Compensation Overview

Presented by:
Deb Rice - ME
OBJECTIVES

Upon completion of this module the participant will be able to:

- Discuss the importance of financial assistance to crime victims and identify the costs covered by the victim compensation programs.
- Identify which crimes are covered for victim compensation and basic eligibility requirements.
- Explain the procedures for submitting an application and how the decision process determines if compensation will be paid.
- Explain the correlation between the victim compensation application-based program and the sexual assault forensic examination payment process.
- Discuss the collaboration needed among professionals to assist victims in obtaining compensation as well as professionals’ mandated responsibilities under the Victims of Crime Act (VOCA) to provide information and assistance in filing for compensation.
- Assist a crime victim or victim’s family member to complete an application for crime victim compensation.

Overview of Presentation

This presentation will outline the nature of victims’ compensation, the eligibility requirements for compensation, the benefits available, the process for obtaining compensation, the roles of allied professionals, especially advocates, in the process, and the correlation with the payment process for sexual assault forensic examinations.

The participant book or CD includes separate materials for each state, New Hampshire and Maine. These materials contain much more specificity about crimes covered, benefits available, and restrictions, than does the PowerPoint.

Introduction

While the physical and psychological impact of crime may be considered the most obvious and serious toll taken by any crime, the financial impact can be devastating.

Each type of personal injury which a victim of violent crime might suffer can incorporate a concomitant financial loss.
Crime Victims' Compensation and the Forensic Examination Payment Protocol

Financial help for innocent victims of violent crime.

Deborah Shaw Rice, J.D., Director
Maine Victims' Compensation Board

Maine New Hampshire Victim Assistance Academy

State of Maine
Office of the Attorney General

Victims' Compensation Program
1-800-903-7882 or (207) 624-7882
#6 State House Station
Augusta, Maine 04333

Compensation Program Staff

• Alma C. Zachary, Claims Specialist, (207) 624-7882
• Linda L. Buttrick, Compensation Specialist, (207) 626-8561
• Deborah Shaw Rice, Director, (207) 626-8589
Website

  - Use Site Map or:
  - Click on: Crime and Victims
  - Click on: Victims’ Compensation

Statute

- Victims’ Compensation Fund Act:
  5 M.R.S.A. §3360 – §3360-M
- Forensic Payments: 5 M.R.S.A. §3360-M
  Link: [http://www.mainelegislature.org/legis/statutes/5/titl_e5ch316-Aseco.html](http://www.mainelegislature.org/legis/statutes/5/titl_e5ch316-Aseco.html)

Direct Impact of Violent Crime

- Physical Injury
- Psychological Injury
- Death

Financial Devastation
Victims’ Compensation: 2 Parts, Same Purposes

- Provide financial reimbursement for expenses and losses suffered due to crime-related injuries
- Relieve financial worries to facilitate focus on healing

Claims and Payments Highlights
Life of Program

<table>
<thead>
<tr>
<th>Application Claims</th>
<th>Forensic Claims</th>
</tr>
</thead>
<tbody>
<tr>
<td>Claims 4230</td>
<td>Claims 2788</td>
</tr>
<tr>
<td>Pmts $6,913,848.78</td>
<td>Pmts $1,587,718.64</td>
</tr>
</tbody>
</table>

Application Program

- Pays * out-of-pocket * expenses or losses * for victims of violent crime * who are innocent * and otherwise eligible * and whose losses have not been reimbursed from another source.
*Out-of-pocket * expenses or losses*

$15,000 Maximum per claim

- Medical Expenses: paid at 75% to 100%
  - Includes facilities, physicians, ambulance, prescriptions, eyeglasses, other prosthetic devices
- Dental Expenses
- Mental Health Therapy/Prescriptions
  - Ancillary victims: mental health benefits

More Benefits

- Lost Wages
- Loss of Support (homicide only)
- Funeral: $4500
- Burial Monument: $500
- Dependent care up to $1000
- Additional homicide-related losses, up to $1000
- Crime Scene Cleanup: $1000
- Repair/Replace Locks & Security Devices:
  - $1000
- Security Deposits (reimburse to DA/SA agency)

Ineligible Expenses

- Stolen or Damaged Property (Exceptions for prosthetic aids)

- Pain and Suffering

- Sexual Assault Examinations (Paid through separate program)
Program for *victims of violent crime*

- Eligibility is based on whether a person is the victim of one of a statutory list of violent crimes
- Who suffers bodily injury or psychological injury from the threat of bodily injury

