

# Desk Manual for Victim Advocates

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California Victim Compensation Program September 2007



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## **Introduction**

The staff of the Victim Compensation and Government Claims Board (VCGCB) has designed this manual to provide victim advocates throughout the state with important information about the Board's Victim Compensation Program (VCP). This manual will help advocates provide the best compensation assistance possible to victims of crime and their families. It assists the advocate in advising victims on whether they meet eligibility requirements, and provides detailed information on the types of losses that are covered by the VCP. This pamphlet also provides information regarding payment rates and monetary caps for each type of loss.

## **Victim Compensation**

The VCP is designed to help victims of violent crime and their families deal with the emotional, physical, and financial aftermath of crime. The VCP, as the payor of last resort, reimburses qualifying out-of-pocket expenses that are incurred as a direct result of a crime and that are not reimbursed by any other source.

## **Eligibility Criteria**

### **Introduction**

In order to be eligible for the benefits offered by the VCP, the claimant must meet certain criteria and the crime must be a qualifying crime. The claimant has the burden of proof to establish eligibility.

### **Eligible Crimes**

VCP staff will determine if the crime qualifies for the program. In order for a crime to qualify for the VCP, the crime must include:

- Physical injury or death; or
- Threat of physical injury or death; or
- In certain specified cases, emotional injury alone

A crime is defined as:

- A misdemeanor or felony if committed in California by a competent adult, or
- An act of terrorism committed against a California resident

A crime must result in injury, threat of injury, or death to the victim. Crimes that involve only property loss or damage are not covered by the VCP. Some crimes that are not covered include fraud, theft (including identity theft), and vandalism.

Some common qualifying crimes include, but are not limited to:

- Murder
- Assault with a deadly weapon
- Assault and battery
- Domestic Violence
- Child abuse/molest
- Sexual assault

## **Eligibility Criteria**

- Kidnapping
- Robbery
- Drunk Driving
- Hit and Run
- Vehicular Manslaughter
- Terrorist threats
- Human trafficking

If a claimant is a victim of a crime that is ongoing (i.e. domestic violence, child abuse, or stalking), an application does not need to be filed for each incident. A series of incidents is considered one crime for application purposes.

### **Physical Injury**

A physical injury or a death most likely will be documented in the crime report. In addition to a crime report, the claimant may also submit medical records or a coroner's report. These documents may help staff determine if a victim qualifies for benefits.

### **Threat of Physical Injury**

When a victim is threatened with injury, the crime report may not provide sufficient information. Other documents such as mental health records may be submitted to assist in determining the threat.

Some examples of threat of injury include:

- The victim was directly threatened with a weapon
- The victim was within sight of a person brandishing a weapon and had reason to feel threatened
- The victim was verbally threatened directly with serious bodily injury; this threat could have been carried out

## **Eligibility Criteria**

### **Emotional Injury**

Certain crimes resulting in emotional injury only may be eligible. The advocate does not need to find physical injury or threat of injury if any of the following crimes have occurred:

- PC § 261 Rape
- PC § 262 Spousal rape
- PC § 271 Child abandonment
- PC § 273a Child abuse/endangerment
- PC § 273d Corporal punishment of a child
- PC § 285 Incest
- PC § 286 Sodomy
- PC § 288 Child molest
- PC § 288a Oral Copulation
- PC § 288.5 Continuous sexual abuse of a child
- PC § 289 Sexual penetration
- PC § 311.4 (b) or (c) Using a minor to assist in distribution of obscene matter; posing or modeling involving sexual conduct

Generally, crime reports and other documents must be obtained to enable program staff to verify that the crime occurred.

### **Vehicle-Related Crimes**

Not all vehicle-related crimes are covered by the VCP. By law, the following crimes may qualify for the VCP:

- Injury or death intentionally inflicted by a vehicle
- Hit and Run
- Driving under the influence of drugs or alcohol
- Fleeing the scene of a crime

## **Eligibility Criteria**

- Vehicular Manslaughter
- Injury or death caused by any party during criminal evasion of a peace officer in a motor vehicle

The term “vehicle” includes aircraft and water vessels, in addition to land vehicles.

## **Domestic Violence**

It is a general expectation that crimes are reported to law enforcement. A crime report is a common source of verification of a crime and is used in determining eligibility for VCP benefits.

