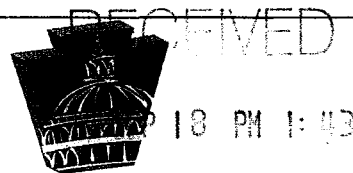


Regulatory Analysis Form

(Completed by Promulgating Agency)



INDEPENDENT REGULATORY
REVIEW COMMISSION

SECTION I: PROFILE

(1) Agency:

Pennsylvania Commission on Crime and Delinquency,
Office of Victims' Services.

(2) Agency Number: 35

Identification Number: 31

IRRC Number:

2765

(3) Short Title:

Crime Victims Compensation

(4) PA Code Cite:

37 Pa. Code Chapter 411

(5) Agency Contacts (List Telephone Number, Address, Fax Number and Email Address):

Primary Contact: Lynn Shiner

Deputy Director, Office of Victims' Services

P.O. Box 1167

Harrisburg, PA 17108-1167

Phone: 265-8736 FAX: 772-4331 e-mail: lshiner@state.pa.us

Secondary Contact: Steven Turner

265-8517

(6) Primary Contact for Public Comments (List Telephone Number, Address, Fax Number and Email Address) – Complete if different from #5:

(All Comments will appear on IRRC'S website)

(7) Type of Rulemaking (check applicable box):

☐

Proposed Regulation

☒

Final Regulation

☐

Final Omitted Regulation

☐

Emergency Certification Regulation;

☐

Certification by the Governor

☐

Certification by the Attorney General

Regulatory Analysis Form

(8) Briefly explain the regulation in clear and nontechnical language. (100 words or less)

The regulation will increase reimbursement to crime victims in accordance with rising costs, expand eligibility for reimbursement and simplify claims processing procedures while reducing the percentage that OVS may reimburse hospitals and licensed health care providers from 70% to 65%. This reduction conforms to the usual and customary charge that is paid by other third-party payors.

(9) Include a schedule for review of the regulation including:

- A. The date by which the agency must receive public comments: N/A
- B. The date or dates on which public meetings or hearings will be held: N/A
- C. The expected date of promulgation of the proposed regulation as a final-form regulation: October 17, 2009*
- D. The expected effective date of the final-form regulation: October 17, 2009*
- E. The date by which compliance with the final-form regulation will be required: October 17, 2009*
- F. The date by which required permits, licenses or other approvals must be obtained: N/A

*or date the Final Rulemaking is published in the Pennsylvania Bulletin. This date is projected according to general timeline.

(10) Provide the schedule for continual review of the regulation.

Annually

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SECTION II: STATEMENT OF NEED

(11) State the statutory authority for the regulation. Include specific statutory citation.

The amendments to the regulation are proposed under the authority of section 312(3) of the Crime Victims Act which is set forth at 18 P.S. §§11.101-11.5102.

(12) Is the regulation mandated by any federal or state law or court order, or federal regulation? Are there any relevant state or federal court decisions? If yes, cite the specific law, case or regulation as well as, any deadlines for action.

Yes, see Number 11 above.

(13) Describe who will benefit from the regulation. (Quantify the benefits as completely as possible and approximate the number of people who will benefit.)

The regulation will increase benefit levels in a variety of categories. PCCD estimates that the number of claimants who would benefit under the applicable categories in a typical year would be as follows: Erroneous evidence collection billing, 5; funeral/burial expenses, 302; relocation expenses, 100; crime-scene cleanup, 10; court/funeral travel related expenses, 54; and emergency award, 733. (Note that the changes with respect to these categories will affect benefits for claims relating to crimes that occur on or after the effective date of these Regulations. Therefore, there will be a lag time before the above figures reach their estimates, because many incoming claims will involve crimes that pre-date the effective date.)

The regulation will reduce the reimbursement rate from 70 percent to 65 percent to pay providers for medical expenses. A majority of the 2,961 claimants who were awarded benefits in FY 2006-2007 had at least a portion of their award go to medical expenses. (Almost 50 percent of the total benefits paid out in FY 2006-2007 went for health provider bills.)

Despite the fact that they will be required to accept 65 percent of the bill as final payment, affected hospitals and other health care providers will also benefit due to the assurance of payment in many scenarios where currently they receive nothing. That is because the current regulations, at 37 Pa. Code § 411.18(a)(2), requires the Office of Victims' Services to pay as many outstanding expenses as possible to reduce the number of outstanding creditors. With an overall statutory limitation of \$35,000 per claim, this regulation requires the Office to pay many smaller creditors first, and then the larger ones if there is any money left over. Note: The decrease in reimbursement rate will affect benefits for claims relating to services provided on or after the effective date of the Final Rulemaking; a percentage discounting that will reduce the fiscal impact on the Crime Victims Compensation Fund.

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(14) If scientific data, studies, references are used to justify this regulation, please submit material with the regulatory package. Please provide full citation and/or links to internet source.

N/A

(15) Describe who and how many will be adversely affected by the regulation. How are they affected?

