

STATEMENTS OF POLICY

Title 4—ADMINISTRATION

PART II. EXECUTIVE BOARD

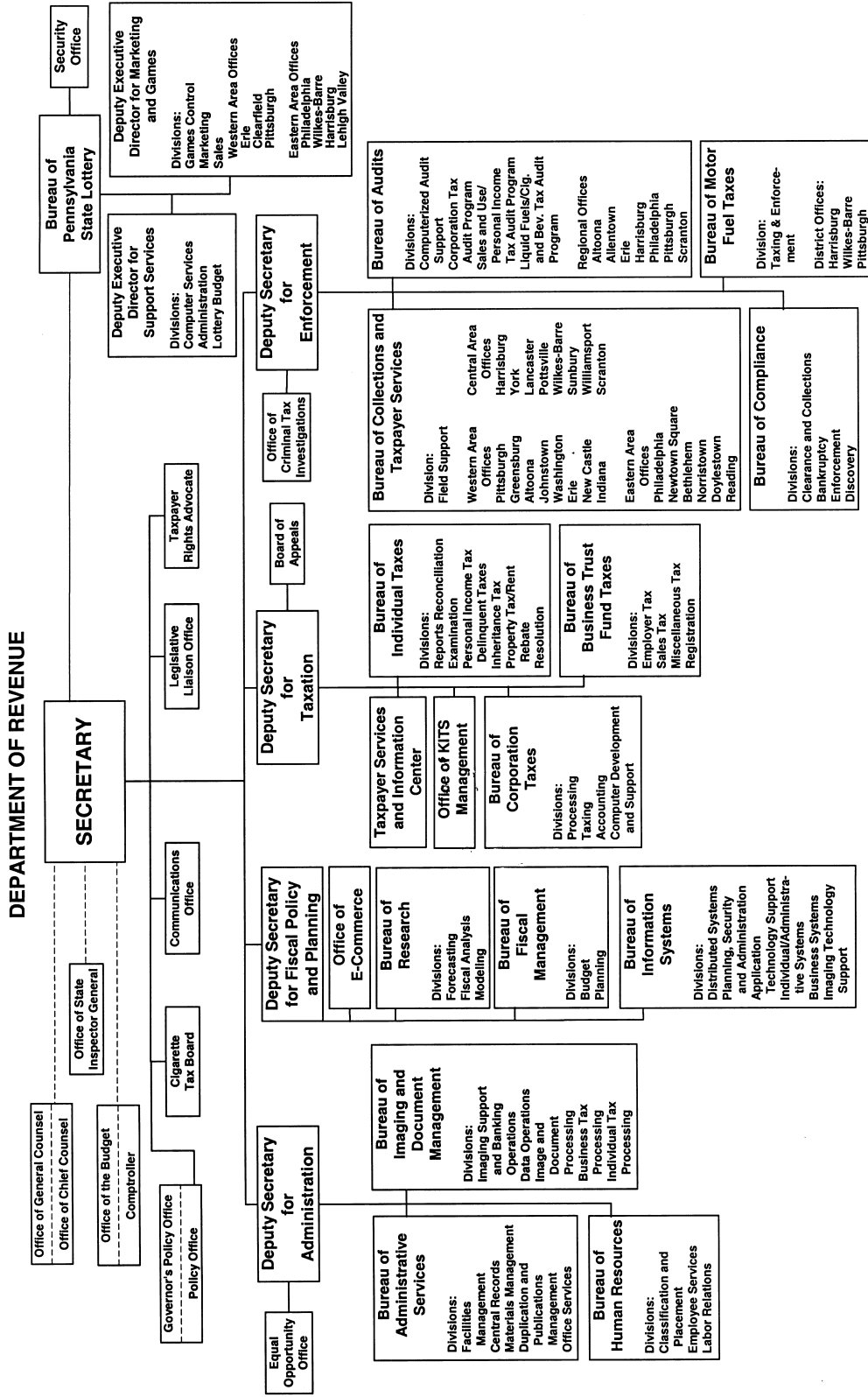
[4 PA. CODE CH. 9]

Reorganization of the Department of Revenue

The Executive Board approved a reorganization of the Department of Revenue effective August 27, 2002.

The organization chart at 32 Pa.B. 4488 (September 13, 2002) is published at the request of the Joint Committee on Documents under 1 Pa. Code § 3.1(a)(9) (relating to contents of Code).