However, due to the nature of domestic violence, some victims may not report the abuse to a law enforcement agency. If a crime report is unavailable, other documents may be submitted with the application. Some information that could be requested from the victim include:

- A report from a battered women’s program
- Medical records documenting injuries consistent with domestic violence
- An Emergency Protective Order (EPO) from law enforcement
- Mental Health treatment records
- A temporary or permanent restraining order



## **Eligibility Criteria**

### **Eligibility Requirements**

After determining that the VCP covers the crime, there are other requirements which must be met in order for a claim to be deemed eligible. When reviewing an application for assistance, the VCP staff also looks for the following:

#### **Participation**

In order for a victim to qualify for VCP benefits, he or she must not have participated in the crime that led to the victimization. A victim knowingly and willingly participated if he or she is a:

- Perpetrator
- Co-conspirator
- Accomplice

If a victim participates in a crime, any derivative victims would also be ineligible for VCP benefits.

#### **Involvement**

A victim who is involved in the events leading to the crime may not be eligible for VCP benefits even if he or she did not participate in the commission of the crime.

Some examples of involvement include, but are not limited to:

- The victim's conduct caused, resulted in, or reasonably could have led to the qualifying crime
- The victim intentionally created, entered, or stayed in a situation in which it was reasonably foreseeable that victimization could occur
- The victim's level of responsibility for the crime was high

## **Eligibility Criteria**

- The victim's conduct was negligent and placed himself or herself, or another person in a position to be injured

If involvement is found, the claim may be denied. However, the law also allows approval or a partial denial in the event of mitigating circumstances.

In cases where involvement has been raised, the following mitigating factors are considered:

- The victim suffered an injury that was significantly more serious than reasonably could have been expected as a result of his or her involvement in the events leading to the qualifying crime
- Another person involved in the events leading to the qualifying crime escalated his or her conduct in a manner not reasonably foreseeable by the victim or derivative victim
- A third part interfered in a manner not reasonably foreseeable by the victim or derivative victim

If a victim's claim is denied for involvement, any claims for derivative victims will also be ineligible for the VCP. However, a minor derivative victim of a domestic violence victim may still be eligible, even if the direct victim was involved in the events leading to the domestic violence crime.

## **Eligibility Criteria**

In cases where the victim has died due to the crime and the issue of involvement has been identified, funeral/burial expenses may be paid if:

- the mitigating factors for involvement listed above apply; and
- the claimant was in a close relationship to the victim at the time of the death, such as parent/child, husband/wife, etc.

### **Cooperation with Law Enforcement**

A victim must reasonably cooperate with law enforcement in the apprehension and conviction of the suspect to be eligible for assistance by the VCP.

Cooperation with a law enforcement agency includes, but is not limited to:

- Reporting the qualifying crime
- Completely and truthfully responding to requests for information in a timely manner
- Assisting with identifying and apprehending suspects
- Testifying in proceedings, as required

If a victim's claim is denied for not cooperating with law enforcement, derivative victims may also be ineligible for the VCP.

## Eligibility Criteria

### Cooperation with the Program

In addition to cooperating with law enforcement agencies, the law requires that claimants cooperate with VCP staff to verify the information on an

application. The following actions may constitute a lack of cooperation with the VCP:

- The claimant has information needed to process the application and has failed to provide that information after being requested to do so
- The claimant deliberately submitted false or misleading information

### **Residency Requirements**

To receive assistance, a victim must be a resident of California or be a resident of another state or country who is injured, threatened with injury, or killed as a result of a crime that occurred in California.

The Program can help derivative victims who are residents of California or any other U.S. state or territory.

Claimants who accept responsibility for paying funeral and burial expenses and crime scene clean up expenses of the deceased victim, may be reimbursed regardless of where they reside.

## Eligibility Criteria

**Victim Eligibility** If a person is a victim of an eligible crime, and there are no issues raised as listed in the 'eligibility requirements' section, they are considered an eligible direct victim.

A child, who resides in a home where domestic violence has occurred, qualifies as a direct victim.

A direct victim is eligible for reimbursement of any covered losses that they have incurred as a direct result of the crime. See VCP Benefits section for information on covered losses.

## Eligibility Criteria

### **Derivative Victim Eligibility**

When someone becomes a victim, other people in their lives may be affected as well. Therefore, the VCP accepts applications from qualified derivative victims who may need mental health counseling or support loss because of a crime against a victim.