The reduction of the reimbursement rate from 70 percent to 65 percent for medical expenses set by the Office of Victims' Services under the authority of the Crime Victims Act may adversely affect a variety of medical providers, because they will not receive as much reimbursement as previously provided for. The 65 percent reimbursement rate conforms to the practice of other third-party payors. For each reduction of one percent, the cost savings to the crime victim's fund is approximately \$60,000.

To illustrate the variety of affected providers, PCCD conducted a twelve-month sampling of benefits paid from July 1, 2006 to June 30, 2007. During that period, a total of 6,308 health provider payments were made. The 6,308 payments were allocated as follows: physicians, 2,378; hospitals, 2,129; pharmacy, 655; ambulance, 620; dental, 374; physical therapy, 150; and home health care, 2. The total payments were allocated to providers as follows: hospital, \$3,737,216; physicians, \$984,088; dental, \$364,255; ambulance, \$316,032; physical therapy, \$104,360; pharmacy, \$85,715; and home health care, \$2,000.

(16) List the persons, groups or entities that will be required to comply with the regulation. Approximate the number of people who will be required to comply.

See response to Number 15.

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SECTION III: COST AND IMPACT ANALYSIS

(17) Provide a specific estimate of the costs and/or savings to the **regulated community** associated with compliance, including any legal, accounting or consulting procedures which may be required. Explain how the dollar estimates were derived.

As discussed in the response to Question 13, various health providers will incur costs resulting from the percentage reduction of payments set by the Office of Victims' Services. In the first full year of its implementation, the percentage cost reduction will save the Crime Victim's Compensation Fund an estimated \$295,000. This is money that would have been paid to those providers.

(18) Provide a specific estimate of the costs and/or savings to **local governments** associated with compliance, including any legal, accounting or consulting procedures which may be required. Explain how the dollar estimates were derived.

None.

(19) Provide a specific estimate of the costs and/or savings to state government associated with the implementation of the regulation, including any legal, accounting, or consulting procedures which may be required.

The figures cited in this Regulatory Analysis Form include seven months of FY 2009/10 and the first full State Fiscal Year of implementation (2010/11). As the average time from the date of a crime incident until the date a claim is filed is 92 days, or 3 months, the costs have been projected for four (4) months (March 1, 2010 to June 30, 2010). The savings from the reduction in the reimbursement rate for medical providers affects benefits for claims relating to services rendered on or immediately after the effective date of the regulation, therefore the savings have been projected for the entire seven (7) months (December 1, 2009 to June 30, 2010).

PCCD has projected the numbers for the first seven (7) months of implementation in state fiscal year 2009/10, or from December 1, 2009 to June 30, 2010. These figures show the costs of increased benefits at \$126,051, and a savings from the reduction in the awards to medical providers of \$172,083, or an overall savings of \$46,033. This figure does not reflect receipt of the federal reimbursement of 60 percent of the allowable costs of \$126,051 paid in FY 2009/10 ($\$126,051 @ 60\% = \$75,630$ reimbursement) which will be paid by the U.S. Department of Justice in SFY 2011/12. Therefore, the real cost of the increased benefits, will actually be a savings of \$121,663 ($\$46,033 + \text{DOJ VOCA reimbursement of } \$75,630 = \$121,663$) for crimes occurring on or after the effective date of these Regulations.

The reduction in the reimbursement rate for hospitals and other health care providers will become

Regulatory Analysis Form

effective for all services rendered on or immediately after the effective date of these Regulations, irrespective of the date of the crime, whereas the cost for adjusted benefits will begin to accrue only for claims involving crimes occurring on or after that same date. Consequently, as claims can be filed up to two years after the date of the crime and the average time from the date of the incident until the date a claim was filed is 92.3 days, the savings will be realized more quickly than the costs.

The fiscal impact to PCCD from all of the reimbursement rates set by the Office of Victims' Services (Office) pursuant to Act 85 will consist of a net cost of \$83,152 over 12 months in the first full state fiscal year of implementation (SFY 2010/11) for crimes or services that occur on or after the effective date of these Regulations. This calculation takes into account the savings to PCCD resulting from the Office's reducing the awards to medical providers from a 70 percent reimbursement rate to 65 percent for expenses to be paid to a hospital or other licensed health care provider on behalf of the victim (a \$295,000 savings) and the costs to PCCD from increased benefits, the rates of which are being set by the Office (\$378,152).

It should also be noted that the eventual net cost for each fiscal period, starting with FY 2009/10, would actually be lower when the effect of the federal reimbursement is taken into account. State victims compensation programs enjoy a 60 percent reimbursement that is eventually returned by the U.S. Department of Justice (DOJ) under the Victims of Crime Act (VOCA) funding stream for allowable benefits paid under the program. Each of the rates set by the Office pursuant to the Crime Victims Act is for benefits allowable under VOCA, so the cost figures would need to be adjusted downward to reflect the 60 percent reimbursement that will be paid to PCCD by DOJ in FY 2011/12. Consequently, the additional cost of \$83,152 in the first full SFY of implementation of rates will eventually be reduced by \$226,891 (60 percent of \$378,152). Therefore, the real cost of the increased benefits, the rates of which are set by the Office in this Schedule, will actually be a savings of \$143,739 for crimes occurring on or after the effective date of these Regulations.