Covered Crimes
Must be VIOLENT CRIMES on STATUTORY LIST:

- Murder
- Manslaughter
- Sexual Assault
- Assault (simple and aggravated)
- Kidnapping
- Armed Robbery
- Child Sexual Abuse
- Child Physical Abuse
- Stalking
- Terrorizing
- Criminal Threatening
- OUI
- Hit and Run (some)

Not Covered

- Traffic Accidents
- Theft Crimes
- Other Property or financial Crimes
Compensation ≠ Criminal Case
• Preponderance standard
• Prosecution declined
• No suspect
• BUT must report

Eligibility Requirements
• Pays * out-of-pocket * expenses or losses *
  for victims of violent crime * who are
  innocent * and otherwise
  eligible * and whose losses have not been
  reimbursed from another source.

Victims *who are innocent*

Criminal Conduct:
No Compensation for person who
violated a criminal law that caused
or contributed to the injury or
death.
Eligibility:
Reporting and Cooperation

- MUST report to law enforcement
  - 5 day reporting period is waived for minors and waivable for good cause for adults
- Must cooperate with Board and reasonable request of law enforcement officers and prosecutors
- Application must be filed with Board within 3 yrs of crime or 60 days of discovery of loss
  - Periods waived for minors, waivable for adults

*not reimbursed from another source*

- Last Payer
- Claimant must exhaust other sources
  - Health Insurance
  - Worker’s Compensation
  - Charity Care
  - EAP
  - Sliding Scale

Funding Source

- No Tax Dollars
- All Offender Funded
  - State
  - Federal (VOCA / OVC)
  - Restitution and Subrogation
Claims Processing
- Application
- Verification: crime, innocence, benefits
- Recommendation
- Board Decision
- Hearing
- Appeal

Program Goals
- Reach all eligible crime victims
- Speed and Efficiency
- Provide maximum benefit within statutory limits
- Stewards of Fund
- Dignity, Compassion, Fairness

Roles of Allied Professionals
- Knowledge of Program
- Referrals to VCP
- Assist victims with applications
- Complete and return forms, records, bills
- Call with questions
Sexual Assault Forensic Examination Payment Protocol

Forensic Exam Act Payment Protocol
- No mandatory report to law enforcement
- Direct billing by facility to VCP
- Use of Kit required – forensic basis
- All initial testing and treatment
- $750 maximum exam payment
- No balance billing of victim or insurer
  - EXCEPTION: Non-forensic services may be billed if authorized by VCP

Compensation Program and Forensic Payment Protocol
- All violent crime victims
- Numerous benefits
- Application
- Eligibility requirements
- Last payer
- Crime in Maine
- Limited to GSA with kit
- Limited help
- Direct billing
- No reporting or other requirements
- First payer
- Exam in Maine
Questions

Small Groups

• The students will break into smaller groups if necessary.
• In their small groups, each individual will be given a compensation application and ancillary documents relevant to processing a Compensation claim.
• The students will be given a copy of a case scenario and will complete an application on behalf of one or more of the victims in the scenario.

Final Thoughts

• Your help matters in the lives of victims of violent crime!
• The Program works only as well as we work together to make a difference.
These losses include medical and dental expenses for bodily injury, counseling and medication expenses for psychological trauma, lost wages for either type of personal injury, and funeral expenses and loss of support when a victim has died.

The purpose of each victim compensation program is to assist victims to recover from these financial losses, as quickly as possible, when the funds are most needed, with a hope that the provision of this financial assistance will provide some emotional support as well.

**Costs of violent crime**
Nationally, the direct, financial cost of violent crime to society is in the billions of dollars. Insurance, Medicare, Medicaid, civil judgments, and restitution cover part of these costs, especially the out-of-pocket costs. State compensation programs, as payers of last resort, assist victims with costs which would not be covered by any other source. Crime victim compensation programs across the country provide close to $500 million annually to and on behalf of more than 200,000 people suffering criminal injury, including victims of spousal and child abuse, rape, assault, and drunk driving, as well as families of murder victims. (NACVCB web site: [http://www.nacvcb.org](http://www.nacvcb.org)) Maine and New Hampshire compensation programs each pay out many hundreds of thousands of dollars each year in compensation to benefit victims of violent crime. (See the NACVCB web site and USDOJ and Office for Victims of Crime sites for additional statistics.)

**State Compensation Programs**
Aside from funds available for victims of terrorism, there is no federal or national victim compensation program; however, every state has a program.