An eligible derivative victim is someone who, at the time of the crime:

- is the parent, grandparent, sibling, spouse, registered domestic partner, child, or grandchild of the victim
- lives in the same household as the victim
- had previously lived in the household of the victim for not less than two years in a relationship similar to a parent, grandparent, sibling, spouse, child, or grandchild of the victim
- is another family member of the victim, including fiancé or fiancée, who witnessed the crime

A person who becomes a primary caretaker of a child *after the crime*, also qualifies as a derivative victim.

Children who are conceived prior to the crime or as a result of the crime, qualify as a derivative victim.

## Eligibility Criteria

### Felons

Individuals who have been convicted of a felony and who are on parole, probation, or are incarcerated (PPI) at the time of the crime, cannot be granted compensation by the VCP. However, these claimants may still file an application and have the claim deemed eligible.

The VCP may reimburse them for any expenses incurred before or after the period of parole, probation, or incarceration. If a claimant is on PPI, submitting the claimant's release date with the application could result in a shorter processing time of eligible expenses.

Exception: A claimant may be reimbursed for the funeral/burial expenses or crime scene clean-up expenses of a victim who was on PPI at the time of the crime, as long as the claimant requesting reimbursement is not on PPI.

# VCP Benefits

## Introduction

The VCP may reimburse claimants for specified qualifying expenses incurred as a result of the crime, which are not reimbursed by other sources. Covered expenses include the following:

- Medical
- Dental
- Mental Health
- Income or Support Loss
- Funeral and/or Burial Expenses
- Relocation
- Crime Scene Clean-up
- Job Retraining
- Home or Vehicle Modifications
- Home Security
- Child Care
- Good Samaritan

The VCP does not reimburse expenses for property loss or pain and suffering.

When expenses are submitted, staff will verify that the treatment or service was necessary as a result of the qualifying crime and that it is covered by the VCP.

Treatment verified as 100% related to the crime is payable at our maximum rate. If treatment is determined to be less than 100% related to the crime, VCP will pay that portion determined to be related to the crime (i.e., if the treatment is 75% crime related, the expense will be paid at 75% of our maximum payment rate).

The total of all payments on a claim may not exceed \$70,000



## **VCP Benefits**

The claimant's signature on the application authorizes the VCP to obtain information from providers and employers. Any information requested by the VCP should be provided at no cost to the VCP or to the applicant.

### **Maximum Rates and Services**

The Board may establish maximum rates and service limitations for medical, dental and mental health services. Bills are reviewed by a bill review service contractor (BRS) and adjusted according to the Board's current rates. Any provider who cashes a VCP check for medical, dental, or mental health services accepts any reduced rate as payment in full for treatment necessary as a result of a crime.

Please note: The provider cannot bill or hold the claimant responsible for the difference between the billed amount and the BRS adjudicated amount.

If a claimant wants to pay a portion of his or her expenses, let him or her know that the VCP utilizes a payment schedule and that the claimant may not be reimbursed for the total amount paid.

## **VCP Benefits**

### **Medical and Dental Expenses**

A licensed practitioner must provide services in order to be reimbursed. Also, in some cases, a treatment may require additional authorization. You may contact VCP staff for more information on a specific type of treatment.

### **Covered Expenses**

- Chiropractic Treatment (up to 6 months)
- Cosmetic Surgery
- Dentistry
- Hospital Services
- In-home Supportive Services
- Laboratory Tests and Blood Work
- Medical Insurance Premiums
- Medical or Medical-Related Equipment or Property
- Over the Counter Medications and Medical Supplies
- Physical Therapy
- Physician's Services (MDs and DOs)
- Pregnancy-related Expenses
- Prescriptions
- Prosthetics and Orthotic Appliances
- Sexual Assault Follow-up Expenses
- X-rays and Other Radiological Services

Alternative Treatments – There is a limit of 5 sessions for each alternative treatment. The total number of sessions for all alternative treatments combined is 20.

Each bill will be thoroughly reviewed for crime relatedness and other reimbursement sources. Submitting a bill for one of these types of expenses is not a guarantee of payment.

## VCP Benefits

### Mental Health Expenses

The VCP can reimburse for mental health treatment that is provided as a direct result of the crime and by a licensed mental health provider. The VCP has an incremental approach to mental health treatment. Each victim and derivative victim is subject to initial session limits.