The specific fiscal analysis regarding the health provider percentage reimbursement rate is as follows: This reduction will apply to the following provider/expense types: Hospitals, Doctors, Dentists, Physical Therapy/Chiropractic, Medications (when billed by the pharmacy, which is a rare occurrence), Ambulance and Home Health Care.

The savings from the medical cost percentage reduction (\$295,000) will help to offset the costs of increased benefits set forth in this Schedule, which are projected at a total of \$378,152. (As indicated above, this figure will actually be somewhat less than estimated for the first year or two, as incoming claims that related to injuries that pre-date the effective date of these Regulations, will be paid at the previous rate). The specific fiscal analysis with respect to each category or new or expanded benefits is as follows:

For the costs of erroneous billing for evidence collection set forth in 411.42 (b)(3)(iv) are substantially unchanged from current amounts being paid. Consequently, there will be no appreciable fiscal impact on this item.

For the costs of funeral-related expenses, which are set in §411.103(c), PCCD estimates the increased

Regulatory Analysis Form

expenses to be \$269,652 in the first year. This was projected after PCCD looked at all of the funeral-related awards paid during the two-year period from January 1, 2005 to December 31, 2006. In that two-year period, the cost to increase the funeral maximum would be \$539,303 or \$269,652 annually. Statistics show that 247 claimants would benefit from this increase.

To increase the time period for eligible victims to relocate from 30 days to 120 days is estimated to cost approximately \$79,200. This was calculated using relocation data for four-years, from January 1, 2003 to December 31, 2006. During that time period, the average relocation expense for a victim amounted to \$791.52. Estimating 100 additional victims served annually, this benefit would cost PCCD approximately \$79,200.

Crime scene cleanup covers the reasonable and necessary costs of cleaning a crime scene of stains or blood or other dirt or debris caused by the processing of the crime scene. To expand the definition of stain to include food, paint or other materials used to deface property would cost PCCD approximately \$6,300 annually. This was estimated by using four-years of crime scene cleanup awards and from that, calculating the average bill at \$631. Serving ten (10) additional crime scenes per year would cost approximately \$6,300.

Currently, the VCAP pays for travel for medical, counseling, pharmacy, and in homicide cases where the body will need transported to a different location, to accompany the body and for someone to make funeral arrangements. Also, at the present time, the VCAP does not pay for court related travel expenses, i.e. mileage, parking, tolls, etc., that are reasonable and a direct result of the crime. Expanding this benefit would include court related travel reimbursement for victims and family members to attend criminal justice and protection from abuse order proceedings. In 2006/07, the VCAP paid \$111,915 to 425 claimants for transportation/meals, or \$263.33 per claim. In that there was an average of 12.75% court dispositions for actual UCR offenses in 2004, 2005 and 2006, an additional \$18,000 would benefit approximately 54 additional claimants.

Increasing the current maximum payable for Emergency Awards from \$1,500 to \$5,000, would allow VCAP to expedite the payment process for all victims/claimants and their families. Currently, VCAP can only issue checks up to a maximum of \$1,500 from the Advancement Account. In the case of a claimant who has \$2,000 in out of pocket expenses or loss of earnings, VCAP immediately sends the claimant a check for \$1,500 from the Advancement Account and the Treasury Department sends the additional \$500 through the normal check release process, which takes two to three additional weeks. Having the ability for the VCAP to immediately issue emergency award checks up to \$5,000 from the Advancement Account to claimants would not add any additional checks to VCAP's responsibility, plus there would be no additional fiscal impact on the VCAP. During calendar year 2006, the VCAP issued 3,705 emergency award checks to claimants from the Advancement Account. In the same period, the Treasury Department issued 843 checks to claimants. With the ability to write checks up to the \$5,000 maximum, Treasury and the Comptroller's Office would see a reduction of checks from 843 to 110, or 666%.

(20) In the table below, provide an estimate of the fiscal savings and costs associated with implementation and compliance for the regulated community, local government, and state government

Regulatory Analysis Form

for the current year and five subsequent years.

	Current FY Year 09/10	FY +1 Year 10/11	FY +2 Year 11/12	FY +3 Year 12/13	FY +4 Year13/14	FY +5 Year14/15
SAVINGS:	\$	\$	\$	\$	\$	\$
Regulated Community						
Local Government						
State Government	\$172,083 ¹	\$295,000	\$309,750 ³	\$309,750	\$309,750	\$309,750
Total Savings	\$172,083	\$295,000	\$309,750	\$309,750	\$309,750	\$309,750
COSTS:						
Regulated Community	\$172,083	\$295,000	\$309,750	\$309,750	\$309,750	\$309,750
Local Government						
State Government	\$126,051 ²	\$378,152	\$397,060 ⁴	\$397,060 ⁵	\$397,060 ⁵	\$397,060 ⁵
Total Costs	\$298,134	\$673,152	\$706,810	\$706,810	\$706,810	\$706,810
REVENUE LOSSES:						
Regulated Community						
Local Government						
State Government						
Total Revenue Losses	\$0	\$0	\$0	\$0	\$0	\$0