The state victim compensation programs differ based on each state’s statute, but they are very similar in their fundamental aspects. These similarities result from their original purposes and also because there are federal matching grant funds available for state programs which comply with VOCA compensation provisions. The Office for Victims of Crime in the United States Department of Justice, Office of Justice Programs, is the federal agency that oversees the Crime Victims Fund, which is the source of federal compensation grant funds and funds for many victim assistance programs.

**I. PROGRAM STRUCTURE**

In compensation programs, decision-making is performed by boards or program administrators. Staffs range in size from one or two to hundreds, as in California. A program might be located in one of a variety of governmental departments or agencies, including the Worker’s Compensation Commission, Court of Claims, Department of Treasury or Public Safety, or Office of the Attorney General. Maine and New Hampshire compensation programs are similar in most aspects of structure as well as in eligibility requirements and most benefits. NH is noteworthy for covering relocation expenses.
<table>
<thead>
<tr>
<th>Maine</th>
<th>New Hampshire</th>
</tr>
</thead>
<tbody>
<tr>
<td>Located in the Office of Attorney General</td>
<td>Located in the Office of Attorney General</td>
</tr>
<tr>
<td>Board based program: Victims’ Compensation Board</td>
<td>Board based program: Victims’ Compensation Commission</td>
</tr>
<tr>
<td>Board appointed by Attorney General</td>
<td>Board nominated by Attorney General and appointed by Governor</td>
</tr>
<tr>
<td>Three member Board: physician, attorney, victim services professional</td>
<td>Five member Board: SANE/ER nurse, attorney, victim, mental health professional, juvenile services provider (current membership)</td>
</tr>
<tr>
<td>Monthly meeting, limited by statute. $55 per diem and travel.</td>
<td>Monthly meeting with some decision-making during month. No per diem. Travel paid.</td>
</tr>
<tr>
<td>3 positions: director and staff</td>
<td>3 positions: director and staff</td>
</tr>
<tr>
<td>Sexual assault forensic examination claims processed and paid by program</td>
<td>Sexual assault forensic examination claims processed and paid by program</td>
</tr>
</tbody>
</table>

II. VICTIM COMPENSATION PROGRAM FUNDING SOURCES

State compensation programs receive funding from a variety of sources. However, the large majority of programs get their funds either entirely or primarily from the offenders themselves. The federal matching funds received by each state come from criminals.

In both ME and NH funding for payments to victims comes from assessments on criminals. Understanding that the system places responsibility on criminals to generate compensation funds is therapeutic for many victims.

<table>
<thead>
<tr>
<th>Maine</th>
<th>New Hampshire</th>
</tr>
</thead>
<tbody>
<tr>
<td>Assessments for each conviction are deposited in the Victims’ Compensation Fund: $20 per Class D or E (misdemeanor), $35 for murder or Class A,B, or C.</td>
<td>An add-on of 20% of each fine goes into the Penalty Assessment Fund, of which 20% goes to Victim Compensation. Compensation also gets 2% of some restitution fees.</td>
</tr>
</tbody>
</table>
III. COLLATERAL RESOURCES
Compensation programs are able to maintain fiscal stability because they pay only after collateral resources have been exhausted. Claimants must submit claims to insurance, Medicare, Medicaid, or other third-party payers before those claims will be considered for payment by the program.

<table>
<thead>
<tr>
<th>Maine</th>
<th>New Hampshire</th>
</tr>
</thead>
<tbody>
<tr>
<td>Requires filing for worker’s compensation for work related injury,</td>
<td>Requires filing for worker’s compensation for work related injury, but will</td>
</tr>
<tr>
<td>but will pay difference between worker’s compensation payment and</td>
<td>pay difference between worker’s compensation payment and gross pay lost at 75%</td>
</tr>
<tr>
<td>net pay lost</td>
<td></td>
</tr>
<tr>
<td>Requires submission for hospital charity care for bills =&gt; $5000,</td>
<td>Requires submission to charity care for all hospital bills except balances</td>
</tr>
<tr>
<td>recommends submission for charity care for all hospital bills</td>
<td>after insurance</td>
</tr>
<tr>
<td>Life insurance is not considered a collateral source.</td>
<td>Life insurance up to $100,000 waived as a collateral source.</td>
</tr>
<tr>
<td></td>
<td>Sexual assault victim need not submit to medical insurance if confidentiality</td>
</tr>
<tr>
<td></td>
<td>concern exists or if test submitted anonymously.</td>
</tr>
</tbody>
</table>

IV. ELIGIBILITY
Both Maine and New Hampshire determine eligibility for program benefits based on whether a person is the victim of a violent crime, either felony or misdemeanor. The state statutes provide for other requirements or restrictions as well. Maine has a specific list of covered crimes in its statute; New Hampshire does not.

