

Rules of Department of Labor and Industrial Relations

Division 50—Workers' Compensation Chapter 6—Crime Victims

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Title 8—DEPARTMENT OF LABOR AND INDUSTRIAL RELATIONS

Division 50-Workers' Compensation Chapter 6-Crime Victims

8 CSR 50-6.010 Rules Governing Crime Victims

PURPOSE: This rule sets forth requirements for filing and pursuing claims under Chapter 595 of the Revised Statutes of Missouri.

- (1) Compliance with and Suspension of Rules. All parties seeking action of the Division of Workers' Compensation, referred to in this rule as the division, shall comply with these rules, unless in its judgement, the division determines that compliance with any of the rules under particular circumstances will result in injustice to any party. Rules therefore may be suspended at the discretion of the division and additional evidence received or cases scheduled out of their regular order.
- (2) Terms Defined. Terms defined in Chapter 595 have the same meaning when used in these rules.

(3) Filing.

- (A) In addition to all other statutory requisites, claims must be filed on official Application for Compensation (CV-1) forms with the Crime Victims' Unit at the Jefferson City office of the division within one (1) year of the date of the crime.
- (B) Formal claim will not be considered as filed until the application form has been completed in its entirety and date-stamped by the division.
- (C) All communications, documents and letters shall be filed with this office.
- (D) All forms, reports, letters and other documents filed by the claimant must be original documents unless this requirement is waived by the division.
- (E) The claimant shall be responsible for proving to the satisfaction of the division, by a preponderance of evidence, that the injuries or death giving rise to the application arose from a crime which was promptly reported to a proper law enforcement agency; the extent of out-of-pocket losses sustained as a direct result of the crime; and that the victim, by his/her acts, did not contribute to the injuries suffered.
- (F) The claimant shall file with the division current medical reports covering treatment, diagnosis and prognosis, including an estimate of any permanent injury impairing claimant's ability to secure gainful employment.

(G) Claimant shall produce legible identical copies of all bills and documents supporting the payment of all unreimbursed expenses and wage losses or loss of support incurred.

- (H) Following the initial filing of a claim, if a claimant fails to take further steps to support or perfect the claim as may be required by the division within thirty (30) days after written notice of the requirement is sent by the division to the claimant, the claimant shall be deemed in default. If the claimant is in default, the division shall notify the claimant that the claim is denied and the claimant shall be forever barred from reasserting it; however, the division may reopen the proceeding upon a showing by the claimant that the failure to do the acts required by the division was beyond the control of the claimant.
- (I) All communications from the division to the claimant will be sent to the claimant's last known address. The claimant must promptly advise the division of any change in address.

(4) Death Cases.

- (A) The division may require an autopsy report. Refusal to allow an autopsy may be cause for denial of benefits.
 - (B) Claimant must file a Death Certificate.
- (C) Claimant must file a Birth Certificate for each child for whom compensation is sought as a dependent of the victim.
- (D) Claimant must provide documentable evidence of support when a claim is being made for loss of support.

(5) Public Inspection of Documents.

- (A) A request to inspect or receive copies of any document in the possession of the division as a result of a claim made under the Crime Victims Law shall be in writing.
- (B) The charge for copies shall be fifty cents (50¢) per page.
- (C) Persons inspecting documents shall not alter, deface or mark the documents in any manner.
- (6) Suspension of Proceedings. The division may suspend all proceedings pending disposition of a criminal prosecution.

(7) Cooperation.

(A) Claimant shall cooperate with any law enforcement agency investigating the crime giving rise to the claim. Refusal to cooperate may result in the denial of the claim.

(B) All claimants must fully cooperate with investigators or representatives of the division in order to be eligible for an award. In the event that cooperation is refused or denied, the division may deny a claim for lack of cooperation.

(8) Contribution.

(A) Contribution is determined by the action portrayed by the victim at the time of or immediately preceding the crime. If it appears that the victim was provoked by the defendant in a manner threatening bodily harm to the victim and the victim acted in self-defense, no contribution shall be assessed.

