

CHAPTER 94-03-03
APPLICATION FOR COMPENSATION

Section

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94-03-03-01. Reporting criminally injurious conduct to law enforcement.

1. The division may not award compensation unless the criminally injurious conduct resulting in economic loss was reported to a law enforcement officer within ninety-six hours after its occurrence.
2. The division may find there was good cause for failure to report criminally injurious conduct to law enforcement within ninety-six hours. Good cause includes:
 - a. Evidence, including medical records or verifiable reports from third parties, which substantiate the applicant's health or safety would have been jeopardized if the criminally injurious conduct had been reported in a timely manner.
 - b. Law enforcement substantiates there was a fear of retaliation.

History: Effective January 1, 2017.

General Authority: NDCC 54-23.4-04

Law Implemented: NDCC 54-23.4-04, 54-23.4-06

94-03-03-02. Application requirements.

1. A completed application for an award of compensation must be timely submitted to the division within one year from the date the criminally injurious conduct was reported to a law enforcement officer. The division may extend the time to submit a completed application in the interests of justice. The interests of justice include:
 - a. The applicant is a minor.
 - b. The applicant's physical and psychological condition substantially contributed to the applicant's inability to timely submit a completed application.
 - c. The interests of justice do not include attorney error or mistake or lack of knowledge of the Crime Victims Compensation Act.

2. A claimant for benefits shall submit a completed application for compensation signed by the claimant or the claimant's parent, guardian, or legal representative on an application form prescribed by the division. An employer, an assignee, a medical provider, a service provider, or an insurance company may not submit an application for benefits on behalf of a claimant. The claimant shall provide the following information to the division:
 - a. Claimant information:
 - (1) Full name;
 - (2) Residential address;
 - (3) Gender;
 - (4) Date of birth;
 - (5) Residential and work telephone numbers;
 - (6) Ethnicity;
 - (7) Residency;
 - (8) Known disabilities prior to the criminally injurious conduct; and
 - (9) Relationship to the victim if claimant is not the victim.
 - b. Information regarding the criminally injurious conduct:
 - (1) Type of offense;
 - (2) State or federal jurisdiction;
 - (3) Date, time, and location the criminally injurious conduct was committed;
 - (4) Date and time the criminally injurious conduct was reported to law enforcement authorities;
 - (5) Name of law enforcement agency to which the criminally injurious conduct was reported;
 - (6) Name of offender, if known; and
 - (7) Brief description of the criminally injurious conduct and resulting injuries.
 - c. Information on civil lawsuit, mediation, or settlement negotiation:
 - (1) Statement whether the claimant has or will commence a civil lawsuit or seek damages related to the criminally injurious conduct; and
 - (2) Name, address, and telephone number of claimant's attorney, if the claimant will be represented by counsel.
 - d. Information on benefits from other collateral sources:
 - (1) List the benefits claimant has received or may be eligible to receive from other collateral sources as a result of the criminally injurious conduct, including disability benefits; employer-paid leave, including sick leave or annual leave; health insurance, including medical, vision, and dental benefits; life insurance; Medicare; medical assistance or Medicaid; motor vehicle insurance; personal and charity

fundraising, including online fundraising; restitution; social security benefits and social security disability benefits; veterans' benefits; workforce safety and insurance; and any other state, county or tribal public assistance, including food stamps.

- (2) For each benefit identified, provide the type of benefit, amount of benefits provided or to be provided, provider name, address, telephone number, and identification policy number, if applicable.
- e. The claimant's dated signature:
 - (1) Certifies the claimant is eligible to submit a claim and that the information provided is true and correct to the best of the claimant's knowledge.
 - (2) Authorizes the release of protected health information and confidential information necessary for the division to verify and administer the claim.
3. The division shall review the application and supporting documents for eligibility and investigate the claim. If additional information is needed to determine the eligibility or validity of a claim, or to substantiate the degree of loss, the division may ask the applicant for further information or request it directly from outside entities to the extent permitted by law.
4. If a claim is compensable, but there are insufficient funds to make a compensation award, the division may:
 - a. Make a partial award and reconsider the claim later during the fiscal year; or
 - b. Extend the claim into a subsequent fiscal year.

History: Effective January 1, 2017.

General Authority: NDCC 54-23.4-04

Law Implemented: NDCC 54-23.4-04, 54-23.4-06

94-03-03-03. Eligibility requirements.

