

Victims of Crime Regulations
Effective date October 16, 1989

649. Definitions.

As used in this article and unless otherwise specified, the terms as defined in this section shall be construed in accordance with the definitions as set forth herein:

- (a) The term "board" shall mean the State Board of Control.
- (b) The initials "VOC" as used in this article shall refer to the Victims of Crime Program as specified in Title 2, Division 3, Part 4, Chapter 5, Article 1, commencing with Section 13959 of the Government Code.
- (c) The term "fund" shall mean the Restitution Fund as set forth in Section 13960.1 of the Government Code.

- (d) The term "code" shall mean the California Government Code.

- (e) The term "zero award" shall mean any determination of eligibility for VOC benefits or assistance in which the sole issues to be determined in the initial verification process are:

- (1) whether the applicant is the victim of a qualifying crime;
- (2) whether there was any contribution in the perpetration of that crime or activity leading to the commission of the crime which would bar or reduce assistance; or
- (3) whether there was cooperation with law enforcement in the apprehension and prosecution of the perpetrator;

and shall not involve a determination as to the payment of any specific amount of monetary assistance for any pecuniary loss.

- (f) Unless otherwise specified the term "file" or "filed" as it applies to the process of lodging an application for VOC benefits on behalf of a victim shall mean the filing of the application with the board through VOC staff or with any victim witness center with which the board contracts for verifying claims pursuant to Government Code Section 13962(e) operating under contract to the board. All applications shall be deemed filed with the board or its contract agencies on the date that the application is postmarked by the United States Postal Service or other private carrier postage prepaid and properly addressed, or on the date that it is personally delivered to the board and deposited with VOC staff or with a victim witness center under contract to the board.

- (g) The term "hearing" as used in these regulations shall mean an administrative hearing duly noticed and convened in the normal course of its public meeting schedule by the board, or a hearing duly noticed and convened by a hearing examiner appointed for that purpose by the board.

- (h) "Denial of the claim" as that term is used in Section 13962(b) of the code and as construed for purposes of the board's hearing process shall mean a preliminary determination and recommendation for disallowance by VOC staff and shall not be construed to mean a final administrative decision following a hearing by the board to deny the claim or application.

- (i) "Full discussion hearing" as that term is used in this article, shall mean a hearing before the board in which the applicant, and/or his or her representative has made a written request to be heard in order to contest a VOC staff recommendation to deny or partially deny a claim or application.

- (j) The term "collateral benefits" as used in these regulations shall include but not be limited to the following types of benefits:

- (1) All forms of private and public insurance benefits paid to or on behalf of the insured victim or his or her survivors, including medical, disability, wage loss, liability and casualty insurance including vehicle, commercial and residential insurance.
- (2) All forms of public and private assistance paid to, or on behalf of, the victim or his or her survivors, including Medi-Cal, social security, state disability insurance, Worker's Compensation and Medicare.
- (3) Any restitution paid by the criminal perpetrator directly to the victim or his or her survivors whether collected by public agencies and paid over to the recipient or collected directly by the recipient.

(k) The term "member of the family" as used in Section 13960(a)(3) and (4) of the code shall include all lineal descendants and ancestors of the victim still living at the time of the incident, whether related by blood or by formal adoption as well as spouses, siblings, step-parents, spouse's parents and step-parents, foster parents, step-children, step-brothers and step-sisters whether living in the household with the victim at the time of the crime or not.

(l) The term "present during the actual commission of the crime" as that term is used in Section 13960(a)(3) of the code shall mean actual physical presence at the scene of the crime such that the person was a percipient witness to the crime itself.

(m) The term "person in close relationship to such a victim" as that term is used in Section 13960(a)(3) of the code shall include:

- (1) Those persons whether related by blood or adoption or not, who were actually domiciled with the victim on the date of the crime for which assistance is sought. Such persons may include persons of the same or opposite sex.
- (2) Persons who are no longer living together but who have a child in common whether by birth or adoption prior to the commission of the criminal act.
- (3) Any person who has publicly announced his or her engagement to become married to the victim prior to the commission of the criminal act and who remains engaged to the victim at the time of the crime.
- (4) Any person who is the victim's primary caretaker at the time of the crime.

(n) The term "direct cash payment" as used in Section 13965(a)(1) of the code shall be those payments sent directly to providers when there is no objection by the victim, or when good cause is demonstrated, notwithstanding a victim's objection.

(o) "Certification under penalty of perjury" or "upon information and belief" as those terms are used in these regulations and where applicable to the filing of an application or claim shall mean a single signature under penalty of perjury or information and belief as required to certify that the entire contents of the application are true and correct within the knowledge or belief of the applicant.

(p) The term "regular application" refers to the applicant's initial filing for eligibility and/or benefits.

