

**CHAPTER 75**

**RULES RELATING TO PRACTICE AND PROCEDURE BEFORE THE NEW JERSEY VICTIMS OF CRIME COMPENSATION BOARD**

**Authority**

N.J.S.A. 52:4B-9.

**Source and Effective Date**

R.1994 d.364, effective July 5, 1994.  
See: 26 N.J.R. 1491(a), 26 N.J.R. 2805(b).

**Executive Order No. 66(1978) Expiration Date**

Chapter 75, Rules Relating to Practice and Procedure before the New Jersey Victims of Crime Compensation Board, expires on July 5, 1999.

**Chapter Historical Note**

Chapter 75 Violent Crimes and Compensation Board was filed and became effective December 21, 1972 as R.1972 d.261. See: 4 N.J.R. 277(a), 5 N.J.R. 53(a). Sections 21 and 22 were filed and became effective May 23, 1973 as R.1973 d.137. See: 5 N.J.R. 119(a), 5 N.J.R. 195(c). It was repealed and a new chapter adopted as R.1984 d.342.

Chapter 75, Rules Relating to Practice and Procedure before the New Jersey Violent Crimes Compensation Board, was filed and became effective December 21, 1972, as R.1972 d.261. See: 4 N.J.R. 277(a), 5 N.J.R. 53(a). Amendments were filed and became effective May 23, 1973 as R.1973 d.137. See: 5 N.J.R. 119(a), 5 N.J.R. 195(c). Chapter 75 was repealed and new rules were adopted as R.1984 d.342. Pursuant to Executive Order No. 66(1978), Chapter 75 was readopted as R.1989 d.340, effective June 5, 1989. See: 21 N.J.R. 881(b), 21 N.J.R. 1832(b).

Pursuant to Executive Order No. 66(1978), Chapter 75 expired on June 5, 1994, and subsequently was adopted as new rules by R.1994 d.364. Chapter 75 was renamed as "Rules Relating to Practice and Procedure before the New Jersey Victims of Crime Compensation Board" by an administrative change, effective November 6, 1995. See: 27 N.J.R. 4441(a). See: Source and Effective Date. See, also, section annotations.

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**SUBCHAPTER 1. PRACTICE AND PROCEDURE**

**Authority**

N.J.S.A. 52:4B-9.

**Source and Effective Date**

R.1984 d.342, effective August 20, 1984.  
See: 16 N.J.R. 846(a), 16 N.J.R. 2291(a).

**13:75-1.1 Scope of rules**

The following rules shall constitute the practice to be followed in all proceedings before the Victims of Crime Compensation Board.

Administrative change.  
See: 27 N.J.R. 4441(a).

Changed the name of the board.

**13:75-1.2 Liberal construction of provisions**

These rules shall be liberally construed by the Board to permit it to discharge its statutory function and secure equitable determinations in all matters before the Board.

**13:75-1.3 Practice where rules do not govern**

The Board may rescind, amend or expand these rules from time to time, provided the same is effected in accordance with the provisions of the New Jersey Administrative Procedure Act, and N.J.S.A. 52:4B-1 et seq. In any manner not expressly governed by these rules or by statute, the Board shall exercise its discretion.

**13:75-1.4 Definitions**

The definitions set forth in N.J.S.A. 52:4B-2 are hereby adopted by this Board and incorporated by reference in these rules.

**13:75-1.5 Filing of claims**

(a) For claim applications submitted prior to November 30, 1981, all claims must have been filed within one year of the date of the incident upon which the claim is based. For claim applications submitted on or after November 30, 1981,

all claims must be filed within two years after the date of the incident upon which the claim is based or, if after that date, upon determination by the Board that good cause exists for the delayed filing.

(b) The incident must have been reported to the police within three months of its occurrence.

(c) All claims must be filed on official forms which include an authorization for securing medical and other necessary records and a subrogation agreement. Having been completed and notarized, these should be forwarded to the office of the New Jersey Victims of Crime Compensation Board at either 50 Park Place, Newark, New Jersey 07102 or 194 West State Street, CN 084, Trenton, New Jersey 08625, either in person or by mail. The official forms may be obtained by requesting them at the stated addresses or pursuant to the provisions of N.J.S.A. 52:4B-22. All forms should be returned within 30 days of the date original notification is given this office.

(d) If a claim is made by a minor, as defined under New Jersey law, the forms shall be signed by his parent or guardian unless New Jersey statutory provisions require otherwise. If a claim is made by a person who is mentally incompetent, the forms shall be signed by his guardian or such other individual who is authorized to administer his estate.