Eligibility for crime victims compensation benefits includes compliance with the requirements under North Dakota Century Code section 54-23.4-06 and the following criteria:

1. Whether claimant complied with reasonable requests from law enforcement personnel, including giving a statement to police, submitting to followup interviews by police, submitting requested evidence, viewing photographs or a line-up of suspects, meeting with prosecutors, and appearing and testifying in court proceedings. If claimant fails to cooperate with law enforcement, the division may deny the claim.
2. Whether claimant cooperated with the division during the application process, with requests for supplemental information, and with requests for information for the duration of the open claim, including requests for supplemental medical and psychological and treatment evaluations and information. If claimant fails to cooperate with the division, the division may deny the claim.
3. Whether the victim provoked or instigated the incident causing injury or death to the victim.
4. Whether the victim assisted in, facilitated, attempted to, or committed a criminal act at the time of injury or death of the victim.

History: Effective January 1, 2017.

General Authority: NDCC 54-23.4-04

Law Implemented: NDCC 12.1-41, 54-23.4-04, 54-23.4-06, 54-23.4-08

94-03-03-04. Ineligible claims.

1. Claims subject to the limitations in North Dakota Century Code sections 54-23.4-03, 54-23.4-06, and 54-23.4-10.
2. Claims arising from self-inflicted injuries, including the accidental discharge of a firearm.
3. Obscene telephone calls.
4. Costs and fees incurred in connection with a civil action except as authorized in North Dakota Century Code section 54-23.4-12.
5. Claims for property loss or damage.
6. Claims for expenses incurred as a result of crimes committed against an inmate in the legal or physical custody of a correctional facility or the department of corrections and rehabilitation.
7. A claim by, or on behalf of, an inmate convicted of a crime and injured while in the legal or physical custody of a correctional facility or the department of corrections and rehabilitation.
8. The claimant, or an individual on whose behalf a claim has been submitted, was not in compliance with North Dakota statute, motor vehicle liability, and financial responsibility requirements, and whose conduct contributed to a motor vehicle crash.

History: Effective January 1, 2017.

General Authority: NDCC 54-23.4-04

Law Implemented: NDCC 54-23.4-03, 54-23.4-06, 54-23.4-10, 54-23.4-12

94-03-03-05. Contributory misconduct and actions affecting awards.

The division shall deny compensation if the claimant's conduct contributed substantially to the incident. To determine whether substantial contributory misconduct exists, the division shall consider all available information, including the claimant's age; the claimant's account of the crime; law enforcement reports; witness statements; medical, laboratory, and toxicology reports; and court transcripts and statements. The conduct of the claimant is deemed to have contributed substantially to the injury if the claimant did one of the following:

1. Initiated, provoked, or prolonged a verbal or physical confrontation with the offender.
2. Participated in a voluntary or illegal act casually related to the victim's injuries.
3. Acted in a manner that placed the claimant into a situation likely to result in injury.
4. Self-inflicted the injuries.
5. Knowingly and voluntarily entered into a motor vehicle operated by an individual while under the influence of alcohol or drugs, or both, in violation of North Dakota Century Code section 39-08-01 or equivalent ordinance or in violation of North Dakota Century Code section 39-08-01.2.
6. Sought retaliation against the offender.
7. Knowingly and voluntarily entered into a physical altercation.
8. Was charged with a criminal offense as a result of the criminally injurious conduct.
9. Was under the influence of an alcoholic beverage or controlled substance, or both, and the division determines the victim's intoxication on account of alcoholic beverages, controlled substances, or both, were a factor contributing to the criminally injurious conduct.

10. Contributory misconduct does not include victims of human trafficking as defined in North Dakota Century Code chapter 12.1-41.

History: Effective January 1, 2017.

General Authority: NDCC 54-23.4-04

Law Implemented: NDCC 12.1-41, 54-23.4-06, 54-23.4-12

94-03-03-06. Award limitations.

