

**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 It was repealed and a new chapter adopted as R.1984 d.342.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 Chapter 75 was repealed and new rules were adopted as R.1984 d.342.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 60 Park Place, Suite 1010, 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.

#### 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;