS s 611A.56*

History: *17 SR 2284; 23 SR 519*

3050.3900 [Repealed, 25 SR 1718]

3050.4000 MAXIMUM PAYMENT FOR CHILD CARE.

When a claim for substitute child care is submitted, the board must not pay more than \$250 per week for substitute child care for one child nor more than \$350 per week for two or more children.

Statutory Authority: *MS s 611A.56*

History: *17 SR 2284; 23 SR 519*

3050.4100 INMATE WAGE DEDUCTIONS.

The board is authorized to accept financial support from correctional facilities through the transfer of inmate wage deductions.

Statutory Authority: *MS s 611A.56*

History: *23 SR 519*