1. The crime victims compensation fund is a secondary source for payment for economic losses not paid by other collateral sources, including disability benefits; employer-paid leave, including sick leave or annual leave; health insurance, including medical, vision, and dental benefits; life insurance; Medicare; medical assistance or Medicaid; motor vehicle insurance; personal and charity fundraising, including online fundraising; restitution; social security benefits and social security disability benefits; veterans' benefits; workforce safety and insurance; and any other state, county, or tribal public assistance, including food stamps.
 - a. The division shall reduce or deny compensation for economic loss when payment for economic loss has been provided by collateral sources. Upon receipt of evidence of payment from collateral sources, the division shall calculate the amount of the reduction by subtracting the total amount received from the collateral sources from the award limitations.
 - b. The division may not pay for any economic loss when a collateral source has paid the maximum amount of the benefit authorized under North Dakota Century Code subdivision a of subsection 7 of section 54-23.4-01, subsection 7 of section 54-23.4-06, and subsection 8 of section 54-23.4-06, except as provided in subsection 8 of section 54-23.4-06 for criminally injurious conduct that occurred outside the boundaries of the state of North Dakota.
 - c. The division may not pay compensation when a collateral source is available to pay.
2. If payment from collateral source exists or was available, either the service provider or the claimant shall notify the division whether a request was submitted to the collateral source for payment. Before payment is made from the division, either the provider or the claimant shall provide documentation that:
 - a. Verifies the amount paid by the collateral source; or
 - b. Verifies the applicant or service was not covered by the collateral source.
3. If the claimant has no medical or dental insurance or other collateral source for payment, the division shall pay eighty percent of billed charges for eligible medical, dental, or mental health services. The eighty percent limitation is not applicable to mental health service providers who utilize a sliding fee scale.

History: Effective January 1, 2017.

General Authority: NDCC 54-23.4-04

Law Implemented: NDCC 54-23.4-01, 54-23.4-06

94-03-03-07. Recovery from offender.

1. If restitution is ordered by the court or paid to the victim, the victim shall reimburse the fund for the total amount of restitution paid to the victim, but not to exceed the total benefits paid by the fund.

2. If there is recovery to the victim through a civil suit, expenses paid by the fund must be reimbursed or a claim may be denied if the recovery is more than the victim's economic loss.
3. The claimant, or the claimant's parent, guardian, or legal representative, shall notify the division in writing of any proposed or pending civil litigation, mediation, settlement negotiations, or arbitration related to the criminally injurious conduct.

History: Effective January 1, 2017.

General Authority: NDCC 54-23.4-04

Law Implemented: NDCC 54-23.4-12

94-03-03-08. Medical services.

1. **Verification.** A request for compensation for medical services must include a billing statement containing the medical provider's name, business address, telephone number, treatment plan, and other information necessary for the division to determine the claim is for services directly related to the criminally injurious conduct. The division may order an examination of the victim by a medical care provider designated by the division. The victim's failure to appear for, or cooperate in, the examination may result in the division's denial of the applicable portion of the claimant's request for reimbursement.
2. **Compensation limitations.**
 - a. The division may not pay more than five hundred dollars for eye glasses.
 - b. The division may not pay more than one thousand dollars for new prescription medications.
 - c. The division may not pay more than one thousand dollars for alternative medical services.
 - d. The division may not pay more than one thousand two hundred dollars for chiropractic services or massage therapy.
 - e. The division may not pay more than five thousand dollars for necessary cosmetic reconstructive procedures.
 - f. The division may not pay compensation for pre-existing medical conditions and prior prescription medications.
 - g. The division may not pay compensation for interest, finance, or collection fees.
 - h. The division may not pay compensation when the victim or claimant fails to comply with prescribed treatment or treatment recommendations.
3. **Time limitations.** Medical services must be provided within two years from the date of the criminally injurious conduct.

History: Effective January 1, 2017.

General Authority: NDCC 54-23.4-01, 54-23.4-04, 54-23.4-08

Law Implemented: NDCC 54-23.4-01, 54-23.4-04, 54-23.4-08

94-03-03-09. Dental services.

1. **Verification.** A request for compensation for dental services must include a billing statement containing the dental provider's name, business address, telephone number, treatment plan, and other information necessary for the division to determine the claim is for services directly related to the criminally injurious conduct.

2. **Compensation limitations.**

- a. The division may not pay more than five thousand dollars for dental services.
- b. The division may not pay compensation when the victim or claimant fails to comply with prescribed treatment or treatment recommendations.

3. **Time limitations.** Dental services must be provided within two years from the date of the criminally injurious conduct.

History: Effective January 1, 2017.

General Authority: NDCC 54-23.4-01, 54-23.4-04, 54-23.4-08

Law Implemented: NDCC 54-23.4-01, 54-23.4-04, 54-23.4-08

94-03-03-10. Mental health services.

1. **Provider qualifications.** The division may pay compensation to a mental health provider who has provided services to a victim of criminally injurious conduct if the provider meets one of the following requirements:

- a. Holds a master's degree in counseling, psychology, social work, or a related field, and is licensed or certified as a professional counselor, social worker, or therapist.
- b. Holds a doctor's degree and is licensed or certified as a professional counselor, social worker, or therapist.
- c. Is a student intern in an accredited graduate program supervised by a licensed clinician.
- d. Is a licensed public or private hospital, clinic, or treatment facility.