(e) At the time of filing the claim, the Board's Counseling Unit shall provide to the victim, counseling referral services as provided by N.J.S.A. 52:4B-25.

Amended by R.1985 d.630, effective December 16, 1985.

See: 17 N.J.R. 2010(b), 17 N.J.R. 2998(a).

(a) substantially amended.

Amended by R.1995 d.216, effective May 1, 1995.

See: 27 N.J.R. 307(a), 27 N.J.R. 1808(a).

Administrative change.

See: 27 N.J.R. 4441(a).

Changed the name of the board.

Administrative change.

See: 29 N.J.R. 150(a).

In (c), amended address.

#### Case Notes

One year limit for filing a compensation claim, as a substantive limitation period, may be tolled in a particular set of circumstances if the legislative purpose underlying the statutory scheme will thereby be effectuated; claim not barred. *White v. Violent Crimes Compensation Bd.*, 76 N.J. 368, 388 A.2d 206 (1978).

#### 13:75-1.6 Eligibility of claims

(a) The Board shall make an award solely to eligible victims of violent crimes as said crimes are defined by N.J.S.A. 52:4B-11:

(b) In instances where the victim of the crime has died as a direct result thereof, the Board may award compensation to the following persons:

1. A surviving spouse, parent, or child of the deceased victim who has suffered economic loss;

2. Any relative of the deceased victim as defined in N.J.S.A. 52:4B-2 who was dependent upon the victim for support, or any person who has cohabitated with the victim/decedent and who can establish by a preponderance of evidence that a dependency existed at the time of death of the victim. In examining the issue of loss of support as it relates to this paragraph, the Board shall consider any factor it deems relevant;

3. The relative, estate of, or other natural persons who have demonstrated out-of-pocket unreimbursed and unreimbursable medical and funeral expenses for which they have become responsible on behalf of the decedent due to the incident upon which the claim is based.

(c) Any claimant who is held by the Board to be responsible for the crime upon which a claim is based, or is held to have been an accomplice or conspirator of the offender is not eligible for compensation. For incidents occurring after March 3, 1983 and continuing through July 17, 1990, a relative of the offender or a victim living with the offender as a member of the offender's family relationship group may recover; if subsequent to the incident giving rise to the claim, the claimant no longer resides in the same household as the offender and the claimant cooperated in the prosecution of the offender.

1. For incidents and injuries occurring on or after July 17, 1990, the Board will apply the same standards that are applied to claims filed by victims of other violent crimes regardless of the familial relationship of the offender and the victim or the fact that they share a residence. However, no award will be made if compensation to the victim proves to be substantial unjust enrichment to the offender. Where the enrichment is inconsequential or minimal, compensation shall not be denied nor reduced. The factors to be considered in determining whether the unjust enrichment is substantial include, but are not limited to:

i. The amount of the award and whether it is made directly to the victim;

ii. Whether the offender has access to any cash payments coming into the household on behalf of the victim;

iii. Whether the award is essential to the well-being of the victim and other innocent and dependent family members;

iv. The amount of living expenses paid by the offender before and during the pendency of the claim;

v. If a significant portion of the award will be used directly by the offender for living expenses;

vi. The legal responsibilities of the offender to the victim;

**13:75-1.17 Publication of claims**

The Board, from time to time, may publish the record of claims and, at its discretion may divulge names of the claimants or other interested parties pursuant to the laws of the State governing disclosure of public records and the right to privacy.

**13:75-1.18 Availability of forms and rules**

The Board shall prepare and furnish, free of cost, and shall have available on request at the Board's offices, such forms and rules as the Board determines necessary to fulfill its statutory function. Such forms shall include, but not be limited to, claim petitions, emergency award applications, medical report and earnings record authorization, counseling services request, and subrogation agreements.

**13:75-1.19 Moneys received from other sources**

(a) In determining the amount of compensation to be awarded, the Board shall take into consideration amounts received or receivable from other "source or sources" by the victim or his dependents as a result of the offense or occurrence giving rise to the application.