(q) The term "supplemental claim" refers to bills, statements for services and claims for additional assistance submitted to the board following the filing and acceptance of the regular application for victim assistance.

NOTE: Authority cited: Section 13968(a) of the Government Code. Reference: Sections 13960(a) and (d), 13960.1, 13962(b) and (e), 13963, and 13965(a) of the Government Code; section 13835.2 of the Penal Code.

649.1. Time for Presenting Applications.

(a) Persons who are alleged to have been the victims of qualifying crimes pursuant to Government Code Section 13960 must file the regular application for VOC assistance within one year of the date that the crime occurred.

(b) Regular applications filed after the expiration of the period of limitations set forth in paragraph (a) of this section shall not be accepted. In such cases, the applicant and his or her representative will be notified that the application has not been filed in a timely manner and that they have a right to petition the board for relief on grounds that good cause exists for the late filing as specified in Section 13961(c) of the code. Petitions for relief on such grounds shall be in the form of a written statement signed under penalty of perjury which statement sets forth the reasons why the applicant was unable to file his or her regular application within the one year period of limitations specified by Government Code Section 13961(c).

Upon a timely petition for relief as specified in paragraph (c) of this regulation, the board may either grant relief upon the recommendation of VOC staff, or after considering the convenience to the petitioner as to location, the board shall schedule a hearing to determine the existence or nonexistence of good cause and shall notify the applicant and his or her representative of the time and place of such hearing. Such notice

shall be in accordance with the terms of Section 13962(b) of the code. The board may delegate such hearings to hearing examiners to be designated and appointed by the board, which examiners shall render a written proposed decision to the board which may then adopt, modify or reject the proposed decision.

In all cases the determination by the board as to the existence or nonexistence of good cause shall constitute the final administrative determination on that issue, subject only to a proper motion for reconsideration upon a showing of new and additional evidence not reasonably available at the time of the initial hearing. Nothing in this section shall prevent the board upon its own motion following a hearing by a hearing examiner from convening a hearing de novo on the question of good cause. Nothing in this section shall be construed to prevent an applicant or his or her representative from filing the above stated declaration and petition for relief upon a showing of good cause simultaneously with the late regular application.

(c) All petitions for relief from the period of limitations on grounds of good cause shall be filed with the board in writing not more than 30 (thirty) days following the date notice is mailed to the applicant and his or her representative of the late filing, and shall include the statement under penalty of perjury as specified in paragraph (b) of this regulation. Applicants failing to petition for relief in writing within the 30 (thirty) days set forth herein shall have their regular application returned and shall be deemed to have waived any right to relief from the period of limitations.

(d) Applicants seeking relief from the period of limitations on the filing of claims may, with their petition for relief and accompanying statement, include any corroborating documents which serve to verify the stated justifications for late filing.

(e) For purposes of the period of limitations as stated herein, the timely filing of a regular application, signed and dated, including the name, address and telephone number of the applicant, and the victim if different, prior to the expiration of the period of limitations shall be sufficient to perfect a regular application as against the period of limitations.

Where the regular application as filed is deemed to be incomplete, it shall be returned to the applicant in accordance with the terms of Section 13962(a) of the code and the period of limitations shall be deemed suspended during the 30 days specified in that section as well as during any period pending a hearing by the board as set forth therein. Where no action is taken by the applicant on the regular application during the 30 days as specified in the code, the regular application shall be deemed abandoned and the period of limitations shall again commence to run.

Incomplete regular applications returned to the applicant with notice as to the deficiency as specified in Section 13962(a) shall be deemed received by the applicant five days after they are deposited in the United States mail properly addressed and postage prepaid. Requests for hearing, or return of information sufficient to complete the regular application shall be deemed filed on the date postmarked by the United States Postal Service or other carrier, postage prepaid and properly addressed.

NOTE: Authority cited: Section 13968(a) of the Government Code. Reference: Section 13961(c) and 13962(b) of the Government Code.

649.2. Third Party Applications.

Under the provisions of Government Code Section 13960(a)(5), "victim" shall not include an "individual" who merely provides medical or medically related services, funeral and/or burial services, estates, or corporations. Further, the aforementioned providers, estates, or corporations shall not file claims for indemnification with the board. All such expenses shall be paid based upon the submission of such expenses through the particular qualifying victim or his or her representative.

NOTE: Authority cited: Section 13968, Government Code. Reference: Section 13960, Government Code.

649.3. Authorized Indemnification.

(a) Any cash payments made in response to an application or supplemental claim, arising out of the same crime, shall not exceed the monetary limits permitted by statute for a single application filed pursuant thereto.

(b) Personal Property. Except as provided for in Government Code Section 13960, the Board shall not indemnify a victim for loss of money or loss or damage to personal property sustained in the crime giving rise to the application.