2. **Verification.** A request for compensation for mental health services must include a billing statement containing the mental health provider's name, business address, telephone number, treatment plan, and other information necessary for the division to determine the claim is for services directly related to the criminally injurious conduct. The provider shall verify that services provided are directly related to the criminally injurious conduct and specify the number of treatment sessions that are necessary.

3. **Treatment and payment limitations.** Treatment and payment for mental health services is limited to:

- a. Assessment, diagnosis, and treatment, including individual or group counseling sessions.
- b. No longer than a two-year period beginning on the date of the first session and:
 - (1) For adult victims, no more than thirty sessions, and total compensation may not exceed three thousand six hundred dollars.
 - (2) For minor victims, no more than forty sessions, and total compensation may not exceed four thousand eight hundred dollars.
 - (3) For individuals who were physically present at the crime scene or who discovered the body in a homicide, no more than ten sessions, and total compensation may not exceed one thousand two hundred dollars.
 - (4) For a parent or guardian of a homicide victim, no more than ten sessions, and total compensation may not exceed one thousand two hundred dollars.

- (5) For a parent or guardian of a minor victim, no more than ten sessions, and total compensation may not exceed one thousand two hundred dollars.
- (6) If a provider substantiates the need for additional sessions, the division may allow up to ten additional sessions and up to one thousand two hundred dollars total compensation for the additional sessions. The additional sessions may not extend beyond the two-year period under this section.
- (7) The division may not pay compensation for mental health services for the purpose of determining a child's custody.
- (8) The division may not pay compensation when the victim or claimant fails to comply with prescribed treatment or treatment recommendations.

History: Effective January 1, 2017.

General Authority: NDCC 54-23.4-04

Law Implemented: NDCC 54-23.4-04

94-03-03-11. Home health services.

1. **Verification.** A request for compensation for home health services must include written verification from the medical or mental health provider that supports the need for the service and other information necessary for the division to determine the claim is for services directly related to the criminally injurious conduct.
2. **Payment limitations.** The division may not pay more than three hundred dollars per week for home health services and total compensation may not exceed four thousand eight hundred dollars.
3. **Time limitations.** Home health services must be provided within four months from the date of the criminally injurious conduct.

History: Effective January 1, 2017.

General Authority: NDCC 54-23.4-04

Law Implemented: NDCC 54-23.4-04

94-03-03-12. Service animals.

If a medical or treatment provider verifies the need for a service animal for a victim, the division may not pay more than one thousand dollars toward the purchase of the service animal. The service animal must be purchased within two years from the date of the criminally injurious conduct.

History: Effective January 1, 2017.

General Authority: NDCC 54-23.4-04

Law Implemented: NDCC 54-23.4-04

94-03-03-13. Work loss.

1. **Verification.** A claim for reimbursement for work loss must include written documentation from a medical or mental health provider, the claimant's employer, and information the division may request that supports payment for work loss.
 - a. Medical verification must include how the injury or condition is directly related to the crime. Information must include when the victim will be able to resume work.
 - b. Employer verification must include dates absent from work, net salary for periods immediately prior to the incident, and available sick leave or annual leave.

- c. Self-employed victims shall provide a copy of federal income tax return for one year prior and other substantial verification of work loss or profits the division determines is necessary to support payment for work loss.
2. **Payment limitations.** Payment for work loss is limited to four months from the date of the criminally injurious conduct.
- a. Payment for work loss may not exceed more than three hundred dollars per week up to a maximum of four thousand eight hundred dollars.
 - b. Payment for work loss includes absence from work for medical and mental health services only.
 - c. A claimant must be unable to work at least three days in order to be eligible for work loss benefits.
 - d. Work loss benefits may not be paid for time in which the claimant was eligible for sick leave, annual leave, or compensatory time.
 - e. Work loss benefits may not be paid for time in which the claimant has medical leave or annual leave available.
 - f. A claimant is not entitled to work loss payments for any period of time the claimant is in the custody of a federal, state, local or regional, or tribal correctional facility.

History: Effective January 1, 2017.

General Authority: NDCC 54-23.4-01, 54-23.4-04, 54-23.4-06, 54-23.4-13

Law Implemented: NDCC 54-23.4-01, 54-23.4-04, 54-23.4-06, 54-23.4-13

94-03-03-14. Loss of support.

The division may pay for loss of support to the victim's dependents if the victim had been providing support prior to the date of the criminally injurious conduct.