1. Due to the estimated implementation date of December 1, 2009, the figures cited here are for the last seven (7) months (December 1, 2009 to June 30, 2010) of state fiscal year 09/10. The reduction in the reimbursement rate for medical providers will affect benefits for claims relating to services rendered on or immediately after the effective date of the Regulation, therefore savings can be projected for the entire seven months.
2. As the average time from the date of a crime incident until the date a claim is filed is 92 days, or 3 months, this number has been projected for four (4) months (March 1, 2010 to June 30, 2010) of state fiscal year 09/10.
3. State fiscal year 11/12 denotes a 5 percent increase over the previous state fiscal year.
4. This figure does not reflect receipt of the federal reimbursement of 60 percent of the allowable costs of \$126,051 paid in FY 09/10 (\$126,051 @ 60% = \$75,630 reimbursement) which will be paid by the U.S. Department of Justice in FY 11/12.
5. Similarly, the total cost figures for this fiscal year does not include the applicable 60 percent reimbursement of the state government from allowable costs during a prior year.

(20a) Provide the past three year expenditure history for programs affected by the regulation.

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Program	FY -3 2006/07	FY -2 2007/08	FY -1 2008/09	Current FY 2009/10
Victims Compensation ¹	\$13,137,557	\$12,282,897	\$14,191,676	\$953,477

(21) Explain how the benefits of the regulation outweigh any cost and adverse effects.

As described in the response to Question (19), the changes will benefit 1,149 victims and claimants whose lives have been affected by crime. In addition, by 2011, the additional cost of \$83,152 in the first year of full implementation of rates will eventually be reduced by \$226,891 (60 percent of \$378,152). Therefore, the real cost of the increased benefits, the rates of which are set by the Office in this Schedule, will actually be a savings of \$143,739 for crimes occurring on or after the effective date of these Regulations.

(22) Describe the communications with and input from the public and any advisory council/group in the development and drafting of the regulation. List the specific persons and/or groups who were involved.

PCCD's Victims' Services Advisory Committee (VSAC) and its Compensation Subcommittee have provided substantial input on the rates of reimbursement addressed in this Schedule. Members of VSAC are either certain government officials permanently designated by the Crime Victims Act or those appointed by the Governor.

Each member of VSAC's Compensation Subcommittee brings the voice of a broad-based representation of victim service and criminal justice professionals and acts as their liaisons to improve and strengthen the statute, regulations, and other policies and procedures relating to the programs affecting victims of crime.

Over the past several years, PCCD has targeted a significant number of organizations to provide training designed to enhance the services provided to victims filing for compensation. These trainings are also used as an opportunity to solicit concerns, recommendations and barriers that are met by individuals who

¹ These budget figures relate to the Crime Victim's Compensation Fund, a special non-lapsing fund.

Regulatory Analysis Form

assist crime victims. These organizations included the following: Rape Crisis Centers, Domestic Violence Centers, Comprehensive Victim Services, Victim/Witness Coordinators, Mothers Against Drunk Driving, Coalition of Pennsylvania Crime Victim Organizations, Pennsylvania District Attorneys' Association, police officers, and service providers.

Additional solicitation of input has occurred through the distribution of newsletters, surveys, networking meetings and on-site visits. In addition, in a partnership between victim service professionals and PCCD, some 329 trainings have occurred since January of 2003, involving 6,749 participants. These trainings have provided an opportunity for feedback and have generated much discussion regarding the benefits addressed in this Schedule.

(23) Include a description of any alternative regulatory provisions which have been considered and rejected and a statement that the least burdensome acceptable alternative has been selected.

None considered.

(24) Are there any provisions that are more stringent than federal standards? If yes, identify the specific provisions and the compelling Pennsylvania interest that demands stronger regulations.

No.

(25) How does this regulation compare with those of other states? How will this affect Pennsylvania's ability to compete with other states?

The changes implemented in this regulation will bring Pennsylvania in line with the benefits that many other states provide to crime victims.

(26) Will the regulation affect any other regulations of the promulgating agency or other state agencies? If yes, explain and provide specific citations.

The Proposed Regulation, when approved as a Final Regulation, will amend the Crime Victims compensation Regulations set forth at 37 Pa. Code Chapter 411.

(27) Submit a statement of legal, accounting or consulting procedures and additional reporting, recordkeeping or other paperwork, including copies of forms or reports, which will be required for implementation of the regulation and an explanation of measures which have been taken to minimize

Regulatory Analysis Form

these requirements.

None.

(28) Please list any special provisions which have been developed to meet the particular needs of affected groups or persons including, but not limited to, minorities, elderly, small businesses, and farmers.

None.

**FACE SHEET
FOR FILING DOCUMENTS
WITH THE LEGISLATIVE REFERENCE BUREAU**

(Pursuant to Commonwealth Documents Law)

DO NOT WRITE IN THIS SPACE

Copy below is hereby approved as to form and legality. Attorney General

(DEPUTY ATTORNEY GENERAL)

DATE OF APPROVAL

Check if applicable
by not approved. Objections
scheduled.