(B) The actions of the victim will be examined to find if the victim was involved in an illegal act in which there is a direct relationship between the illegal act and the infliction of the injuries to the victim. If a finding is made, then the amount of the award will be reduced or the claim will be denied. The division may disregard the responsibility of the victim for his/her own injury where the responsibility was attributable to efforts by the victim to aid a victim or to prevent a crime or an attempted crime from occurring in his/her presence or to apprehend a person who had committed a crime in his/her presence or, in fact, had committed a felony.

(9) Unjust Enrichment.

- (A) In determining whether a compensation award can be made without unjustly enriching an offender, the division shall evaluate whether the victim has reported the crime and is cooperating with the criminal justice system in the investigation and prosecution of the crime, and whether the victim will do what is possible to prevent access by the offender to compensation paid to the victim. If the victim is cooperating fully and if the offender will not benefit from or have access to a substantial portion of any cash award made by the division to the victim, then the award shall not be denied on the basis that the offender would be unjustly enriched.
- (B) An unjust enrichment determination shall not be based solely on the presence of the offender in the household at the time of the award. The presence of the offender in the household is only one factor to be considered in determining unjust enrichment, and it is necessary to make a case-by-case determination of whether the offender will be unjustly enriched, according to the facts of each situation.
- (C) In determining whether enrichment is substantial or inconsequential, factors to be considered include the amount of the award and whether a substantial portion of the compensation award will be used directly by or on behalf of the offender. If the offender has direct access to a cash award and/or if a substantial portion of it will be used to pay for his/her living expenses, that portion of the award that will substantially benefit the offender may be reduced or denied. When enrichment is inconsequential or minimal, the award shall not be reduced or denied. It should



be remembered, however, that a portion of an award that may pay for some of the offender's living expenses, such as rent, may also be paying for the same essential needs of the victim and the victim's dependents.

- (D) Collateral resources available to the victim from the offender shall be examined. Collateral resources may include court-ordered restitution, an offending spouse's medical insurance or other resources of the offender available to cover the victim's expenses. In evaluating the availability of collateral resources, a determination shall be made first as to whether the offender has a legal responsibility to pay; second, whether the offender has resources to pay; and third, whether payment is likely. The victim shall not be penalized for the failure of an offender to meet legal obligations to pay for the costs of the victim's recovery. If the offender fails to meet legal responsibilities to pay restitution or provide for the medical and support needs of a spouse or child, or if the offender impeded payment of insurance that may be available to cover a spouse's or child's expenses, the division should attempt to meet the victim's needs to the extent allowed, and the division may pursue whatever actions are appropriate to seek reimbursement from the offender. The division shall ensure that the program is subrogated to any restitution the offender may owe to the victim.
- (E) Payments shall be made to third-party providers to prevent cash intended to pay for the victim's expenses to be used by or on behalf of the offender.
- (F) With regard to claims from or on behalf of abused children, the division shall not penalize child victims by denying or delaying payment when the offender is not meeting legal obligations or collateral resources are not forthcoming. Third-party payments shall be used whenever possible to prevent or minimize unjust enrichment of offenders living with abused children. The division may also consider establishment of a trust arrangement to guarantee that the award is used for the purposes it is intended.

(10) Award.

- (A) All awards shall be one (1) time payments, including payments made for medical care or other services necessary as a result of the injury, with the exception of mental health treatment or extended medical treatment which may be made in multiple payments;
- (B) When disbursing an award, the division shall apply the proceeds of the award in the following order:
- 1. Reasonable attorney fees as determined by the division;
- 2. Outstanding medical and funeral expenses;