<table>
<thead>
<tr>
<th>Maine</th>
<th>New Hampshire</th>
</tr>
</thead>
<tbody>
<tr>
<td>Victim of violent crime in one of a statutory list of criminal code</td>
<td>Victim of a violent felony or, as of 7-1-1997, a violent misdemeanor,</td>
</tr>
<tr>
<td>chapters, includes all potentially violent crimes plus OUI and some</td>
<td>includes arson, DWI, and hit and run, no statutory list</td>
</tr>
<tr>
<td>leaving the scene traffic crimes</td>
<td></td>
</tr>
<tr>
<td>Personal injury: bodily injury or psychological injury from the</td>
<td>Personal injury including mental trauma</td>
</tr>
<tr>
<td>threat of bodily injury</td>
<td></td>
</tr>
<tr>
<td>Crime within State of Maine</td>
<td>Crime within State of New Hampshire</td>
</tr>
<tr>
<td>Only crimes committed on or after 1-1-1993</td>
<td>Only crimes committed on or after 11-2-1989 (misdemeanors on or after 7-1-1997)</td>
</tr>
<tr>
<td>Report to law enforcement</td>
<td>Report to law enforcement or acquisition of final order of protection.</td>
</tr>
<tr>
<td>Report within 5 days unless minor victim or good cause shown</td>
<td>Report within 5 days unless good cause shown</td>
</tr>
<tr>
<td>Cooperation with law enforcement and prosecutors, but there need not be a conviction or even an identified suspect</td>
<td>Cooperation with law enforcement and prosecutors, but there need not be a conviction or even an identified suspect</td>
</tr>
<tr>
<td>File application within 3 years unless minor victim or good cause shown</td>
<td>File application within 2 years unless good cause shown</td>
</tr>
<tr>
<td>Compensation may not be paid on behalf of a person who violated a criminal law that caused or contributed to the injury or death for which compensation is sought</td>
<td>The victim must not have engaged in conduct or committed a crime which caused or contributed to death or injury or engaged in conduct which could have been foreseen as leading to death or injury</td>
</tr>
<tr>
<td>Only one primary victim and one claim per crime</td>
<td>Only one primary victim and one claim per crime after 9/13/2009</td>
</tr>
<tr>
<td>No minimum loss</td>
<td>$100 minimum out-of-pocket loss required</td>
</tr>
</tbody>
</table>

V. BENEFITS

Individuals who are physically and psychologically injured as a result of violent crime suffer a myriad of financial costs and losses. Maine and New Hampshire provide benefits assisting victims with most types of losses. There used to be a major difference between the programs in how they handled ancillary victims, usually family members. Maine has a maximum payment of $15,000 per crime, which covers the losses of the primary victim as well as ancillary victims. New Hampshire now has adopted this approach for cases based on crimes committed after 9/13/2009. Previously, New Hampshire had a maximum payment of $10,000 per victim, and a victim was defined as “any person who sustains physical or mental injuries.” Under New Hampshire’s law, a traumatized parent of a victimized child could file an independent claim. This continues to be true for crimes committed prior to 9/14/2009.