These limits are as follows:

- Adult direct victim – 40 sessions
- Minor direct victim – 40 sessions
- Minor direct victim of 261.5(d) – 30 sessions
  - No derivative victims are eligible for claims that arise from unlawful sexual intercourse, 261.5 (d) PC
- Adult Derivative victim – 15 sessions
- Minor Derivative victim – 30 sessions
- Parent, sibling, spouse, registered domestic partner, or child of a *deceased* victim – 30 sessions
- Primary Caretaker– 30 sessions

The types of providers typically covered are as follows:

- Marriage & Family Therapist (MFT)
- Licensed Clinical Social Worker (LCSW)
- Psychologist
- Psychiatrist
- Psychology interns and registered MFT interns may also provide services if they are supervised by a licensed provider

The VCP requires documentation in order for a victim or derivative victim to receive more than 5 sessions of mental health treatment. The claimant's provider must submit a Treatment Plan (TP) to obtain approval to provide between 6 –15,

## VCP Benefits

30, or 40 additional sessions of treatment.

Once a victim has utilized the specific initial session limits, a provider may submit an Additional Treatment Plan (ATP) to request continued treatment. The ATP is reviewed by program staff to determine if additional sessions will be authorized. The treatment plan forms can be obtained through the VCP website or the VCGCB Customer Service Unit.

### **Income and Support Loss**

If a victim is unable to work due to a crime related disability, the VCP may reimburse the victim's lost wages. Additionally, support payments may be made to derivative victims who were legally dependent on a victim who died as a result of a crime, or has exhausted their own income loss benefits and is still disabled. In order to receive income or support loss, the victim must have been working or have had a prospective job offer at the time of the crime.

Generally, only a direct victim can receive income loss payments from the VCP. However, a derivative victim may receive income loss in specific cases. When a minor direct victim is hospitalized or dies as a result of the crime, the victim's parent(s) or legal guardian(s) may be eligible for 30 days of lost wages.

If a derivative victim requests this benefit as a result of a minor victim's hospitalization, the VCP must receive a letter from the minor's physician stating that the parent's presence is necessary for the treatment of the victim.

## VCP Benefits

### Required Documentation

The victim advocate can assist a victim requesting income or support loss with obtaining the information that is needed.

The following information should be submitted with all income or support loss requests:

- Proof of employment, including earnings and time off work due to the crime
- Disability statement from the victim's physician
- Documentation of any reimbursements received as a result of the crime
- Proof of legal dependency for derivative victims requesting support loss
- Copies of tax returns (required for a person who was self-employed)

### **Funeral and Burial Expenses**

The VCP may reimburse any individual who voluntarily, without anticipation of personal gain, pays or assumes the obligation to pay funeral and burial expenses. A felon's funeral expenses may be paid provided that the applicant is not a felon on PPI.

The VCP may reimburse up to \$7,500 for a deceased victim's funeral and burial expenses

### Covered Expenses

Some expenses that may be reimbursed when submitted with a bill or receipt are:

- Burial costs
- Burial vault
- Casket
- Costs to transport the body

## **VCP Benefits**

- Cremation charges
- Endowment care
- Grave – including labor costs for opening and closing
- Marker, headstone, or tombstone charges
- Funeral service costs
- Gravesite services
- Chapel or memorial services
- Miscellaneous fees – newspaper notices, copies of death certificate, flowers, burial clothing, etc.
- Preparation of the body for viewing
- Facility use (visitation or calling hours)
- Transportation costs
- Automotive charges (car, limousine, hearse)
- Transportation of remains to funeral home
- Travel costs to make funeral/burial arrangements
- Travel costs to accompany the body
- Hotel lodging for person making funeral arrangements

## **Expenses Not Covered**

Some funeral/burial expenses that are not reimbursable are:

- Costs of banquets or wake
- Food or beverages
- Coroner's charges (charges will not be imposed when death is due to a criminal act)
- A pre-purchased funeral or grave
- Finance or interest charges

## VCP Benefits

### Relocation Expenses

In some cases, it may be necessary for a victim to relocate. The VCP can assist with relocation expenses up to \$2,000 per household, if the request meets certain criteria.

If necessary, compensation may be awarded for more than one relocation per crime. The total cash payment for all relocations due to the same crime shall not exceed \$2,000.