- 3. Reimbursement for compensable out-ofpocket expenses:
- 4. Loss of income the victim would have earned had the victim not been injured; and
- 5. Loss of financial support that the victim would have supplied to legal dependents had the victim not died.
- (C) If the expenses in paragraph (10)(B)2. of this rule exceed the total amount of the award, the division shall prorate the award among the providers in that category after fees outlined in paragraph (10)(B)1. have been deducted.
- (D) If the recipient of an award is a minor, the division may require that a guardianship be established and the award be delivered to the guardian of the minor's estate.
- (E) In determining whether to award loss of income to a dependent of a victim who has died or an injured victim, the following factors may be considered by the division:
- 1. Whether the victim was employed at the time of the injury or death; and
- 2. If the victim was self-employed, federal income tax returns and any estimated returns for the year of the crime.
- (F) In no case will an award for loss of income be made without substantial proof of earnings at the time of the crime on which the claim is based.
- (G) The division will make an emergency award only upon a showing of dire necessity. The claimant must request, in writing, an emergency award when submitting his/her application form and show just cause as to why an award should be considered. No award will be made until the police report is acquired.

(11) Claim Filed.

(A) Upon receipt of an Application for Compensation on Form CV-1, the division will assign the case for investigation.

(B) After the investigation is completed and necessary documents are filed, the division may issue an administrative decision offering a settlement based upon its opinion as to the dollar value of the claim or deny the claim based upon the provisions outlined in Chapter 595.

(12) Procedure.

- (A) Claimant may accept the offer of settlement as long as it remains open.
- (B) If the claimant disagrees with the decision of the division, s/he may ask the division to set the case for conference before a representative of the division.
- (C) The request for a conference shall be made in writing and shall be submitted to the division office in Jefferson City.
- (D) The request for the conference must be made within thirty (30) days of the date of the letter containing the decision of the division.

- (E) Claimant may ask that his/her case be advanced on the conference docket on the grounds of extreme need and undue hardship. This request must be accompanied by affidavit setting forth facts that will allow a determination of the degree of need and hardship.
- (F) Conferences before the division representative will be simple, informal and summary with respect to the conduct. All of the competent evidence desired to be offered by the claimant shall be heard.
- (G) The division may receive as evidence any statements, documents, information or material, that it finds is relevant and of a nature to afford the parties a fair hearing. The division may also accept police reports. hospital records and reports, physicians reports and other documentation as proof of the crime and injuries sustained, without requiring the presence of the investigating officer or attending physician at the hearing.
- (H) If claimant fails to appear at the first setting for conference of his/her claim, claimant may be notified of the second setting by certified United States mail. If s/he fails to appear at the second setting, the claim may be dismissed for want of prosecution.

(13) Attorneys and Attorney Fees.

- (A) Claimants have the right to be represented before the division by an attorney at law, licensed to practice in Missouri. The attorney shall file a notice of appearance.
- (B) The attorney representing a claimant before the division must submit an affidavit setting forth the total number of hours expended and describing the nature of the work performed.
- (C) Attorney's fees shall be awarded at the discretion of the division.
- (D) Attorney's fees may be based on the number of hours spent in representing the claimant. Hourly fee rate to be determined by the division.
- (E) The attorney's fee shall not exceed fifteen percent (15%) of the total amount awarded to the claimant.
- (F) No prior agreement between an attorney and a client to pay the attorney a fee out of the client's award will be honored by the division. The division shall set and determine the attorney's fee.
- (14) Disclosure. No information obtained by the division shall be disclosed to persons other than the parties to compensation proceedings and their attorneys, except by order of the division or the commission, or at a conference proceeding, but information may be used by the division or the commission for statistical purposes.



Auth: sections 287.650 and 595.060, RSMo (1986). Original rule filed Dec. 14, 1982, effective March 11, 1983. Amended: Filed Dec. 28, 1990, effective June 10, 1991.



STATE OF MISSOURI DIVISION OF WORKERS' COMPENSATION APPLICATION FOR CRIME VICTIM	APPLICATION FOR CRIME VICTIM
STATE OF MISSOURI	DIVISION OF WORKERS' COMPENSATION
	STATE OF MISSOURI

FOR OFFICE USE ONLY CLAIM NO.