Copy below is hereby certified to be a true and correct copy of a document issued, prescribed or promulgated by:
Pennsylvania Commission on Crime and Delinquency, Office of Victims' Services

(AGENCY)

DOCUMENT/FISCAL NOTE NO. 35 - 31

DATE OF ADOPTION: _____

BY: Michael J. He

TITLE: Executive Director
(EXECUTIVE OFFICER, CHAIRMAN OR SECRETARY)

Copy below is hereby approved as to form and legality. Executive or Independent Agencies.

BY: Andrew C. Clark

SEP 12 2009
DATE OF APPROVAL

(Deputy General Counsel)
(~~Chief Counsel, Independent Agency~~)
(Strike inapplicable title)

☐ Check if applicable. No Attorney General approval or objection within 30 days after submission.

Final Regulation

Pennsylvania Commission on Crime and Delinquency

Office of Victims' Services

Crime Victims Compensation

37 Pa. Code Chapter 411

Final Rulemaking
Title 37--LAW
COMMISSION ON CRIME AND
DELINQUENCY
OFFICE OF VICTIMS' SERVICES
Crime Victims Compensation
[37 PA. CODE CH. 411]

The Office of Victims' Services (OVS) of the Pennsylvania Commission on Crime and Delinquency (PCCD) amends §§ 411.1, 411.2, 411.17 and 411.42 to read as set forth in Annex A. This final form rulemaking has been submitted with no revisions to the proposed regulation.

Statutory Authority

This final form rulemaking is authorized under section 312 (3) of the Crime Victims Act (act) (18 P.S. § 11.312 (3))

Purpose of Chapter

Chapter 411 sets forth regulations governing the processing of crime victim compensation claims, providing for reimbursement to crime victims of crime related expenses when no other resources are available.

Purpose of the Final Form Rulemaking

The purpose of the final form rulemaking is to increase reimbursement to crime victims in accordance with rising costs, expand eligibility for reimbursement, and simplify claims processing procedures, while reducing the percentage that OVS may reimburse hospitals and other licensed health care providers to conform to the practice of other third party payors.

Summary of Amendments

Section 411.1 (relating to scope of the regulations) has been amended to establish the effective date for the amendments.

Section 411.2 (relating to definitions) has been amended to increase the number of days a victim has to relocate under the definition of “immediate need” from 30 days to 120 days.

Section 411.17 (relating to emergency awards) has been amended to increase the maximum compensation allowed for an emergency award from \$1,500 to \$5,000 per claim.

Section 411.42 (relating to out-of-pocket loss) has been amended as follows:

Section 411.42(b) has been amended to reduce the percentage of the usual and customary charge for services rendered that OVS may reimburse to providers from 70% to 65% and to set the effective date for this percentage change. This reduction conforms to the practice of other third-party payors. This section has also been amended to allow reimbursement to a victim who has been billed in error for a forensic rape exam. The reimbursement for a forensic rape exam billed in error will be subject to the \$1,000 monetary limit.

Section 411.42(c) has been amended to increase the total award for funeral expenses from \$5,000 to \$6,500 and eliminate caps on individual expenses. The elimination of individual caps will allow the claimant flexibility in submitting expenses and increase the reimbursement to claimant on individual expenses within the \$6,500 maximum award. This section is also amended to add the cost of an “urn” as an eligible funeral expense.

Section 411.42(f) has been amended to increase the total reimbursement amount from \$1,000 per crime incident per household to \$1,000 for each direct victim within the household, when immediate relocation is necessary as a result of the crime. Since there may be more than one direct victim of a crime, this amendment allows each direct victim to receive compensation up to \$1,000 per household.

Section 411.42(g) has been amended to include travel reimbursement associated with attendance or participation in court proceedings and other circumstances if good cause is shown and for attendance of funeral services. The addition of “good cause” allows OVS discretion if a travel expense is not specifically listed in the regulation, but the travel was necessary as a result of the crime.

Section 411.42(h) has been amended to include food, paint or other materials used to deface property as eligible for crime scene cleanup reimbursement.

Comments and Responses

Notice of the proposed rulemaking was published at 39 Pa.B. 2591 (May 23, 2009) with a thirty (30) day comment period. During the thirty (30) day comment period, comments were received from Alice Paul House in Indiana County and the Network of Victim Assistance in Bucks County.

Comment: Alice Paul House expressed that the \$100 minimum out of pocket loss requirement for filing a claim for compensation should be eliminated. Response: The \$100 minimum out of pocket loss requirement is a statutory requirement and cannot be addressed through regulations. Alice Paul House commented in support of the proposed amendments.

The Network of Victim Assistance commented in support of the proposed amendments.

The Committees had no objections, comments or recommendations on this regulation.

IRRC had no objections, comments or recommendations on this regulation.

Persons and Entities Affected

Victims of crimes, as defined in the act, will benefit from the increase in reimbursement for funeral expenses in keeping with current costs for services and allowing flexibility for reimbursement within the \$6,500 maximum award. The number of days, as defined in immediate need, expands the relocation timeframe, allowing victims sufficient time to relocate to become or remain safe.

Medical providers will be adversely affected because they will receive less reimbursement with the 65% rate. However, the 65% reimbursement rate conforms to the practice of other third-party payors.