In order to qualify for relocation expenses, each request must be submitted with one of the following:

- Law enforcement officer's statement that the relocation is necessary for the victim's personal safety, or
- Mental health provider's statement that the relocation is necessary for the victim's emotional well-being

Additionally, the claimant will need to provide the VCP with a VCP relocation worksheet and a signed rental agreement (if requesting rent or a security deposit).

The relocation benefit is available to direct victims. A victim may receive an additional relocation benefit if a new crime occurs more than three years after the date of the first crime relocation *and* the new crime does not involve the same perpetrator.

## **VCP Benefits**

In order to receive the relocation benefit, victims of domestic violence or sexual assault must agree not to inform the offender of the new address and not allow the offender on the premises, or they must seek a restraining order against the perpetrator.

### **Covered Expenses and Limits**

The total amount received for relocation cannot exceed \$2,000 per household and may include:

- Rent (including security deposit, first and last month's rent)
- Utility deposits and connection fees (not to exceed \$100)
- Telephone deposits and connection fees (not to exceed \$60, and may be land line or cellular)
- Temporary lodging (not to exceed \$700 or 7 nights, whichever is less)
- Other necessary expenses (moving vans, airline, train, bus fares, credit check, etc.)
- Food expenses (not to exceed \$200, emergencies only)
- Clothing expenses (not to exceed \$500, emergencies only)

### **Housing Choice Vouchers**

The Housing Choice Voucher Program (formerly section 8) assists very low-income families with decent, safe, and sanitary housing. If a claimant is a member of this program or is on the waiting list for this program, he or she could relocate with the help of this program. A victim of domestic violence who is on the waiting list for Housing Choice Vouchers will be given priority on the waiting list.



## VCP Benefits

Claimants requesting relocation should be made aware of this option. If a voucher is used, the VCP could help with paying any deposit. Local Public Housing Agencies can provide more information in this regard.

### Miscellaneous Expenses

#### **Crime Scene Clean-Up**

When a qualifying crime occurs in someone's residence, any individual who pays or assumes the obligation to pay for the costs of having a professional clean up the crime scene, may file an application for reimbursement of the associated costs.

Only crime scene clean-up expenses provided by persons registered with the Department of Health Services as trauma scene management practitioners may be reimbursed.

The VCP will reimburse up to \$1,000 for clean-up if the crime occurs in a residence.

#### **Job Retraining**

If a victim has sustained a physical injury that necessitates a job change, the VCP may assist with job retraining. Job retraining may also be requested by someone who is directly dependent upon the victim's income for their major support, but the victim is now disabled or deceased. However, the victim or derivative victim must first apply for assistance from the California Department of Rehabilitation. For more information, go to [www.dor.ca.gov](http://www.dor.ca.gov) or call (916) 253-7367.

## **VCP Benefits**

### **Home Modifications**

If a victim is disabled as a result of the crime, he or she may request assistance with home modification to make the residence more accessible to the victim.

Victim advocates can help VCP staff by submitting the following information with a home modification request:

- Physician's certification that the victim is disabled
- Report from a reputable home modification consultant
- Copy of the contractor's license
- Documentation showing the year the home was built
- Documentation of home ownership or authorization to modify the home, if the victim rents the residence

### **Vehicle Modifications**

In a situation where a victim is disabled as a result of the crime, the renovating or retrofitting of a vehicle may be necessary. The VCP can assist with vehicle modification as well.

### **Home Security**

A victim may be eligible to receive reimbursement of up to \$1000 for installing or increasing residential security, regardless of where the crime occurred. If the victim is deceased, a person who resided with the victim at the time of the crime may also be eligible. The claimant must submit a statement from law enforcement stating that the expenses are necessary for the victim's personal

## **VCP Benefits**

safety or a statement from a mental health provider stating that the expenses are necessary for the victim's emotional well being, along with any receipts for the expenses. Some expenses that may be covered are:

- Home security device or system
- Alarms, keypads, cameras, motion detectors
- Installation costs
- Monitoring costs
- Window bars or security doors
- Replacing or increasing number of locks

The VCP will not pay for:

- Weapons (guns, mace, etc)
- Guard dogs
- Self-defense courses
- Replacement of broken doors or windows

### **Child Care**

Effective January 1, 2007 through December 31, 2009 a pilot program will be implemented to reimburse the licensed child care expenses incurred by a victim or derivative victim as a direct result of a crime that resulted in physical injury or death. The total benefit available for all affected children, per crime, shall not exceed \$5000.