(Editor's Note: The Joint Committee on Documents has found organization charts to be general and permanent in nature. This document meets the criteria of 45 Pa.C.S. § 702(7) as a document general and permanent in nature which shall be codified in the Pennsylvania Code.)



[Pa.B. Doc. No. 02-1592. Filed for public inspection September 13, 2002, 9:00 a.m.]

Title 37—LAW

PENNSYLVANIA COMMISSION ON CRIME AND DELINQUENCY

[37 PA. CODE CH. 411]

Schedule of Compensation Limits and Reimbursement Rates for Crime Victims Compensation Program

The Office of Victims' Services (OVS) of the Pennsylvania Commission on Crime and Delinquency (PCCD) is publishing a schedule of compensation limits and reimbursement rates as authorized by section 312(13) of the Crime Victims Act (act) (18 P. S. § 11.312(13)).

The powers and duties of the OVS are set forth in the act as amended by the act of June 28, 2002 (P. L. 496, No. 85) (Act 85).

The OVS has been operating under the regulations originally promulgated by the discontinued Crime Victim's Compensation Board (Board) and set forth in Chapter 191 (relating to general provisions). A proposed rulemaking is being drafted that, when enacted as a final-form rulemaking, will set forth in Chapter 411 (relating to Office of Victims' Services) revised standards for the compensation program. The PCCD anticipates publishing the proposed rulemaking later this year. With the exception of those provisions specifically superseded as set forth in this statement of policy, the Board's regulations will continue to apply generally until a final-form rulemaking is enacted.

Act 85, which became effective on August 27, 2002, changes the rights provided to victims of crime, including the requirements for victim and law enforcement notifications; amends definitions; allows the OVS to establish compensation limits and reimbursement rates; changes requirements on who can file and the time limits for filing; broadens current award maximums and increases the scope and types of benefits available; strengthens the requirements for the confidentiality of records; and sets penalties for those who fail to respond to a request for information and increases penalties against offenders in the adult and juvenile justice systems.

Act 85 also added a provision, in section 708(b) of the act (18 P. S. § 11.708(b)), authorizing the OVS to set a rate at which it will pay a hospital or other licensed health care provider for medical expenses. This provision empowers the OVS, like other third-party payors, to pay less than 100% of a given medical bill, thus preserving the limited resources of the Crime Victim's Compensation Fund and allowing more bills to be paid within the overall \$35,000 statutory maximum of the act.

Section 312(13) of the act (18 P. S. § 11.312(13)) gives the OVS the power "to establish compensation limits and reimbursement rates for the purpose of carrying out the provisions of Chapter 7 [of the act, relating to Compensation]." It further directs the OVS to publish in the *Pennsylvania Bulletin* a schedule of compensation limits and reimbursement rates, provided that, within 2 years of the publication, it promulgates a regulation containing the schedule. With this statement of policy, the OVS is publishing the necessary schedule.

This statement of policy is effective upon publication in the *Pennsylvania Bulletin* and, unless otherwise specified, applies to compensation claims relating to crime injuries occurring on and after August 27, 2002.

(*Editor's Note:* The regulations of the Pennsylvania Commission on Crime and Delinquency are amended by adding §§ 411.101—411.103, to read as set forth in Annex A.)

CAROL LAVERY,
Director

Fiscal Note: 35-27. (1) General Fund; (2) Implementing Year 2002-03 is \$430,289; (3) 1st Succeeding Year 2003-04 is \$481,063; 2nd Succeeding Year 2004-05 is \$531,863; 3rd Succeeding Year 2005-06 is \$531,863; 4th Succeeding Year 2006-07 is \$531,863; 5th Succeeding Year 2007-08 is \$531,863; (4) 2001-02 Program—\$6,046,000; 2000-01 Program—\$6,986,000; 1999-00—\$5,306,000; (7) Crime Victims Reimbursements Act 85 of 2002, and Federal reimbursements are expected to cover the costs of these services. Based on the information provided in the Regulatory Analysis Form, it is our understanding that a portion of the savings generated from the decrease in the medical reimbursement rate would be offset by additional payments to crime victims that normally would not have been able to be made. To the Budget Office's knowledge, these additional costs have not been considered.