Fiscal Impact

It is estimated that the recommended changes will aid 1,149 victims by increasing benefits that are available through victim's compensation. The fiscal impact to PCCD will consist of an estimated annual net savings of \$143,739. This calculation takes into account the estimated costs to PCCD from increased benefits of \$151,261 and savings to PCCD resulting from reducing the awards to medical providers from a 70 percent reimbursement rate to 65 percent on behalf of the victim (\$295,000).

Summary of Costs, Savings and Federal Reimbursements

Year One (2009/10) – It is estimated that implementation of this schedule will take place by December 1, 2009, therefore statistics are included for that part of state fiscal year 2009/10. As the average time from the date of a crime incident until the date a claim is filed is 92 days, or 3 months, the costs have been projected for four (4) months (March 1, 2010 to June 30, 2010). The savings from the reduction in the reimbursement rate for medical providers affects benefits for claims relating to services rendered on or immediately after the effective date of the regulation, therefore the savings have been projected for the entire seven (7) months (December 1, 2009 to June 30, 2010). Costs are estimated at \$126,051; savings are projected at \$172,083; or an overall savings of \$46,033.

Year Two (2010/11) – First full year of implementation. For this period, costs are projected at \$378,152 with savings estimated at \$295,000, or an overall cost of \$83,152.

Year Three (2011/12) – For this period, costs are projected at \$397,060 with savings estimated at \$309,750, or an overall cost of \$87,310.

VOCA Reimbursement - State victims compensation programs enjoy a 60 percent reimbursement that is eventually returned by the United States Department of Justice (DOJ) under the Victims of Crime Act (VOCA) funding stream for allowable benefits paid under the program. As all of the rates set by the Office pursuant to the Crime Victims Act are for benefits allowable under VOCA, the cost figures would need to be adjusted downward to reflect the 60 percent reimbursement that will be paid to PCCD by DOJ. Costs paid in 2009/10 will be reimbursed by VOCA in 2011/12; costs paid in 2010/11 will be reimbursed in 2012/13, and the like.

For year 1 (2009/10), the VOCA reimbursement will be \$75,630 resulting in an overall savings of \$121,663 ($\$126,051 @ 60\% = \$75,630$ reimbursement) which will be paid by the DOJ in 2011/12. Therefore, the real cost of the increased benefits will actually be a savings of \$121,663 ($\$46,033 + \text{DOJ VOCA reimbursement of } \$75,630 = \$121,663$).

For year two (2010/11), the VOCA reimbursement will be \$226,891 resulting in an overall cost savings of \$143,739 ($\$378,152 @ 60\% = \$226,891$ reimbursement) which will be paid by VOCA in 2012/13. Therefore, the real cost of the increased benefits will actually be a savings of \$143,739 ($\$83,152 + \text{DOJ VOCA reimbursement of } \$226,891 = \$143,739$).

For year three (2011/12), the VOCA reimbursement will be \$238,236 resulting in an overall cost savings of \$150,926 ($\$397,060 @ 60\% = \$238,236$ reimbursement) which will be paid by VOCA in 2013/14. Therefore, the real cost of the increased benefits will actually be a savings of \$150,926 ($\$87,310 + \text{DOJ VOCA reimbursement of } \$238,236 = \$150,926$).

Regulatory Review

On May 13, 2009, under section 5(a) of the Regulatory Review Act (71 P.S. § 745.5(a)), OVS submitted a copy of these proposed amendments, published at 39 Pa.B. 2591 (May 23, 2009), to the Independent Regulatory Review Commission (IRRC) and to the Chairpersons of the House and Senate Judiciary Committees (Committees). In addition to submitting the proposed amendments, OVS has provided IRRC and the committees with a copy of a detailed Regulatory Analysis Form.

In compliance with section 5(c) of the Regulatory Review Act (71 P.S. § 745.5(c)), IRRC and the Committees were provided with copies of the comments received during the public comment period. The public comments were supportive of the amendments. IRRC had no comments or objections to the amendments. The Committees provided no comments.

Under section 5.1(j.2) of the Regulatory Review Act (71 P.S. § 745.5a(j.2)), the final form rulemaking was deemed approved by the Committees on Under section 5.1(e) of the Regulatory Review Act, IRRC approved the final-form rulemaking on The Attorney General approved the final form rulemaking on

Effective Date

This final form rulemaking will become effective upon publication in the *Pennsylvania Bulletin*.

Sunset Date

No sunset date has been assigned. These regulations will be reviewed annually.

Contact Person

The contact person for additional information regarding this final form rulemaking is Lynn Shiner, Deputy Director, Office of Victims' Services at (717) 265-8736.

Findings

- (1) Public notice of the intention to adopt these regulations has been given under sections 201 and 202 of the act of July 31, 1968 (P.L. 769, No. 240) (45 P.S. §§1201 and 1202) and the regulations promulgated thereunder, 1 Pa. Code §§ 7.1 and 7.2.
- (2) A public comment period was provided as required by law and all comments were considered and forwarded to IRRC and the Senate and House Committees.

(3) No modifications to these regulations in response to comments received were necessary or made and therefore there is no enlargement of the purpose of the proposed regulation published at 39 Pa.B 2591.