The following conditions must be met to qualify for reimbursement of childcare expenses:

- The injured or deceased victim was a primary caregiver for the victim's dependent children.
- The benefit shall only be paid for victims who suffer physical injury or death as a result of the crime.

## VCP Benefits

- The benefit may not be paid in addition to income or support loss payments.
- The period of time that may be covered, per crime, shall not exceed 180 days. The time periods do not need to be consecutive.
- The child care expenses must be consistent with the usual and customary rates charge by the child care provider for other children in the provider's care. If the provider only cares for the victim's children, the reimbursement rate shall not exceed \$200 per week for one child or \$400 per week for two or more children.

If the victim is not deceased, they must submit a disability statement from a physician stating the disability and the time period that the victim is unable to provide for the care of the children.

### Good Samaritan Claims

In addition to claims for victims, the VCP also accepts applications from Good Samaritans. A Good Samaritan is a **private citizen** who aids a victim or another person in immediate danger of injury or death.

A private citizen is any person *other than* a peace officer, fireman, lifeguard or a person whose employment includes the duty of protecting public safety.

A qualifying incident may be any of the following:

- a crime
- a civil or natural disaster or catastrophe
- a single incident such as a car crash or drowning

## VCP Benefits

A person may qualify by preventing crime, assisting law enforcement or a public safety officer or rescuing or attempting to rescue a victim. Eligibility of a Good Samaritan is not based on the outcome of their actions.

Good Samaritan claims should be submitted on a Victim Compensation Application with the words "Good Samaritan" written at the top of the application and must include a statement from law enforcement as to the claimant's role in the incident.

A Good Samaritan can receive reimbursement for medical and dental treatment, wage or support loss, mental health treatment, funeral and burial expenses, and property loss, not to exceed \$10,000.

A person may be eligible as a victim and as a Good Samaritan in the same incident. If this is the case, you should review the losses incurred with the claimant to determine which program will provide the most assistance.

A person *may not file as both* a victim and a Good Samaritan for the same incident.

## VCP Benefits

### Reimbursement Sources

The Victim Compensation Program is the "payor of last resort." This means that all sources of reimbursement a victim has must be utilized before the Program can pay any expenses. The Program will cover medical co-pays and deductibles for crime-related covered expenses.

Such reimbursements may include, but are not limited to:

- Health Insurance/Medicare/Medi-Cal
  - Disability benefits
  - Sick leave
  - Bereavement leave
  - Worker's Compensation
  - Vehicle insurance
  - Other public benefit programs
- Restitution payments to a victim

### Civil Suits

If a claimant files a civil suit against a perpetrator or a third party, the law requires him or her to inform the Board of the intent to file a legal action. Any settlement received by a victim may be used to offset expenses that have been submitted to the Board. Additionally, if the Board has already paid monies to or on behalf of a victim who receives a civil suit settlement, the victim is required to repay the Board.

### Restitution

Inform victims that the VCP will attempt to get restitution from the offender. A judge may order restitution to the victim or to the VCP directly. If the victim receives money from a restitution order directly, he or she will be required to repay the VCP. (A restitution *fine* by itself is not considered a reimbursement source.)

# How to Apply for the Victim Compensation Program

**Introduction** The Victim Compensation Program has two types of applications. The first is the “Application for Crime Victim Compensation,” which is available in English and Spanish. This application is used for the victim of a crime and anyone who assumes responsibility for the expenses incurred by a deceased victim.

The second is the “Family Member or Dependent Victim Application for Crime Victim Compensation.” This application is used by family members or others who qualify as derivative victims and who incur a loss as a result of the crime against the victim.

All Victim Witness Centers throughout California have hardcopy versions of both applications. Additional copies can be obtained by calling the VCP’s Customer Service Unit at 1-800-777-9229. Both applications may also be printed from the VCGCB website at [www.victimcompensation.ca.gov](http://www.victimcompensation.ca.gov).

Applications should be sent to the VCGCB in Sacramento or to your local County Joint Powers processing unit.