(c) Rehabilitative Services. Cash payments for job retraining or similar employment-oriented services will be paid to or on behalf of the person sustaining the physical injury, or in the event of his or her death or continuing disability, only to or on behalf of those persons who were directly dependent on him or her for their major support. Persons requesting cash payment for rehabilitative services must clearly indicate the type of services or retraining contemplated, the intended provider of the services, the cost thereof, and the need for the services. The applicant must also certify, to the satisfaction of the Board, that such assistance is not available from some other tax-supported program.

NOTE: Authority cited: Section 13968(a) of the Government Code. Reference: Section 13960, 13965, and 13965.1 of the Government Code.

649.4. Burden of Proof.

It shall be the responsibility of the applicant to prove to the satisfaction of the board, 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 the out-of-pocket losses sustained as a direct result of such crime; that the victim did not, by his/her acts, contribute to the injuries suffered; and the victim's need for job retraining or similar employment-oriented services.

NOTE: Authority cited: Section 13968, Government Code. Reference: Section 13964, Government Code.

649.5. Definition of Residency Requirement.

For purposes of this article, residency, up to and including December 31, 1985, means resident of this state as defined in Title 1, Chapter 2, Article 1, of the California Government Code. Beginning January 1, 1986, and for so long as federal funds remain available to the State for compensation of crime victims, anyone criminally injured in California shall be deemed eligible for compensation without regard to place of residence.

NOTE: Authority cited: Section 13968, Government Code. Reference: Sections 241, 242, 243, 244, 13960 and 13960.5, Government Code.

649.6. Burden of Proof of Residency.

It shall be the responsibility of the applicant to prove that the person whose injury or death gave rise to the application was a resident of California as defined in Section 649.5 at the time of the incident.

NOTE: Authority cited: Section 13968, Government Code. Reference: Section 13960, Government Code.

649.7. Duty of Local Law Enforcement Agencies.

Notice of the Victims of Crime Act shall be given by local law enforcement agencies either in person or

by mail, or in conjunction with local victim witness assistance centers, to all victims of crimes or their dependent at the time of the incident or as soon as possible thereafter. The notice as required by Government Code Section 13968(c) shall be given in accordance with the written procedures developed by the agency pursuant to Section 649.8 of this article. In addition, new officers shall be advised by their superiors upon entering service of the particulars of the Victim Compensation Program. Instruction concerning the program shall be made a part of the training curriculum for all trainee officers.

NOTE: Authority cited: Section 13920, Government Code. Reference: Section 13968, Government Code.

649.8. Victims of Crime Liaison Officer.

Each local law enforcement agency shall designate a Victims of Crime Liaison Officer. The State Board of Control shall be advised of the name, business address and telephone number of the person appointed. In carrying out the agency's responsibility under California Government Code Section 13968(c) and Section 649.7 of this article, the Liaison Officer shall devise and implement written procedures whereby victims, or their dependents or family, are notified and provided forms for filing under the Victim Compensation Program. These procedures shall be available for examination, upon request, by the State Board of Control. It shall also be the responsibility of the Liaison Officers or their designees to respond to inquiries from interested persons concerning procedures for filing a claim under this program. Liaison Officers or their designees shall provide to interested persons application forms supplied by the State Board of Control explaining the Victims Compensation Program.

NOTE: Authority cited: Section 13920, Government Code. Reference: Section 13968, Government Code.

649.9. Complete Application.

Applications for assistance as specified in Section 13961 of the code shall be deemed to be complete within the meaning of Section 13962(a) of the code only if:

(a) The applicant provides all information as directed in the instructions to, and as elicited on, VOC regular application which the board shall require to be certified under penalty of perjury or upon information and belief. As part of the regular application the board shall require the following information:

- (1) The name, residence address, and if different, mailing address, social security number, date of birth and telephone number of the applicant seeking restitution from the Fund.
- (2) A designation as prescribed on the regular application as to whether the victim is the person who himself sustained injury as a direct result of the crime, or is a dependent of the person who sustained injury (Section 13960(a)(2) of the code); or a family member or person in close victim (Section 13960(a)(3) of the code); or a family member who sustained emotional injury as a result of a crime perpetrated against another family member and whose assistance is limited to \$10,000 (Section 13960(a)(4) of the code); or in the event of a death caused by a crime, any person who legally assumes the obligation, or who voluntarily pays the medical or burial expenses incurred as a direct result of the crime (Section 13960(a)(5) of the code).
- (3) If the person signing the regular application as the applicant is a person other than the actual victim seeking assistance, some designation as to the legal authority of such person to apply for benefits on behalf of the victim (e.g. parent or legal guardian for a child; or court appointed conservator for adults adjudicated to be incompetent.)
- (4) A description of the date, nature and circumstances of the crime or public offense.
- (5) Except in the case of a request for "zero awards", a complete statement of losses and reimbursements directly related to the commission of the criminal act including but not limited

to the cost of medical care or burial expense and the loss of wages or support the victim has incurred to date for which they claim assistance. This statement shall constitute the "financial statement" as required by Section 13961(d)(2) of the code. This statement shall include the date or dates that medical, mental health or other professional services were provided to the victim and a description of the services provided along with a statement that the services were in fact received and that such services were required as a direct result of the crime and for no other reason. If mental health psychotherapy services were provided, the statement shall include a designation as to whether any counseling or psychotherapy provided was in an individual, family or group setting.