(4) The adoption of this final-form rulemaking in the manner provided by this order is necessary and appropriate for administration and enforcement of the authorizing statute.

Order

The Commission, acting under the authorizing statutes, orders that:

(a) The Crime Victims Compensation regulations at 37 Pa. Code Chapter 411 is amended by amending §§ 411.1, 411.2, 411.17 and 411.42 to read as set forth in Annex A, with ellipses referring to the existing text of the regulations.

(b) The Commission shall submit this order and Annex A to the Office of General Counsel and the Office of Attorney General for approval as required by law.

(c) The Commission shall submit this order, Annex A and a Regulatory Analysis Form to IRRC, the House and the Senate Committees for their review and action as required by law.

(d) The Commission shall certify this order and Annex A and deposit them with the Legislative Reference Bureau as required by law.

(e) This order shall take effect immediately upon publication in the *Pennsylvania Bulletin*.

Michael J. Kane, Executive Director

Fiscal Note: 35 - 31

Annex A

TITLE 37. LAW

PART VI. COMMISSON ON CRIME AND DELINQUENCY

CHAPTER 411. OFFICE OF VICTIMS' SERVICES

CRIME VICTIMS COMPENSATION

§ 411.1 Scope

(a) Except as otherwise provided, this chapter applies to claims for compensation relating to ~~crimes~~ CRIME INJURIES occurring on or after August 27, 2002 _____.

§ 411.2 Definitions

(a) The following words and terms, when used in this chapter, have the following meanings, unless the context clearly indicates otherwise:

* * * * *

Immediate need - ~~Thirty~~ ONE HUNDRED AND TWENTY days from the date of the crime or 30 120 days from the date the victim is threatened by any change of circumstance or indicator of danger and a move or relocation is necessary to become or remain safe.

* * * * *

§ 411.17. Emergency Awards

* * * * *

(c) The total amount of an emergency award will not exceed ~~\$1,500~~ \$5,000 per claim.

* * * * *

(e) OVS may reconsider an emergency award as a determination and may increase previous awards for emergency compensation up to ~~\$1,500~~ \$5,000 per claim.

**SCHEDULE OF REIMBURSEMENT RATES AND
COMPENSATION LIMITS**

§ 411.42. Out-of-pocket loss.

* * * * *

(b) *Medical expenses.* The following provisions for payment of medical expenses apply:

(1) OVS will pay a hospital or other licensed health care provider at the rate of ~~70%~~ 65% of the usual and customary charge for the service rendered.

(2) THIS RATE WILL APPLY TO ANY BILL FOR SERVICES INCURRED ON OR AFTER _____.

(3) Forensic rape examinations.

* * * * *

(iv) OVS WILL REIMBURSE A DIRECT VICTIM WHO IS ERRONEOUSLY BILLED AND SUBSEQUENTLY PAYS THE COST OF THE FORENSIC RAPE EXAMINATION OR MEDICATIONS DIRECTLY RELATED TO THE SEXUAL OFFENSE. THE REIMBURSEMENT WILL BE SUBJECT TO THE \$1,000 MONETARY LIMITATION.

(c) *Funeral expenses.* Except as otherwise set forth in this subsection, OVS will reimburse for expenses relating to a funeral of a direct victim or intervenor. The total reimbursement amount for funeral expenses will not exceed ~~\$5,000~~ \$6,500. ~~Additionally, within that \$5,000 monetary limitation, reimbursement will be subject to the following limitations:~~

~~(1) Four thousand eight hundred dollars for funeral services, including the following:~~ FUNERAL EXPENSES TO BE REIMBURSED ARE AS FOLLOWS:

* * * * *

(x) Casket OR URN.

(xi) Minister, pastor, rabbi or other members of the clergy.

(xii) MONUMENT

(XIII) FLORAL ARRANGEMENTS

(XIV) FUNERAL OR MEMORIAL MEAL

(XV) CLOTHING PURCHASED FOR THE DECEASED FOR THE FUNERAL OR INTERMENT

(XVI) Other miscellaneous expenses, including organist, programs, death certificates, obituary notice and notice of the time and place of the funeral or burial services.

~~—(2) Nine hundred dollars for a monument.~~

~~—(3) Three hundred dollars for floral arrangements.~~

~~—(4) Three hundred dollars for funeral or memorial meal.~~

~~—(5) One hundred and seventy-five dollars for clothing purchased for the deceased for the funeral or interment.~~

* * * * *

(f) *Relocation expenses.* OVS will reimburse for expenses incurred by the temporary or permanent relocation of a direct victim and individuals residing in the direct victim's household when immediate relocation is necessary to protect their health and safety. This reimbursement will not exceed \$1,000 per household for each ~~crime incident~~ DIRECT VICTIM for the following:

* * * * *

(g) *Travel expenses.* OVS will reimburse expenses associated with travel necessary and reasonable as determined by OVS to obtain medical care or counseling ~~and in~~, ATTEND OR PARTICIPATE IN CRIMINAL JUSTICE OR PROTECTION FROM ABUSE PROCEEDINGS, AND OTHER CIRCUMSTANCES WHEN GOOD CAUSE IS SHOWN BY THE CLAIMANT. ~~in~~ IN the case of an injury that results in death, for travel in connection with making the funeral arrangements ~~and~~, transport of the body AND ATTENDANCE OF FUNERAL SERVICES as follows:

* * * * *

(10) In the case of an injury that results in death, for travel in connection with the transport of the body ~~and~~, making funeral arrangements AND ATTENDING THE FUNERAL SERVICES not to exceed 5 days.