APPLICATIO	N FOR CRI	ME VICTIMS'	COMPENSATION		INVESTIGATOR
CHECK ONE	INSTRUCTIONS:	Type or Print cle Last page of this	arly in ink, form must be signed.		
☐ VICTIM CLAIM ☐ SURVIVOR CLAIM (Victim deceased)			ninor or incompetent person, ap		y a parent or guardian.
MAILING CRIME VICTIMS	COMPENSATION				
1	IMBER (314) 751-4				
FOR THIS APPLICATION AND ALL	CORRESPONDEN	ICE			
HOW DID YOU FIND OUT ABOUT T	HE CRIME VICTI	MS' COMPENSATIO	N PROGRAM?		
POLICE			DE ANNOUNCEMENT		
HOSPITAL		☐ PROSECUTOR			
U VICTIM ASSISTANCE PROGRA		☐ POSTER/BROC	HURE		
D OTHER (PLEASE SPECIFT)		•			
OF OTHER DESIGNATION	IFORMATION				
SECTION : CLAIMANT IN NAME OF CLAIMANT (Last, First an		(IF SOMEONE OTH	IER THAN VICTIM IS FILING CI		SECURITY NO.
NAME OF CLAIMANT (Last, First an	a Middle)			SOCIALS	SECURITY NO.
STREET ADDRESS			CITY	STATE	ZIP CODE
	,				
RELATION TO VICTIM			HOME TELEPHONE NO.	WORK TE	ELEPHONE NO.
BIRTHDATE	AGE	SEX	MARITAL STATUS		_
		MALE	L SINGLE	SEPARATED	☐ WIDOWED
		☐ FEMALE	☐ MARRIED	DIVORCED	
SECTION II VICTIM INFO					
NAME OF VICTIM (Last, First and Mi	ddfe)			SOCIALS	SECURITY NO.
CURRENT STREET ADDRESS			CITY	STATE	ZIP CODE
ADDRESS AT TIME OF CRIME (IF D	IFFERENT FROM	ABOVE)	HOME TELEPHONE NO.	WORK TE	LEPHONE NO.
,		,			
BIRTHDATE	AGE	SEX	MARITAL STATUS		
		☐ MALE	SINGLE	SEPARATED	☐ WIDOWED
		FEMALE	☐ MARRIED	DIVORCED	
RACE ETHNIC (Check One)*				HANDICA	(PPED* (Explain)
☐ 1. WHITE		2. BLAÇK	☐ 3. HI\$PANI	C PYES	□ NO
4. AMERICAN INDIAN/ALASKA	N NATIVE	5. ASIAN PACIFIC I	SLANDER 6. OTHER		
NATIONAL ORIGIN'				IS VICTIN	1 DECEASED?
				☐ YES	
• • • • • • • • • • • • • • • • • • • •			- Cadaral Of the Dr. I.		-4.45- V(24) (C)
*This information is reques Act of 1984. It will be used	•	· · · · · · · · · · · · · · · · · · ·	n Federal Civil Rights ur	nder Section 1407(c)	of the Victims of Crimes
NOTE > APPLICATION MUS	ST BE SIGNED	ON BACK PAGE.			