## How to Apply For the Victim Compensation Program

**Filing Period** An application must be filed within a certain time frame. The VCP requires that an application for compensation be submitted within:

- One year of the date of crime, or
- One year of a minor victim's 18<sup>th</sup> birthday, or
- One year of discovery that the victim's injury or death is a result of a crime

In some circumstances, a claim may be accepted after the one-year filing period, if the applicant can show "good cause" as determined by the VCP.

### **Late Claim Good Cause Guidelines**

When a claim is submitted beyond the one-year filing period, the claimant must demonstrate a good reason why the claim could not be filed within the filing time parameters. If the reason for late filing is submitted with the application, it will be reviewed as it is entered into the VCP claims management system. If no reason for late filing is included, VCP staff will send the advocate and the claimant a late reason request letter. The advocate can assist the claimant by encouraging him or her to complete and return the letter as quickly as possible. If the letter is not returned, the claim will be denied.

Acceptance of a late claim does not mean the application is eligible. An accepted late claim simply means that the claim can be evaluated and processed despite the late filing. A claimant whose late application is accepted may still have his or her application for benefits denied if it does not meet all eligibility criteria.



## How to Apply For the Victim Compensation Program

For example, a claim may be accepted as a late claim, however, if during the verification process for eligibility it is determined that the victim did not cooperate with law enforcement, the claim will be denied.

It is important for claimants to understand that acceptance of a late claim does not guarantee that the claim will be found to be eligible.

“Good Cause” reasons to accept a late claim include the following:

- The application is filed on behalf of a minor derivative victim and no application was ever filed for the direct victim, who was permanently disabled or killed as a result of the crime.
- The application is filed within 90 days of a victim incurring a reimbursable loss and the victim says that the reason for the late filing was that no earlier loss had been incurred.

For example, a victim of domestic violence sustained minor injuries, which did not require medical care, and the victim has not sought any mental health treatment. Subsequently, 18 months after the crime, her boyfriend, the suspect, is about to be released from prison and she is afraid for her safety. In this case, her relocation expenses are the first losses she has incurred. If the application is filed within 90 days of her loss, the late claim has met the good cause criteria.

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- The prosecuting attorney recommends that the application be accepted and the victim cooperated in the apprehension and prosecution of the offender. The application must be submitted within one year of the recommendation.
- Events occur during the prosecution or punishment of the offender that cause the victim or derivative victim to incur additional pecuniary losses. The application must be submitted within one year of the end of the prosecution or punishment proceedings.

For example, a victim of an attempted murder testifies at the suspect's trial and has to re-experience the crime and see the suspect day after day. He didn't file a claim right after the crime because all his medical expenses were covered by insurance. He now needs some mental health counseling to deal with some issues that have resurfaced.

- The delayed reporting of the crime is reasonably excusable due to the nature of the crime. In general, the crimes that would most likely fall under this provision would include some crimes that allow for emotional injury only (Penal Code §§ 261, 262, 271, 273a, 273d, 285, 286, 288, 288.5, 289, 311.4b, or 311.4c.).

For example, a teenager is molested by her coach, but she never reports the crime because of the authority the coach asserted over her. When she

## **How to Apply For the Victim Compensation Program**

is 20, other girls come forward to say that the coach is molesting them. The original victim goes to the police and reports that she was also molested. She then files a claim with the VCP.

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### **Signature Requirements**

When a claimant files an application with the VCP, he or she must sign and date the application twice. The first signature declares under penalty of perjury that the claimant has completed the application truthfully and completely to the best of his or her knowledge. This signature also allows VCP staff to verify any crime or treatment information needed during the processing of that claim.

The claimant's second signature is a promise to contact and repay the VCP if he or she receives any other payments that should have been used to cover expenses already paid by the VCP. By signing this section, the claimant is also agreeing to use any money received from the VCP for the purposes intended.

Note: A claimant's faxed signature is acceptable for the life of the claim.

### **Adult Claimants**

Adult victims and claimants should sign their own application. The only exceptions to this requirement are:

- adults who have been deemed legally incompetent by a court. In these circumstances, the conservator should file on behalf of the victim
- if there isn't a conservator, someone with a power of attorney may also sign an application on the victim's behalf. The power of attorney documents should be submitted with the application

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### **Minor Claimants**

Minor victims and claimants generally cannot file a claim on their own. An adult must file these claims on behalf of the minor victim.