(h) *Crime scene clean up.* The cost of cleaning the crime scene of a private residence up to a maximum of \$500.

* * * * *

(3) Cleaning means to remove or attempt to remove blood and stains caused by other bodily fluids, FOOD, PAINT OR OTHER MATERIALS USED TO DEFACE

PROPERTY as a direct result of the crime or other dirt or debris caused by the processing of the crime scene.

* * * * *



pennsylvania
**COMMISSION ON CRIME
AND DELINQUENCY**

3101 North Front Street
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Toll-Free in PA: (800) 692-7292
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EXECUTIVE OFFICE

From: Michael J. Kane, Esq.

To: Wanda Gelnett

Agency: IRRC

Fax: () 783-2664

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Comments:

FAX confirmation sheets for delivery of list of commentators for Final Reg 35-31
PCCD, Crime Victims Compensation

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Honorable Daylin Leach and Hon. Arthur Coccodrillo, IRRC Chair

Agency: House and Senate Judiciary and IRRC

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**Pennsylvania Commission on Crime and Delinquency
Office of Victims' Services
Final Regulations 35-31**

Commentators

- 1. Leslie G. Slingsby, Director of Victim Services, Network of Victim Assistance
2370 York Road
Jamison, PA 18929**
- 2. Mary Valenzano, Victim Advocate, Alice Paul House (724) 349-4444**



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VICTIMS COMP

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P. 1

NO. 0326 P. 3/5

VICTIMS COMP

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37 Pa. Code Chapter 411, Crime Victims Compensation Document Number 35-31



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VICTIMS COMP

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Commentator list for Final Reg 35-31 PCCD, Crime Victims Compensation

Date: 9/18/09



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Office of Victims' Services
Final Regulations 35-31**

Commentators

- 1. Leslie G. Slingsby, Director of Victim Services, Network of Victim Assistance
2370 York Road
Jamison, PA 18929**
- 2. Mary Valenzano, Victim Advocate, Alice Paul House (724) 349-4444**

Commonwealth of Pennsylvania



PENNSYLVANIA COMMISSION ON CRIME AND DELINQUENCY

Walter M. Phillips, Jr., Esq.
Chairman

September 18, 2009

Michael J. Kane, Esq.
Executive Director

Honorable Arthur Coccodrilli
Chairman
Independent Regulatory Review Commission
333 Market Street – 14th Floor
Harrisburg, PA 17101

RE: Final Regulation
Pennsylvania Commission on Crime and Delinquency
Office of Victims' Services
37 Pa. Code Chapter 411
Crime Victims Compensation
Document No.: 35-31

Dear Chairman Coccodrilli:

Enclosed is a copy of a Final Regulation package of the Office of Victims' Services of the Pennsylvania Commission on Crime and Delinquency.

Our Chief Counsel, Steven Turner, will be pleased to provide whatever information that you and your staff may require during the course of its review of the rulemaking.

Very truly yours,

A handwritten signature in black ink, appearing to read "Michael Kane".

Michael J. Kane, Esq.
Executive Director

Enclosures

cc: Walter M. Phillips, Jr., Esq.
Chair, Pennsylvania Commission on
Crime and Delinquency

Ms. B.J. Horn
Director, Office of Victims' Services

Steven V. Turner, Esq.
PCCD Chief Counsel

P.O. Box 1167, Harrisburg, PA 17108-1167
Toll Free: (800) 692-7292
Web Site: www.pccd.state.pa.us

**TRANSMITTAL SHEET FOR REGULATIONS SUBJECT TO THE
REGULATORY REVIEW ACT**

I.D. NUMBER: 35-31

SUBJECT: CRIME VICTIMS COMPENSATION

AGENCY: PENNSYLVANIA COMMISSION ON CRIME & DELINQUENCY
OFFICE OF VICTIMS' SERVICES

TYPE OF REGULATION

Proposed Regulation

X Final Regulation

Final Regulation with Notice of Proposed Rulemaking Omitted

120-day Emergency Certification of the Attorney General

120-day Emergency Certification of the Governor

Delivery of Tolled Regulation

a. With Revisions

b.

Without Revisions

FILING OF REGULATION

DATE SIGNATURE

DESIGNATION

9/18/09 *Michelle Morri*

HOUSE COMMITTEE ON JUDICIARY

9/18/09 *D. P.*

Majority Chairman Thomas R. Caltagirone

9/16/09 *Stewart*

SENATE COMMITTEE ON JUDICIARY

9-18-09 *Stewart J. Greenleaf*

Majority Chairman Stewart J. Greenleaf

9-18-09 *Fiona C. Welmark*

INDEPENDENT REGULATORY REVIEW COMMISSION

ATTORNEY GENERAL

LEGISLATIVE REFERENCE BUREAU

September 16, 2009