

1. In the case of death claims, emergency payments may be made on behalf of the claimant directly to the provider of funeral services where undue hardship as determined by the Board can be shown and eligibility of the claim proven.

(b) The claimant has the burden of showing the need for such emergency awards and must do so by the preponderance of the credible evidence. The Board shall consider all relevant factors in making its determination.

(c) The maximum amount of any one emergency award shall not exceed \$500.00, however, the total amount of emergency funds awarded to an individual claimant shall not exceed \$1,500.00.

(d) Any emergency awards made to a claimant shall be deducted from the final amount of compensation awarded to said claimant. Where, however, the final amount is less than the sum of the emergency awards provided, or where the Board determines that an applicant shall receive no compensation, the claimant shall return to the Board an amount of money equal to the difference or repay the full amount of said awards.

(e) For incidents occurring on or after June 26, 1995, and whether or not the victim suffered personal injury, the Board may make an emergency award in an amount not to exceed \$200.00 for compensation for funds stolen directly from the person of the victim except in the case of a burglary, N.J.S.A. 52:4B-11(b)(ii), wherein no such award shall be made. The victim shall comply with the following prerequisites in order to be eligible to receive an emergency award under this subsection:

1. The victim is over 60 years of age or disabled as defined pursuant to the Federal Social Security Act, 42 U.S.C. § 416(i);
2. The victim's income in excess of Social Security benefits does not exceed the limits adopted by the State Department of Human Services as the standard of need for the General Assistance Program;
3. The funds stolen exceed \$50.00;
4. The victim has filed a police report indicating the amount of money stolen;
5. The victim has cooperated with investigative and prosecutorial authorities;
6. The victim has identified the source of the funds stolen;
7. The Board is satisfied that there are no other sources available to provide the victim with funds necessary to cover immediate costs of essential shelter, food or medical expenses;
8. The victim is the innocent victim of any one offense enumerated in N.J.S.A. 52:4B-11 except burglary; and

9. A victim shall not receive an emergency award pursuant to this section for no more than two separate incidents of crime victimization, nor receive more than one such award within a period of 36 consecutive months.

(f) Any such emergency award made by the Board shall be included in the final amount of compensation within the statutory maximum as set forth in these rules.

Amended by R.1996 d.77, effective February 5, 1996.
See: 27 N.J.R. 4134(b), 28 N.J.R. 888(b).

Added (e) and (f).
Amended by R.1998 d.228, effective May 4, 1998.
See: 30 N.J.R. 795(a), 30 N.J.R. 1619(b).

Inserted a new (a)1.

13:75-1.26 Subrogation

(a) If compensation is awarded to a claimant, the Board is subrogated to any cause of action claimant might have against the person or persons responsible for such personal injury or death and shall be entitled to bring an action against the same for the amount of the damage sustained by the claimant.

1. The Board may exercise its right only to the extent that compensation has been awarded by the Board.
2. Where the Board at its own discretion commences an action against the person or persons responsible for the victims injuries to recover monies compensated to a claimant, the claimant shall cooperate fully with the Board in pursuit of its action including, but not limited to, joining as a party to said action.

(b) As a prerequisite to bringing a collateral action to recover damages relating to criminally injurious conduct, for which compensation is also being claimed or has been awarded by the Board, the claimant shall give the Board prior written notice of the proposed action. After receiving the notice, the Board may at its discretion:

1. Join in the action as a party plaintiff to recover the compensation it has awarded; or
2. Require the claimant to execute an assignment to the Board for the amount of compensation it has awarded; or
3. Reserve its rights until such time as the action has been completed; or
4. Waive by Board resolution its rights under this section.

(c) Where the claimant brings the collateral action and recovers monies which the Board seeks as reimbursement for compensation awarded claimant by the Board, claimant may deduct from compensation recovered in behalf of the Board a pro rata share of claimant's attorney fees in the collateral action.

(d) Where there are proceeds or recovery from any collateral action or claim within N.J.A.C. 13:75-1.19(b)9, the

Board shall exercise its subrogation only as to claimant's net proceeds so recovered that are in excess of \$1,000.00.

13:75-1.27 Counseling Fees

(a) For all incidents occurring after July 1, 1991 and for services performed after July 1, 1991 on claims filed prior to July 1, 1991, the Board will pay out-of-pocket unreimbursable counseling and therapy expenses for each of the listed category of providers not to exceed the following amounts:

1. Psychiatrist \$150.00 per hourly session
2. Unlicensed Mental Health Practitioner practicing in compliance with N.J.S.A. 45:14B-6 (Psy.D., Ph.D., Ed.D.) \$110.00 per hourly session
3. State Licensed Psychologist . . \$110.00 per hourly session
4. A.C.S.W. \$ 90.00 per hourly session
5. Licensed Marriage and Family Therapist \$ 90.00 per hourly session
6. M.S.W. \$ 80.00 per hourly session
7. M.A. (jurisdictions other than New Jersey or in New Jersey practicing in compliance with N.J.S.A. 45:14B-6) \$ 80.00 per hourly session

(b) For counseling disciplines not covered by the fee schedule in (a) above, and covered by N.J.S.A. 45:14B-8 and N.J.A.C. 13:42-5.1, the Board may, within its discretion pursuant to N.J.S.A. 52:4B-9, set an amount which shall not exceed \$90.00 per hourly session.