The following adults may file a claim on behalf of a minor:

- Parent with Legal Custody
- Legal Guardian
- Guardian Ad Litem
- Social Worker or Probation Officer
- Relative Caregiver
- Other Court-Approved Designees

Applications signed by a legal guardian, guardian ad litem, or other court-approved designee must be submitted with the court documentation in order to be accepted by the VCP. A relative caregiver is required to submit a “Relative Caregiver Affidavit” with his or her application (located on the VCGCB website under “Forms and Publications”).

An emancipated minor can file his or her own claim, but must submit proof of emancipation with the application.

Also, a minor who has received treatment that did not require parent or guardian consent may also file a claim if the expenses meet the criteria established in California’s Business and Professions and Family Codes.

## How to Apply For the Victim Compensation Program

### **Complete Applications**

When completing an application, certain information is required for an application to be considered complete. Incomplete applications may not be processed timely and could result in a delay in payments.

By law, a complete application contains the following information:

- Victim's name
- Claimant's name (if different than the victim)
- Applicant's name (if different than victim's)
- Date of birth
- Social security number (if available)
- Date of crime
- Type of crime
- Location of crime
- An address where the claimant or applicant can receive mail
- Valid signatures accompanied by verification of applicant's legal authority, if applicant is not the victim
- Name, address, and phone number of the authorized representative, if any

In addition to this required information, submitting an application with a crime report could reduce the claim processing time.

## How to Apply For the Victim Compensation Program

### Emergency Awards

In certain situations, a victim may request an emergency award to cover unexpected expenses covered by the VCP. For example, paying for a funeral or needing to move to ensure the victim's safety may require immediate payment to providers.

In order to receive an emergency award, the claimant must show that he or she would suffer a substantial hardship without the emergency payment.

The victim advocate can help VCP staff process an emergency award quickly by including the reasons supporting substantial hardship and immediate need with the application.

If bills or documentation are not submitted with an emergency award request, the request may be denied. There are no appeal rights on an emergency award request. However, if an emergency award request is denied, the claimant's regular application will be reviewed and may still be found eligible for the VCP.

Some examples of emergency awards are:

- A man who was the sole wage earner for his wife and two children is killed. Because the family has no income, they could be evicted and have necessary utilities cut off unless the emergency award for support loss is approved.
- A drunk driver struck and killed a woman. The funeral home will not provide for the burial of the victim's body without payment.
- A victim must relocate because the man who

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assaulted her will be released from prison in two weeks and he has threatened her from prison.



## **The Role of a Victim Witness Advocate in Obtaining Victim Compensation**

The Victim Witness Advocate, may help a victim through his or her victimization in many ways. Assisting a victim in learning about and applying for Victim Compensation is one of the advocates primary duties.

- Providing Information – An advocate may be the first support person, after law enforcement, that a victim may encounter. The advocate can assist victims by informing them about the Victim Compensation Program (VCP) and answering questions about program eligibility or benefits that are available to victims
- Filing the application – If a victim decides to submit a claim, the advocate can assist him or her in completing the application process. The advocate does not need to determine whether the application will qualify. VCP staff will determine victim eligibility. The advocate can ensure that the application contains all the information the VCP staff will need to make a determination and ensure that the claim is submitted timely

While processing a victim's claim, VCP staff may contact the victim advocate for additional information needed to verify a claim or benefits. The advocate will also receive a copy of all letters sent to the claimant.

**The Advocate  
as a  
Representative**

The victim advocate may choose to represent a claimant. If so, the advocate will receive copies of all correspondence from the VCP related to the claim. The advocate may assist the claimant with the following:

**Filing an Appeal and Attending Hearings**

In the case that a claim or a bill is denied by the VCP, the representative may assist with filing an appeal or file the appeal on the claimant's behalf. This could involve helping the claimant obtain new and relevant information, such as additional documentation from law enforcement officers, district attorney offices, or providers.

A representative may also attend a hearing with the claimant, either in person or over the telephone. In these cases, the representative may answer questions on the claimant's behalf or give testimony as to the new or relevant information that has come forward.

The advocate who assists a victim with completing an application but does not wish to officially represent the victim, should not complete the representative portion of the application. If the advocate is not the representative, the VCP will not be able to discuss that claim with the advocate. This could affect the victim's ability to get necessary information to the VCP. If the advocate is not the representative, he or she cannot to submit an appeal on behalf of the claimant.

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