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SECTION III CRIME INFORM	MATION					A POLICE P	REPORT FILED?		
TYPE OF CRIME: ASSAULT BRIEF DESCRIPTION OF CRIME:	SEXUAL OFF	ENSE 🗌 VEHICU	LAR 🗌 MU	RDER OTH	R				
DATE CRIME OCCURRED		PLACE OF CRIME:	STREET ADDF	ESS		COUNTY			
DATE CRIME WAS REPORTED HAS ARREST BEEN MADE? YES NO					HAVE CHARGES BEEN FILED? YES NO UNKNOWN				
NAME AND ADDRESS OF POLICE DEF	PARTMENT				NAME OF INVES	STIGATING	OFFICER(S)		
WHO COMMITTED THE CRIME? (IF KI	NOWN)		POLICE REP	ORT NUMBER	1	DOCKET	NUMBER		
DID VICTIM KNOW THE PERSON WH	O COMMITTED	THE CRIME? Y	ES NO	IF YES, IN WHA	T WAY?				
WAS VICTIM RELATED TO THE PERS	ои мно соми	NTTED THE CRIME?	□ YES (□ NO IF YES, I	N WHAT WAY? _				
WAS VICTIM LIVING IN THE SAME HO						віме? 🗆	YES NO		
RESTITUTION									
IF THE COURT HAS ORDERED THE CRESTITUTION ORDER DATE JUDGE SECTION IV WAGE LOSS/L		COUR	OW IT IS TO B	E PAID	AMOUN	Т\$			
WAS VICTIM EMPLOYED AT TIME OF VICTIM'S EMPLOYER (AT TIME OF CR		ES NO			TELEPHONE NU	IMBER			
VICTIM'S EMPLOYER ADDRESS			CI	ſΥ		STATE	ZIP CODE		
IF VICTIM WAS SELF-EMPLOYED SU VICTIM WORKED SHOWING AMOUNT						EMENTS FI	ROM THOSE FOR WHOM		
VICTIM'S NET (TAKE HOME) EARNIN ARE CLAIMED: \$	GS OR INCOME PER WEEK.	E AT TIME OF CRIMI	E (INCLUDE T	PS AND BONUS	ES) IF TIME LOS	S OR LOSS	OF SUPPORT BENEFITS		
DATE LEFT WORK DUE TO CRIME: (N	IONTH, DAY, YE	AR)							
DATE RETURNED TO WORK: (MONT)	H, DAY, YEAR) _								
DAYS OFF FOR WHICH VICTIM RECE			OF ACCRUE	SICK/VACATIO	V LEAVE -				
WAS THE CRIME WORK-RELATED? IF YES, HAS THE VICTIM APPLIED FO IF YES, PLEASE DESCRIBE:			OTHER EMPL	OYER BENEFITS	□ YES □	NO			
ARE YOU RECEIVING OR HAVE YOU F	RECEIVED ACCI	DENT OR DISABILIT	Y BENEFITS F	ROM YOUR EMPL	OYER AS A RESI	JLT OF THI	S INJURY?		
DOCTOR WHO CAN VERIFY LENGTH		- ''' 							
DOCTOR'S NAME	ADDRESS	CITY		STATE	ZIP CODE	TEL	EPHONE NO.		