- 1. **Verification.** A claim for loss of support must include verification of the amount of support the victim provided to dependents prior to the criminally injurious conduct. Verification includes federal, state, and local tax forms; social security benefits; veterans' benefits; life insurance; survivor benefits; certified death certificate; guardianship papers when applicable; or other relevant documentation that demonstrates financial dependency, including birth certificates or child support or spousal orders.
- 2. **Payment limitations.** The division may pay for loss of support on a monthly basis at a rate of not more than three hundred dollars per week. If more than one person is eligible for a loss of support award, the division may apportion the total amount of support payable to each dependent in equal amounts.
- 3. **Time limitations.** The division may not pay for loss of support for more than a total of six months of benefits.

History: Effective January 1, 2017.

General Authority: NDCC 54-23.4-04

Law Implemented: NDCC 54-23.4-04, 54-23.4-06

94-03-03-15. Replacement services loss.

Replacement services loss as defined in North Dakota Century Code section 54-23.4-01 excludes costs for routine vehicle maintenance, home maintenance, or lawn care services.

1. **Verification.** A claim for reimbursement for replacement services loss must include receipts for the billed amount, type of service provided, and other information necessary for the division to determine the claim is for services directly related to the criminally injurious conduct.
2. **Payment limitations.** The division may not pay more than one thousand dollars for replacement services loss.
3. **Time limitations.** Replacement services must be provided within two years from the date of the criminally injurious conduct.

History: Effective January 1, 2017.

General Authority: NDCC 54-23.4-04

Law Implemented: NDCC 54-23.4-01, 54-23.4-04

94-03-03-16. Travel expenses, meals, and lodging.

The division may reimburse a claimant for meals, lodging, and travel expenses for travel directly related to the criminally injurious conduct.

1. **Verification.** The claimant shall submit receipts for travel and lodging expenses to the division.
2. **Payment limitations.**
 - a. Travel distance must be at least one hundred fifty miles round trip from the claimant's residence in order for the claimant to be eligible for reimbursement of travel expenses.
 - b. Reimbursement for lodging and meals may not exceed the rates established in North Dakota Century Code section 44-08-04.
 - c. Reimbursement for mileage for the use of a privately owned automobile may not exceed the rate established in North Dakota Century Code section 54-06-09.
 - d. The maximum reimbursement for lodging, meals, and mileage is one thousand dollars.
 - e. Reimbursement for travel expenses for immediate family to attend the victim's funeral service may not exceed two thousand five hundred dollars and for not more than five consecutive days of travel time. Travel expenses to attend funeral services are included in the overall five thousand dollar maximum for funeral expenses.
 - f. Reimbursement for vehicle rental may not exceed thirty dollars per day.
 - g. Reimbursement for travel expenses is limited to the victim and one caregiver if the victim is a minor.
 - h. The division may not pay reimbursement for travel expenses to obtain services from a provider located out of state unless good cause is shown.
 - i. The division may not pay reimbursement for travel expenses for the victim or immediate family of a homicide victim to attend court proceedings or for the victim to meet with law enforcement.
3. **Time limitations.** The division may not pay for reimbursement of travel expenses after two years from the date of the criminally injurious conduct except for reimbursement for mental health services. Travel expenses for mental health services are limited to no longer than a two-year period beginning on the date of the first session.

History: Effective January 1, 2017.

General Authority: NDCC 54-23.4-04

Law Implemented: NDCC 44-08-04, 54-06-09, 54-23.4-06

94-03-03-17. Funeral and burial expenses.

1. Funeral and burial expenses include:
 - a. Casket or cremation urn;
 - b. Cemetery plot;
 - c. Grave liner;
 - d. Headstone or grave marker;
 - e. Opening and closing the grave;
 - f. Professional care of the victim's remains, including embalming, cremation, cosmetology, minor restorative work, dressing, and casketing of the victim's remains;
 - g. Public notice of the death and the time and place of funeral service;
 - h. Transportation of the body to the funeral home;
 - i. Transportation of the body and casket by a funeral coach to the cemetery;
 - j. Travel expenses; and
 - k. Use of facilities for a funeral service.
2. If a collateral source is available to pay any part of the funeral and burial expenses, the division may not pay compensation under this section for any amount over the aggregate total amount of five thousand dollars.
3. The claimant shall submit itemized receipts for reimbursement under this section.
4. The division may not pay compensation for funeral and burial expenses if the victim died as a result of a pre-existing medical condition and not as a result of the criminally injurious conduct.

History: Effective January 1, 2017.

General Authority: NDCC 44-08-04, 54-06-09, 54-23.4-01, 54-23.4-04

Law Implemented: NDCC 44-08-04, 54-06-09, 54-23.4-01