<table>
<thead>
<tr>
<th>Maine</th>
<th>New Hampshire</th>
</tr>
</thead>
<tbody>
<tr>
<td>$15,000 maximum per crime</td>
<td>$25,000 maximum per case for crimes committed after 9/13/2009</td>
</tr>
<tr>
<td></td>
<td>$10,000 maximum per victim after 7-1-1997 and before 9/14/2009, $5000 maximum per victim prior to 7-1-1997</td>
</tr>
<tr>
<td><strong>Hospital bills</strong></td>
<td>75% including repayment to claimant at 75%. Victims with high charges must apply for charity care.</td>
</tr>
<tr>
<td>-------------------</td>
<td>-------------------------------------------------------------------------------------------------</td>
</tr>
<tr>
<td><strong>General medical bills</strong></td>
<td>75%, prescriptions 100%</td>
</tr>
<tr>
<td><strong>Ambulance</strong></td>
<td>100% to max. of $700. 75% for bills over $1200</td>
</tr>
<tr>
<td><strong>Eyeglasses</strong></td>
<td>100% to a max of $300</td>
</tr>
<tr>
<td><strong>Dental bills and prospective awards</strong></td>
<td>100%</td>
</tr>
<tr>
<td><strong>Other prosthetic devices and ramps or minor home renovations</strong></td>
<td>100%</td>
</tr>
<tr>
<td><strong>Mental Health</strong>: 100% of reasonable charges, licensed therapist with few exceptions. No requirement to use provider covered by insurance.</td>
<td></td>
</tr>
<tr>
<td><strong>Coverage for supervised student, for emergency phone sessions, case-by-case court testimony time</strong></td>
<td></td>
</tr>
<tr>
<td><strong>Lost Wages</strong>: Net paid, usually 80 to 90% of gross. Net figure based on wage stubs and/or tax returns.</td>
<td></td>
</tr>
<tr>
<td><strong>Self-employed</strong>: payment for some fixed costs as well as lost profits, based on tax returns</td>
<td></td>
</tr>
<tr>
<td><strong>Up to $50 per day lost income or travel expenses for parent or other claimant for care of a dependent</strong></td>
<td></td>
</tr>
<tr>
<td><strong>Loss of support for dependents of deceased victims, reduced by Social Security, paid retrospectively</strong></td>
<td></td>
</tr>
<tr>
<td><strong>Funeral and burial</strong>: Maximum of $4500 plus $500 marker</td>
<td></td>
</tr>
<tr>
<td><strong>Crime scene cleanup</strong> up to $1000, cleaning only, no property replacement</td>
<td>Crime scene cleanup for homicide, costs of replacing bedding and clothing taken as evidence</td>
</tr>
<tr>
<td>---</td>
<td>---</td>
</tr>
<tr>
<td>Repair, replace, or install locks or other security devices, including windows and outside doors, up to $1000.</td>
<td>Repair, replace, or install locks or other security devices and windows and outside doors. Installation of system and 1 year of monitoring. Costs must be reasonable.</td>
</tr>
<tr>
<td>No property crimes covered and no other property repaired or replaced</td>
<td>No property crimes covered and no other property repaired or replaced</td>
</tr>
<tr>
<td><strong>Mileage</strong> uncommon (related to care but not court)</td>
<td>Mileage to treatment appointments and court</td>
</tr>
<tr>
<td>Security Deposit in collaboration with DV/SA projects</td>
<td><strong>Relocation costs</strong> up to $5000 for victims of domestic abuse and some sexual assault victims providing evidence of a continuing direct threat to their safety, available benefits include security deposit, two months rent, three months storage, basic utility connections, reasonable moving costs, paid directly to providers</td>
</tr>
<tr>
<td></td>
<td>10 days of <strong>temporary survival needs</strong> and post sexual assault medications up to $1000 for adults and $250 for minor, payments made through crisis agencies with reimbursement from Compensation if claim approved</td>
</tr>
</tbody>
</table>

**VI. ANCILLARY VICTIMS**

In New Hampshire, family members and others, who suffer mental trauma due to the crime against the primary victim, are eligible as victims to file independent claims for crimes that occurred prior to 9/14/2009. For crimes committed on or after 9/14/2009, New Hampshire has adopted the Maine model, which includes benefits for family members as part of a single case based on the primary victim’s claim. In Maine, the Board can award benefits to eligible family and household members as part of the single claim. Maine’s ancillary benefits are loss of support for dependents of deceased victims and mental health benefits for four categories of family or household members: family or household members of homicide or sexual assault victims or victims who suffer catastrophic injuries and family or household members who witness the crime against the primary victim.
VII. COVERED CRIMES

<table>
<thead>
<tr>
<th>Maine</th>
<th>New Hampshire</th>
</tr>
</thead>
<tbody>
<tr>
<td>Drunk driving</td>
<td>DWI</td>
</tr>
<tr>
<td>Sexual assault/molestation</td>
<td>Sexual Assault</td>
</tr>
<tr>
<td>Offense against the person (stalking, threatening, terrorizing, assault, homicide)</td>
<td>Assault</td>
</tr>
<tr>
<td></td>
<td>Homicide</td>
</tr>
<tr>
<td>Robbery</td>
<td>Stalking</td>
</tr>
<tr>
<td>Kidnapping and/or criminal restraint</td>
<td>Robbery (not burglary)</td>
</tr>
<tr>
<td>Leaving the scene of a personal injury motor vehicle accident (some cases)</td>
<td>Threatening</td>
</tr>
<tr>
<td></td>
<td>Kidnapping</td>
</tr>
<tr>
<td>Terrorism outside the U.S.</td>
<td>Terrorism outside the U.S.</td>
</tr>
</tbody>
</table>