Annex A

TITLE 37. LAW

PART VI. COMMISSION ON CRIME AND DELINQUENCY

CHAPTER 411. OFFICE OF VICTIMS' SERVICES

SCHEDULE OF COMPENSATION LIMITS AND REIMBURSEMENT RATES FOR CRIME VICTIMS COMPENSATION PROGRAM

Sec.

411.101. Scope.

411.102. Definitions.

411.103. Schedule of compensation limits and reimbursement rates.

§ 411.101. Scope.

(a) Except as otherwise indicated, this schedule of compensation limits and reimbursement rates applies to claims for compensation relating to crime injuries occurring on or after August 27, 2002.

(b) This chapter supersedes Chapter 191 (relating to general provisions) only to the extent its provisions conflict with Chapter 191.

(c) The maximum rates set forth in this chapter shall include any additional amounts, including taxes and gratuities.

§ 411.102. Definitions.

The following words and terms, when used in this chapter, have the following meanings, unless the context clearly indicates otherwise:

Average weekly wage—The average weekly wage for persons covered by the Unemployment Compensation Law (43 P. S. §§ 751—771) in this Commonwealth as determined periodically by the Department of Labor and Industry.

OVS—The Office of Victims' Services of the Pennsylvania Commission on Crime and Delinquency.

§ 411.103. Schedule of compensation limits and reimbursement rates.

(a) *Medical expenses.*

(1) The OVS will pay a hospital or other licensed health care provider at the rate of 70% of the usual and customary charge for the service rendered.

(2) This rate applies to any bill for services incurred on or after August 27, 2002.

(b) *Travel expenses.* The OVS will reimburse an eligible person as follows for expenses of travel to obtain medical care or counseling, and, in the case of an injury that results in death, for travel in connection with transport of the body:

(1) Meals totaling no more than \$28 per day, with no more than \$6 for breakfast, \$6 for lunch and \$16 for dinner.

(2) Lodging to a daily maximum of \$75.

(3) Private vehicle usage at mileage rate currently paid by the Commonwealth to its own employees for travel.

(4) Vehicle rental to a daily maximum of \$50.

(5) Payment of driver needed as result of crime to maximum hourly rate of \$8.

(6) Common carrier fares in full.

(7) Meals and lodging reimbursement is limited to trips of 50 miles or more from the eligible person's home.

(8) In claims involving death, the OVS will reimburse travel expenses for no more than two persons, including a person designated by the family or person who pays for the funeral.

(c) *Funeral expenses.*

(1) Except as otherwise set forth in this subsection, the OVS will reimburse a maximum of \$5,000 in total for expenses relating to a funeral of a direct victim or intervenor. Within this overall limitation, the following specific limitations apply:

(i) \$4,800 for funeral services, including cremation, and interment.

(ii) \$900 for a monument.

(iii) \$300 for floral arrangements.

(iv) \$300 for funeral or memorial meal.

(v) \$175 for clothing purchased for the deceased for the funeral or interment.

(2) Reimbursement will not be made for alcoholic beverages.

(3) In addition to the maximum of \$5,000 as set forth in paragraph (1), the OVS may pay one claimant up to 1 week's net loss of earnings, not to exceed the average weekly wage, if the claimant was not otherwise reimbursed for the loss of earnings.

(d) *Replacement of personal health-related items damaged or stolen as a result of a crime.*

(1) Except as otherwise set forth in this subsection, the OVS will reimburse the costs to a maximum of \$1,000 for the replacement of each prosthetic device, wheelchair, cane, walker, hearing aid, eyeglasses or other corrective lenses, dental device or prescription medications.

(2) Reimbursement for eyeglass frames shall be limited to \$200.

(e) *Home maintenance expenses.*

(1) The OVS will provide reimbursement for the cost of obtaining services such as laundering, cleaning, child care, administration of medication, food shopping and meal preparation needed as a result of the crime.

(2) Members of the family of the direct victim or intervenor engaged to perform the services will be paid their net loss of earnings not to exceed the average weekly wage and if not otherwise reimbursed for the loss of earnings.

(3) Individuals engaged to perform services who are not family members will be paid a maximum hourly rate of \$8.

(f) *Relocation expenses.*

(1) The OVS will provide reimbursement for expenses incurred by the temporary or permanent relocation of a direct victim and individuals residing in the direct victim's household when immediate relocation is necessary to protect their health and safety.

(2) Reimbursement will not be made unless the immediate need for relocation is verified by a medical provider, human services provider, or law enforcement.