SECTION V MEDICAL (INCL ENTER BELOW ALL EX	UDING PSY PENSES FOR SE	CHOLC ERVICES R	OGICAL) EXPENS ENDERED AS A RESUL	SES TOFTHIS	CRIME (ATTA	CH ALL B	LLS AVAILABLE)	₩ YES	E BE MORE BILLS
NAME OF DOCTOR, HOSPITAL, OR OTHER PROVIDER OF SERVICE	ACCOUNT N	NUMBER	STREET ADDRESS		CITY		STATE		ZIP COD
Manager (1)									
SECTION VI FUNERAL EXPE	NSES (ATT	ACH COF	Y OF DEATH CERTIF	ICATE AND) FUNERAL	BILL)			
WILL DEPENDENT(S) RECEIVE FUNER SOCIAL SECURITY	AL BENEFITS WORKERS'			YES [NO IF YE		PLETE THE FOLL	OWING:	
\$ SOCIAL SECURITY	\$	JOMPENS	SATION		\$	-EGIFTT)			
NAME OF FUNERAL HOME		STREET	ADDRESS		CITY	STATE	ZIP CODE	PHONE	
AMOUNT OF FUNERAL AND BURIAL EX	KPENSES		URIAL EXPENSES BE		IF YES, BY	WHOM?		J	
NAME		STREET	ADDRESS		CITY	STATE	ZIP CODE	PHONE	
WILL DEPENDENT(S) RECEIVE ANY A	CCIDENT OR L	IFE INSU	RANCE? YES	□ NO	IF YES, COM	PLETE T	HE FOLLOWING:	<u> </u>	
NAME OF COMPANY				AMOUNT	-		BENEFICIARY		
				\$			<u> </u>		
SECTION VII INSURANCE A					ATION				
INDICATE BELOW IF ANY SOURCES A NAME	RE PAYING OF		Y ANY OF ABOVE EX GIVE NAME AND ADD		OURCE AND	VOLIB	OF ICA VIDAGE	CL A IBA BU IS	ADED
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∐ нмо/РРО									
☐ HEALTH INSURANCE									
VETERANS ADMINISTRATION									
☐ ARMED SERVICES (CHAMPUS)									
WORKERS' COMPENSATION									
PUBLIC ASSISTANCE									
MEDICAID									
☐ MEDICARE									
OTHER									
DID YOU RECEIVE COMPENSATION W	HILE OFF WOR	RK? IF YES	S, COMPLETE THE FO	DLLOWING	:				
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WORKERS' COMPENSATION	\$		William						TOTAL TEAT
UNEMPLOYMENT COMPENSATION :									
	<u> </u>								
	§								
SICK LEAVE SEMPLOYERS GROUP HEALTH PLAN SEMPLOYERS									
DISABILITY PAY				· · · · · ·					
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DOES CONVICTED OPERATOR HAVE LIABILITY INSU		IF YES, ENTER NAME	MOTOR VEHICL				
COVERAGE ON AUTO? YES NO	MANOL	11 125, 211 21 14/142	OF CAMILLIAND I	SEIOT CIMITS			
STREET ADDRESS			STATE	ZIP CODE	POLICY NO.		
DOES THE VICTIM HAVE UNINSURED MOTORIST IN	BURANCE	IF YES, ENTER NAME	OF CARRIER AND PO	DLICY LIMITS			
COVERAGE ON AUTO? YES NO							
STREET ADDRESS	CITY		STATE	ZIP CODE	POLICY NO.		
HAS SETTLEMENT BEEN MADE WITH CARRIER?	IF YES, WI	HICH ONE?					
SECTION VIII OTHER INFORMATION							
IS THE VICTIM OR CLAIMANT CONSIDERING A CIVI	L ACTION A	GAINST THE OFFENDE	R OR SOME OTHER	THIRD PARTY FOF	R DAMAGES CLAIMED HEREIN?		
PLEASE USE THIS SPACE FOR ANY FURTHER INFORM	MATION YOU	WISH TO BRING TO TH	E ATTENTION OF THE	E CRIME VICTIMS' (COMPENSATION COMMISSION.		
	····						
ATTORNEY INFORMATION							
IF THE CLAIMANT IS REPRESENTED BY AN ATTO	DRNEY IN A	PPLYING FOR BENEFI	TS UNDER THIS PR	OGRAM, PLEASE	COMPLETE THE FOLLOWING:		
ATTORNEY'S NAME (LAST, FIRST, MI)				TELEPHONE N	ELEPHONE NUMBER		
ADDRESS	CITY			STATE	ZIP CODE		
AUTHORIZATION FOR RELEASE OF INF TO SUPPLIERS AND ASSIGNMENT OF SE			AN INVESTIGAT	ION, TO MAKI	E PAYMENTS DIRECTLY		
I give permission to any hospital, doctor, or local government agency to release al Unit to process my claim for reparations a by or on behalf of the Missouri Crime Victim	l records and to all	and information thow copies of such	at will help the	Missouri Crime	e Victims' Compensation		
I understand that after receiving this form the given on this form and other matters rega two years from the date given below.	e Missouri Irding this	Crime Victims' Considerations	npensation Unit went to such inves	vill investigate th stigation. This	ne truth of the information authorization is valid for		
I acknowledge and agree that all or any services on my behalf.	part of ar	ny reparations awa	rded may be pai	d directly to a	any supplier of goods or		
I further acknowledge and agree that the to all the claimant's rights to recover bene to the victim or claimant would be, a colla may protect their subrogation rights, and ag	efits or ad ateral sou	vantages for econd rce, and I hereby a	omic loss from a assign such right	source which is to the State	is or if readily available		
I agree to notify the Division if I retain an att	torney to r	represent me in a la	wsuit related to th	nis crime.			
I certify that I have read and understand	the staten	nents above; and t	hat the informati	on I have give	en is true and correct to		
	the staten	nents above; and t	hat the informati		en is true and correct to		
I certify that I have read and understand the best of my knowledge and belief.	the staten	nents above; and t	hat the informati	On I have give	en is true and correct to		