VII. APPLICATION PROCESS

The application processes for both Maine and New Hampshire are similar. A claimant, usually the victim or the parent or representative for a minor, must complete an application. A completed application form will include information about the victim, the claimant, the crime, the losses suffered, provider bills, and benefits requested. The Maine application form asks about collateral resources. New Hampshire has separate collateral resources forms; one is specifically for motor vehicle crimes. New Hampshire also has a separate form for emergency benefits. All forms and releases must be signed. The claimant submits the application to the compensation program, which acknowledges receipt and immediately starts to verify the crime and the victim’s losses.

The compensation program obtains a police verification form and police reports to verify the crime. (In New Hampshire, if there is no report to police, “reasonable evidence of a crime” can be determined from a Final Order of Protection.) The process for verifying losses depends on the types of crimes and losses suffered. Program staff will obtain bills and medical records for medical losses, treatment plans for mental health counseling requests, estimates for dental work, bills for funerals and crime scene cleanup. The programs need wage stubs or tax returns, employer statements, and disability statements to support lost wage claims.
In Maine, when the claimant has submitted, or program staff have gathered, all necessary information for a case decision, the director reviews the case, makes any additional calculations, and makes recommendations on eligibility and awards to the Compensation Board. By statute the Board can meet only once each month to issue decisions on cases. The Board must make all necessary findings based on a preponderance of the evidence. If the Board issues a denial, a claimant may file a request for hearing within 30 days. The claimant almost always appears for the hearing rather than simply submitting additional information. If the case is denied after hearing, the claimant may appeal to Superior Court. Processing time for an average case is about three to four months.

In New Hampshire the Compensation Commission meets monthly. The director may make non-controversial decisions during the month. The Commission makes decisions based on “reasonable evidence.” After a denial, a claimant has 14 days to request reconsideration. The request should be accompanied by additional evidence. Further review would be by the Attorney General with an appeal to the Supreme Court. The New Hampshire program has set itself a processing goal of three months or less for cases.

VIII. SEXUAL ASSAULT FORENSIC EXAMINATIONS

In both Maine and New Hampshire sexual assault forensic examination charges are paid out of compensation funds. In Maine the compensation staff also processes the payments.

<table>
<thead>
<tr>
<th></th>
<th>Maine</th>
<th>New Hampshire</th>
</tr>
</thead>
<tbody>
<tr>
<td>Payment</td>
<td></td>
<td></td>
</tr>
<tr>
<td>$750 maximum payment</td>
<td>Payment of all charges at the Medicaid rate</td>
<td></td>
</tr>
<tr>
<td>No insurance billing</td>
<td>Insurance billed first unless victim requests confidentiality or if kit is submitted anonymously</td>
<td></td>
</tr>
<tr>
<td>No report to law</td>
<td>No report to law enforcement necessary</td>
<td>No report to law enforcement necessary</td>
</tr>
<tr>
<td>enforcement necessary</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Coverage for all testing and treatment related to initial sexual assault forensic examination</td>
<td>Costs of sexual assault forensic examination, HIV PEP and one follow up visit</td>
<td></td>
</tr>
<tr>
<td>Process covers</td>
<td>Process covers examinations if crime occurred in New Hampshire. No balance billing of victim. If crime occurred outside of New Hampshire, bill is sent to program responsible for payment in the state of the crime</td>
<td></td>
</tr>
<tr>
<td>examinations in Maine</td>
<td></td>
<td></td>
</tr>
<tr>
<td>hospitals.</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

2014 Maine/New Hampshire Victim Assistance Academy - Crime Victims' Compensation
Victims can file a regular compensation application for costs not billable through the forensic examination payment process, for instance, counseling costs or x-ray charges, but regular program requirements apply.
MAINE VICTIMS’ COMPENSATION PROGRAM

An Overview
Deborah Shaw Rice, Director

The Maine Victims’ Compensation Program offers financial assistance to victims of violent crime. This overview provides information on how the program works and how victims of crime may obtain this support.

Victims of criminal violence in Maine often suffer physical and emotional trauma. The aftermath of a violent crime may leave victims and their families overwhelmed and financially burdened. In recognition of the financial hardship crime victims often suffer, the Maine Legislature in the spring of 1992 enacted a statute creating the Victims’ Compensation Fund and Victims’ Compensation Board. This statute provides a mechanism through which eligible crime victims may receive up to $15,000 in financial support for medical and medically-related expenses incurred as a direct result of a crime.