(3) Expenses to be reimbursed are as follows:

(i) Lodging to a daily maximum of \$75.

(ii) Rental of substitute living quarters.

(iii) Utility connection fees.

(iv) Rental of a passenger vehicle for a total daily maximum of \$50.

(v) Private vehicle usage at mileage rate currently paid by the Commonwealth to its own employees for travel.

(vi) Common carrier fares.

(vii) Moving company charges or van rental.

(viii) Tolls and parking expenses.

(ix) Rental of post office box.

(x) Charges for storage of personal belongings.

(xi) Child care expenses.

(4) For each crime incident, reimbursement for relocation expenses is limited to a maximum of \$1,000 per household.

(g) *Forensic rape examination.*

(1) The OVS will reimburse a maximum of \$1,000 to a hospital or other licensed health care provider for a forensic rape examination and medications directly related to the sexual assault or rape.

(2) The reimbursement will not include expenses for analyzing collected evidence for DNA or presence of Rohypnol or other similar drugs.

(3) This reimbursement will not be limited by the overall statutory maximum of \$35,000 per claim.

(4) Claims shall be filed with OVS no later than 1 year after the date of the crime.

(h) *Costs of cleaning the crime scene of a private residence.*

(1) The OVS will reimburse a maximum of \$500 for the costs of cleaning the crime scene of a private residence.

(2) Reimbursement shall be limited to expenses of cleaning blood or other stains caused by the crime or dirt or debris resulting from the processing of the crime scene.

(3) This reimbursement will not be limited by the overall statutory maximum of \$35,000 per claim.

(i) *Counseling.*

(1) The OVS will pay expenses of counseling performed by or under the supervision of a psychiatrist, psychologist, licensed professional counselor or licensed social worker to claimants as follows:

(i) A maximum of \$10,000 in total expenses of a direct victim who was under 18 years of age upon the occurrence of the crime.

(ii) A maximum of \$5,000 in total expenses of a direct victim who was 18 years of age or older upon the occurrence of the crime.

(iii) A maximum of \$5,000 in total expenses of any of the following individuals affected by the homicide of a direct victim:

(A) One responsible for the welfare of the direct victim.

(B) One related in the second degree of consanguinity or affinity to the direct victim.

(C) One maintaining a common-law relationship with the direct victim.

(D) One residing in the same household with the direct victim.

(E) One engaged to be married to the direct victim.

(iv) A maximum of \$2,500 in total expenses of any of the individuals described in subparagraph (iii) affected by a crime against a direct victim that is not a homicide.

(v) A maximum of \$1,500 in total expenses of either of the following individuals:

(A) One who is physically present at a crime scene and witnesses a violent crime.

(B) One who discovers the body in a homicide.

(2) For counseling expenses relating to a homicide, the OVS may not reduce the amount of the award or deny the reimbursement due to the conduct of the direct victim.

(3) This reimbursement will not be limited by the overall statutory maximum of \$35,000 per claim.

(j) *Emergency awards.* The OVS may make a maximum award of \$1,500 in a claim that appears to the OVS to have merit and in which undue hardship will result to the claimant if immediate payment is not made.

(k) *Hearing related expenses.*

(1) The OVS will reimburse claimants \$20 per day for attendance at a hearing directed by the OVS in connection with the claim. Additional expenses will be reimbursed as follows:

(i) Private vehicle usage at mileage rate currently paid by Commonwealth to its own employees for travel.

(ii) Common carrier fares when preapproved by the OVS.

(iii) Lodging the night before or the night after a hearing session, to a daily maximum of \$75, if the claimant must travel at least 50 miles from home for the hearing.

(2) Reimbursement provisions in this subsection apply to hearings that occur on or after August 27, 2002.

(l) *Representation by attorney.*

(1) Subject to the limitations of this subsection, the OVS may reimburse an attorney representing a claimant a maximum rate of \$75 per hour spent in the preparation of and presentation of a claim that is awarded.

(2) Reimbursement provisions in this subsection apply to services rendered on or after August 27, 2002.

(3) Reimbursements shall be in addition to the award made to the direct victim, but may not exceed 15% of that award.

(4) Reimbursements shall be limited to services rendered prior to the date of the award, and shall be supported by an affidavit from the attorney that details the services performed, amount of time spent on each service and costs.

[Pa.B. Doc. No. 02-1593. Filed for public inspection September 13, 2002. 9:00 a.m.]