

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.2004 d.438, effective December 6, 2004.
See: 36 N.J.R. 2585(a), 36 N.J.R. 5367(a).

Chapter Expiration Date

In accordance with N.J.S.A. 52:14B-5.1c, Chapter 75, Rules Relating to Practice and Procedure before the New Jersey Victims of Crime Compensation Board, expires on June 4, 2010. See: 42 N.J.R. 46(a).

Chapter Historical Note

Chapter 75, Rules Relating to Practice and Procedure before the New Jersey Violent Crimes Compensation Board, was adopted as R.1972 d.261, effective December 21, 1972. See: 4 N.J.R. 277(a), 5 N.J.R. 53(a).

Chapter 75, Rules Relating to Practice and Procedure before the New Jersey Violent Crimes Compensation Board, was repealed and Chapter 75, Rules Relating to Practice and Procedure before the New Jersey Violent Crimes Compensation Board, was adopted as new rules by R.1984 d.342, effective August 20, 1984. See: 16 N.J.R. 846(a), 16 N.J.R. 2291(a).

Pursuant to Executive Order No. 66(1978), Chapter 75, Rules Relating to Practice and Procedure before the New Jersey Violent Crimes Compensation Board, 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.

Chapter 75, Rules Relating to Practice and Procedure before the New Jersey Violent Crimes Compensation Board, was adopted as new rules by R.1994 d.364, effective July 5, 1994. See: 26 N.J.R. 1491(a), 26 N.J.R. 2805(b).

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).

Pursuant to Executive Order No. 66(1978), Chapter 75, Rules Relating to Practice and Procedure before the New Jersey Victims of Crime Compensation Board, was readopted as R.1999 d.157, effective April 21, 1999. See: 31 N.J.R. 739(b), 31 N.J.R. 1360(c). Chapter 75 expired on October 18, 2004.

Chapter 75, Rules Relating to Practice and Procedure before New Jersey Victims of Crime Compensation Board, was readopted as new rules by R.2004 d.438, effective December 6, 2004. See: Source and Effective Date.

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SUBCHAPTER 1. PRACTICE AND PROCEDURE

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.

Case Notes

In a declaratory judgment action brought by a crime victim against the State of New Jersey, two agencies that processed restitution payments, and its directors, the system of paying restitution on a first-in-time, rather than automatic pro-rata basis, was upheld as valid. The trial court properly dismissed the victim's complaint, rejecting his multi-faceted challenge, finding the method of distribution violated neither his substantive due process nor equal protection rights under the federal and New Jersey constitutions; nor his State constitutional rights under the Victims Rights Amendment, N.J. Const. art. I, para. 22; nor his statutory rights under New Jersey's Crime Victim's Bill of Rights, N.J.S.A. 52:4B-34 to -70; nor the Civil Rights Act, N.J.S.A. 10:6-1 to -2. *Felicioni v. Administrative Office of the Courts*, 404 N.J. Super. 382, 961 A.2d 1207, 2008 N.J. Super. LEXIS 263 (App.Div. 2008).

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 or the date from which the claimant had knowledge or reason to believe that a crime had occurred.

(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, 5th floor, Newark, New Jersey 07102 or 225 State Street, Trenton, New Jersey 08625, either in person or by mail. The official forms may be obtained by requesting them at the stated addresses, pursuant to the provisions of N.J.S.A. 52:4B-22 or through the Board's official Internet website at <http://www.state.nj.us/victims> and email address, njvictims@yahoo.com. 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 Victims Counseling Service 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.

Amended by R.2001 d.331, effective September 17, 2001.

See: 33 N.J.R. 1498(a), 33 N.J.R. 3339(a).

Rewrote (b); in (c), amended the address in the second and rewrote the third sentence; in (e), substituted "Board's Victims Counseling Service" for "Board's Counseling Unit".

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) For all incidents occurring on or after January 1, 1999, the Board may award compensation for loss of support to any victim or claimant who can establish by a preponderance of the evidence that, at the time of the incident, a dependency existed, upon the income or other economic contributions of the victim's assailant or offender, and which is no longer available to or accessible by the victim.

1. In computing the loss of support of the victim or claimant dependent, the Board shall only consider the assailant/offender's earnings and/or the amount of money or economic contributions the assailant/offender was actually contributing to the victim and victim's household at the time of the injury of the victim.

2. Where the dependents have received or are receiving a greater sum of money from other sources by reason of the incident giving rise to the claim for compensation than

the sum contributed to their support by the assailant/offender at the time of incident, no compensation for loss of support shall be awarded to the dependents.

3. The Board, however, reserves the right to review its determination should the victim's dependency, marital or earning status be altered, and to modify its award accordingly.

4. Where a dependency upon the assailant/offender has been established, loss of support may be compensated only:

- i. For a period not to exceed 48 months;