The Victims’ Compensation Program is located in the Criminal Division of the Office of the Attorney General. It is administered by a director and a staff of two, who investigate and verify claims for presentation to the Victims’ Compensation Board. The Board, which meets monthly to make decisions on claims, is comprised of three members drawn from Maine’s legal, medical and victim services communities. Maine has been fortunate to have had a concerned and committed Board since its first meeting in January 1994.

FUNDING SOURCE
The monies utilized for victim awards and program administration comes from the Victims’ Compensation Fund. Funds for the Victims’ Compensation Fund come from assessments levied against criminal offenders: $35.00 for murder, Class A, B and C crimes, and $20.00 for Class D and E crimes. No tax dollars fund either the administration of the Program or the payments of awards to victims.

The Victims’ Compensation Fund also includes smaller amounts of money from other sources such as restitution and subrogated claims. The Fund is NOT intended as a substitute for restitution. If appropriate, the court may order restitution as part of a sentence. In circumstances where the Fund has made an award, such restitution may be payable directly to the Victims’ Compensation Fund. Additionally, if awards made from the Fund are duplicated by recovery in a civil action or insurance settlement, the law requires reimbursement of the Fund. Finally, the Program is eligible for and receives some Federal matching monies, which come from Federal criminal fines and penalties rather than tax dollars.

WHAT IS AN ELIGIBLE EXPENSE?
The Board may award up to $15,000 for actual medical and medically-related expenses or losses incurred as a direct result of crime-related injuries. These expenses or losses may include mental health counseling, lost wages, loss of support, and burial and funeral expenses. In addition, counseling expenses are covered for certain family and household members of certain victims.
No property losses are covered other than replacement costs of eyeglasses, dentures and other prosthetic devices and some costs of crime scene cleanup and repair, replacement, or installation of locks or other security devices. A security deposit may be covered for a victim working with a community advocacy agency.

The Compensation Program is a "payer of last resort." An expense is eligible for payment from the Fund only if there is no collateral source of payment. Collateral sources include, but are not limited to, insurance, Medicaid, Medicare, and workers’ compensation. Life insurance is not considered a collateral resource in homicide cases.

ELIGIBLE CRIME VICTIMS/COMPENSABLE CRIMES/REPORTING
To be eligible, a person must be a victim of a compensable crime committed on or after January 1, 1993. The crime must be one of the following types: (1) an offense against the person (Title 17-A, chapter 9), (2) a sexual assault (Title 17-A, chapter 11), (3) a kidnapping and/or criminal restraint (Title 17-A, chapter 13), (4) a robbery (Title 17-A, chapter 27), (5) a drunk driving incident (Title 29-A, §2411), (6) sexual exploitation of a minor (Title 17-A, chapter 12), or (7) in some cases, leaving the scene of a personal injury motor vehicle accident (Title 29-A, §2252). The victim must suffer bodily injury or be threatened with bodily injury except in instances of sexual assaults. NOTE: The crime need not result in a successful prosecution. The Board may consider an application regardless of the status of the criminal process. However, to make an award, the Board must find by a preponderance of the evidence that a compensable crime in fact did occur.

There are some statutory restrictions. First, compensation may only be paid to innocent victims; it may not be paid to or on behalf of any person who violated a criminal law that contributed to or caused the injury for which compensation is sought. Also, the victim must report the crime to a law enforcement agency and must cooperate with the reasonable requests of law enforcement officers and prosecuting authorities. The law provides for a report to police to be made within 5 days of the occurrence of the crime unless there is good cause for delay; however, this time limit is always waived for children and may be waived for adults as well.

An application must be filed by the victim with the Compensation Board within three years of the crime or 60 days of the discovery of the injury or compensable loss, whichever is later, unless there is good cause for failing to file. Again, the Board has applied this waiver very liberally.