(c) Except as provided by N.J.A.C. 13:75-1.32 for cases determined to be catastrophic in nature, and notwithstanding (a) and (b) above, in the case of residential counseling services, the Board shall approve no more than one such period of counseling not exceeding 30 days in length and shall limit reimbursement to no more than 50 percent of the total cost of the service. Subsequent residential treatments shall not be compensated by the Board.

(d) Except as provided by N.J.A.C. 13:75-1.32 for cases determined to be catastrophic in nature, the Board shall award no compensation for out-of-pocket, unreimbursed or unreimbursable psychological counseling expenses related to the incident for an amount greater than \$10,000 for any eligible direct crime victim. However, the Board may authorize up to 100 counseling sessions for any direct victim on a case-by-case basis as determined by all the relevant evidence submitted for its consideration, notwithstanding the fact that the total cost of said 100 sessions exceed \$10,000. Secondary victim and group family therapy may be compensated in addition as provided by N.J.A.C. 13:75-1.28.

1. In a case of criminal homicide, for incidents occurring after July 17, 2000 and for purposes of compensation for related psychological injury solely, direct victims shall include spouse, parent, legal guardian, grandparent, child or sibling of the decedent. Psychological counseling for which the Board may reimburse any group of direct victims in an individual claim shall not exceed the statutory maximum permitted pursuant to N.J.A.C. 13:75-1.7(g).

i. In assessing the eligibility of direct victims, the Board shall be guided by N.J.S.A. 52:4B-10 and 18 and N.J.A.C. 13:75-1.6(d).

2. Where the incident occurred prior to September 1, 1997, and where the Board has approved and awarded compensation for more than 100 sessions pursuant to provisions of these rules which existed and were applicable prior to September 1, 1997, the Board may authorize additional counseling sessions. Unless the maximum statutory award permitted, as set forth in N.J.S.A. 52:4B-18(g) and N.J.A.C. 13:75-1.7(g), has been reached, compensation for the sessions so authorized on or after July 1, 1999 shall not exceed \$5,000 in the aggregate. The Board may authorize up to 50 additional counseling sessions notwithstanding the fact that the total cost of said additional sessions exceeds \$5,000.

3. Where a victim may be eligible for more than 100 sessions pursuant to provisions of these rules which existed and were applicable prior to September 1, 1997, but less than 100 sessions had been authorized prior to July 1, 1999, the Board may authorize additional counseling sessions beyond 100 sessions pursuant to (d)1i above.

(e) The term sessions as used in this section means a one hour session and includes individual, group or family therapy and the presence of a counselor in a legal proceeding as determined by the Board to be necessary for the emotional support of the direct victim, claimant or secondary victim. No award of compensation shall be made for an appearance or presence required to assist in prosecution of the offender or in a proceeding to prosecute a collateral legal right.

New Rule, R.1991 d.332, effective July 1, 1991.

See: 23 N.J.R. 167(b), 23 N.J.R. 2023(c).

Amended by R.1991 d.492, effective October 7, 1991.

See: 23 N.J.R. 2269(b), 23 N.J.R. 3034(b).

Added (c), (d), (e).

Amended by R.1995 d.210, effective April 17, 1995.

See: 27 N.J.R. 467(a), 27 N.J.R. 1643(a).

Amended by R.1997 d.309, effective August 4, 1997.

See: 29 N.J.R. 1482(a), 29 N.J.R. 3458(c).

Substantially amended (d); and deleted (d)1 and 2.

Amended by R.2000 d.3, effective January 3, 2000.

See: 31 N.J.R. 3226(a), 32 N.J.R. 61(a).

In (c) and (d), added exceptions relating to N.J.A.C. 13:75-1.32.

Amended by R.2000 d.295, effective July 17, 2000.

See: 32 N.J.R. 782(a), 32 N.J.R. 2596(a).

In (d), added 1 through 3.

13:75-1.28 Secondary victim eligibility

(a) Subject to the definition of direct victim as provided in N.J.A.C. 13:75-1.27(d)1, a secondary victim means anyone who has sustained an injury or pecuniary loss as a direct result of a crime committed upon any member of said secondary victim's family or upon any person in close relationship to such secondary victim as the terms are, hereinafter, defined.