(b) "Source or sources" means a source of benefits or advantages which the claimant has received in lieu of economic loss or which is readily available to the claimant from, but not limited to:

1. The offender;
2. The government of the United States or any agency thereof, the State or any of its political subdivisions, or an instrumentality of two or more states;
3. Social Security, Medicare, and Medicaid;
4. State required temporary non-occupational disability insurance;
5. Worker's Compensation;
6. Wage continuation programs of any employer;
7. Proceeds of a contract of insurance payable to the victim for loss which he sustained because of the criminal-injurious conduct;
8. A contract providing prepaid hospital and other health care services or benefits for disability; or
9. The net amount received by the victim or claimant in excess of \$1,000 in the case of any related civil suit for damages and all proceeds or recovery to the victim or claimant from any collateral action or claim based upon or arising out of the circumstances giving rise to claimant's petition before the Board.
  - i. Even though there exists a judgment, verdict, settlement, adjudication or any other resolution in and/or of a collateral action or claim which indicates, defines or specifies that the proceeds or damages, or any other legal or economic loss classification or remedy, repre-

sent an item of loss which the Board does not compensate, such as pain and suffering and property damage, the Board, within its discretion, may consider said proceeds in defining money received from other sources.

Amended by R.1993 d.74, effective February 16, 1993.

See: 24 N.J.R. 4239(a), 25 N.J.R. 710(a).

Revised (b)9.

Amended by R.1997 d.308, effective August 4, 1997.

See: 29 N.J.R. 1481(b), 29 N.J.R. 3458(b).

In (b)9i, amended to clarify what may be considered as money from other sources.

**13:75-1.20 Validity of rules if any portion declared invalid**

If any portion of these rules, or the application thereof, shall be adjudged or declared to be invalid, or inoperative, or if by statutory amendment any rules shall lose its force and effect, such judgment or amendment shall not affect, impair or void the remainder of these rules.

**13:75-1.21 Loss of earnings or support**

Amounts awarded by the Board as weekly compensation for unreimbursable or unreimbursed losses in earnings or support shall not exceed the maximum prevailing weekly benefit payable under Worker's Compensation schedules in effect in this State at the time of the injury for those incidents which occurred between the effective date of the Criminal Injuries Compensation Act of 1971 and December 31, 1982. For injuries arising from incidents which occur upon or after January 1, 1983, the weekly rate shall be fixed by the Board pursuant to N.J.S.A. 52:4B-9.

**13:75-1.22 Domestic help**

(a) The reimbursement for expenses arising out of the hiring of domestic help to care for a minor child or for an adult who may or may not be the victims of the crime alleged in claimant's application, but who, nevertheless, are in need of such service and/or assistance as a direct result of said crime, shall be set by the Board.

(b) The Board shall make a determination in each case as to a reasonable period of time for the employment of domestic help, however, the maximum reimbursement for said period shall be \$30.00 per day except that the total amount of such reimbursement shall not exceed \$100.00 per week.

**13:75-1.23 (Reserved)**

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

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

Former title "Lost member schedule."

**13:75-1.24 Transportation costs**

(a) Maximum reimbursement for transportation expenses incurred as a direct result of the incident giving rise to the claim shall not exceed \$10.00 a day and shall include, but not be limited to, visits to treating physicians, health and care facilities, and substitute travel costs other than ambu-

lance or ambulatory mobile care services secondary to securing medically related services incurred due to a criminally-induced physical incapacity for which an eligible claim has been filed with the Board. All nonmedically related transportation costs are excluded other than attendance at court proceedings for purposes of prosecuting the alleged offender. However, reimbursement for the purpose of this section does not include the costs arising pursuant to N.J.A.C. 13:75-1.13.

1. The cost of transportation other than by medical transport, for the purposes of securing compensation from the Board, is excluded. Reimbursement for transportation costs pursuant to (a) above shall be at the rate of 20 cents per mile up to the maximum daily of \$10.00 a day.

2. Necessary and reasonable transportation expenses incurred, such as railroad and airline fare which are a direct result of the incident and incidental to treating and caring for the victim, and for attendance at a victim's funeral, may be reimbursed to claimant or to victim's relatives as defined by N.J.S.A. 52:4B-2 at a maximum of \$200.00 per person and not to exceed \$1,000 in total.

Amended by R.1991 d.514, effective October 21, 1991.

See: 23 N.J.R. 2482(a), 23 N.J.R. 3170(b).

In (a)1, added "and for attendance at victim's funeral" and "at a maximum of \$200.00 per person and not to exceed \$1,000 in total."

Amended by R.1997 d.503, effective December 1, 1997.

See: 29 N.J.R. 4074(a), 29 N.J.R. 5074(a).

Rewrote (a); inserted new (a)1; and recodified existing (a)1 as (a)2.

### 13:75-1.25 Emergency award

(a) The Board may grant an emergency award where such grants could help prevent financial hardship or stress which might not otherwise arise, forcing persons, among other things, to go on welfare or be evicted from their homes because of inability to make rent or other payments while at the same time paying medical expenses, or where a person cannot maintain a reasonable level of health, safety and education for himself or his dependents.

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.