APPLICATION PROCESS
The victim or a claimant acting on the victim’s behalf must complete a standard application form. Forms are available at the Victims’ Compensation Program office and through all District Attorney’s Victim Witness Assistance Programs. The application must be signed and sent to the Victims’ Compensation Board. Release forms are included with the application to allow staff to compile and verify information. When all information and documentation necessary to support a victim’s claims have been submitted, the case is reviewed by the Board at its next monthly meeting. Most claims can be verified by staff and are approved by the Board; however, if the Board issues a denial, a claimant can request a hearing before the Board. If the case is denied after hearing, the claimant may appeal to Superior Court.
SEXUAL ASSAULT FORENSIC EXAMINATIONS
In the year 2000, the Maine Legislature made the Victims’ Compensation Program responsible for paying the costs of forensic examinations for victims of gross sexual assault. These examinations almost always are performed in hospitals and must be performed with a sexual assault kit. Hospitals bill the VCP directly for these examinations, up to a maximum of $750, and they may not balance bill the victim or any source other than the VCP. The victim need not report the sexual assault to police to have these services covered by the VCP. If the victim has services which are not part of the initial testing and treatment for a sexual assault, such as x-rays, follow-up medications, or counseling, the hospital may bill the victim or the victim’s insurance. A victim may file a regular application with the VCP to ask for reimbursement for such additional charges. If applying for this additional help, the victim will need to report the crime to law enforcement.

AUTHORITY
The authorizing statute for the Program can be found at 5 M.R.S.A. §§3360-3360-M. The Rules are agency number 26 and unit number 550, chapters 3, 6, and 8. There are links to the statute and rules on the Program website.

For more information, please contact:

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6 State House Station
Augusta, Maine 04333-0006
(207) 624-7882

● Also see Maine Attorney General web site at www.state.me.us/ag and select “Crime and Victims” and then “Victims’ Compensation” or http://www.state.me.us/ag/crime/victims_compensation/index.shtml

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STATISTICS
MAINE VICTIMS’ COMPENSATION PROGRAM
Federal Fiscal Year 2012 Statistics

During State Fiscal Year 2013 the Maine Victims’ Compensation Program paid out $519,057 on claims for victims who filed claims and another $199,138 for payments directly to hospitals for sexual assault forensic examinations, for a total of $718,195 in payments for 461 violent crime victims and their families. The average new or additional case payment during the period was $2,717 per case. The forensic payments averaged $737.
MAINE VICTIMS’ COMPENSATION PROGRAM

ELIGIBILITY CHECKLIST

If the following statements are true the claimant may be eligible for financial assistance.

YES/NO

The crime was committed on or after January 1, 1993. ____

The crime committed is one of the following:

- An offense against the person, e.g. assault or murder, (Title 17-A Ch. 9)
- A sexual assault/exploitation of minor (Title 17-A Ch. 11, Ch. 12)
- Kidnapping/criminal restraint (Title 17-A Ch. 13)
- Robbery (Title 17-A Ch. 27)
- Drunk Driving (Title 29-A §2411)
- Leaving the scene of some personal injury vehicle accidents (Title 29-A §2252)

The victim suffered bodily injury or the threat of bodily injury as a direct result of the crime (not required of victims of sexual assault). Yes ___ No ____

The crime was reported to a Law Enforcement Agency within five days of the occurrence or discovery of the crime or injury.* Yes ___ No ____

The victim was not engaged in criminal activity which contributed to or caused the injury. Yes ___ No ____

The victim cooperated with the law enforcement officials and prosecutors. Yes ___ No ____

The victim/claimant has no collateral source of payment for the compensation they are seeking.(e.g. insurance, Medicaid) Yes ___ No ____

An application will be filed with the Victim Compensation Board within three years of the injury or compensable loss or within 60 days of the discovery of the injury or compensable loss, whichever is later.* Yes ___ No ____

-----------TYPES OF COVERAGE SOUGHT-----------

The claimant is seeking coverage for a victim for actual losses for: medical, mental health counseling, lost income or wages, dependent care, funeral, eyeglasses, dentures, other prosthetic devices, travel, some crime scene cleanup costs, costs for locks or security devices, and security deposits. Yes ___ No ____

or

The claimant is seeking coverage for persons other than the victim for:

1. Counseling expenses Yes ___ No ____
   a. for family and household members of homicide victims or of victims of sexual assault ,
   b. for family and household members of crime victims, who witness the commission of the crime, or
   c. for family and household members of a crime victim who suffers catastrophic injuries.
   or
2. Funeral and burial expenses up to $4500 (+ $500 for a marker) and up to $1000 for extraordinary homicide related losses. Yes ___ No ____
   or
3. Loss of support for the dependents of homicide victims. Yes ___ No ____

* Time requirements may be waived. Claimants should submit a letter to the Board.
Dept. of Attorney General, Victims’ Compensation Program, #6 SHS, Augusta, ME 04333-0006; (207) 624-7882