- (6) A signed authorization permitting the board or a local victim witness center under contract to the board, or both, to verify the contents of the regular application.
- (7) If the applicant is represented by an attorney or other person, the name, address and telephone number of such representative.
- (8) A statement whether the victim or his or her survivors have commenced or intend to commence a civil action to recover monetary damages from the perpetrator or perpetrators of the crime or any other parties in connection with the crime, along with the name, telephone number and address of any attorney representing the applicant in such civil proceedings.
- (9) A statement disclosing all collateral benefits including any private or public insurance or benefits payable from private or public programs of assistance for which the victim or his or her survivors have applied or for which they may be eligible.

(b) In addition to the information as specified in subparagraph (a) above, applicants seeking types of assistance as set forth in Section 13965 of the code shall provide the following information relative to each category of assistance claimed:

- (1) If medical or mental health expenses are claimed to have been incurred as a direct result of the crime, an itemized statement from the professional provider for all medical or mental health expenses incurred as of the date of the regular application including the license number of the professional certificate issued by the State of California or other jurisdiction to the medical or mental health practitioner providing the service as well as his or her business address and telephone number. Providers of services who are authorized by law to offer such services as part of their on-going business activity, but who are not required to obtain a professional or occupational license must provide either their social security number, or their Federal Employer Identification Number.
- (2) If loss of income is claimed to have occurred as a direct result of the crime, the applicant shall produce evidence of income loss as well as a statement of disability from the treating medical or mental health provider.

Evidence of loss of income may include but not be limited to, documentation of earnings immediately preceding the date of the crime such as copies of all wage check stubs for periods immediately preceding the date of the crime, or copies of all state and federal income tax returns filed by the victim or applicant for the tax year immediately preceding the date of the crime or during the year of the crime, if available, or a Statement of Wages or Income as used to file with federal or state taxing authorities such as a W-2 IRS form actually filed with the taxing authorities, or a statement signed by the employer attesting to the payment of wages or income to the victim which statement shall include the name, telephone number and address of the employer or person who paid or would have paid the wages or income along with the employer's Federal Identification Number.

A statement of disability shall be signed by the medical or mental health provider and shall include information concerning the prognosis for recovery, the extent and expected duration of disability, and certification that the disability resulted directly from the crime.

- (3) If funeral or burial expenses are claimed as a direct result of the crime, an itemized statement for all funeral or burial expenses incurred through the date of the regular application.
- (4) If rehabilitative services are claimed, the applicant shall produce that evidence of need, and

documentation for rehabilitation as specified in Section 649.3(c) of these regulations.

(c) A copy of the crime report or substitute reports as set forth herein evidencing the commission of the crime and setting forth the circumstances and factual events surrounding it has been received.

In order to expedite the processing of the regular application, applicants shall be encouraged to obtain and submit, along with the regular application, a copy of the crime report as prepared by the law enforcement agency to which the crime was reported. In cases in which the applicant or his or her representative are unable or decline to obtain such crime report, VOC or qualifying victim witness centers under contract to the board shall obtain the crime report.

No regular application shall be deemed complete until VOC or its contract agencies have received a copy of the crime report.

In cases in which the law enforcement agency deems it advisable to withhold a copy of the crime report from public disclosure in order to assure the security of innocent parties or the integrity of on-going criminal investigations, such agency may substitute a report that provides the facts of the crime, whether the victim contributed to the crime or the events leading to the crime and whether the victim cooperated with law enforcement in the apprehension and prosecution of the perpetrator. In the event that no crime report was prepared, a declaration must be provided, signed under penalty of perjury by the victim or in the event of a minor by the adult having lawful supervision and custody of such minor upon information and belief, stating whether the crime was reported to a law enforcement agency, and if not, the reasons why, and providing information on all measures taken by the victim, or parties exercising custody and control of the victim to cooperate with law enforcement in the apprehension and prosecution of the perpetrator of the crime. In the event that no crime report was prepared the declaration shall include a narrative of the events leading up to and including the actual perpetration of the crime giving rise to the claim as well as the names of all witnesses.

NOTE: Authority cited: Section 13968(a) of the Government Code. Reference: Section 13960, 13961, 13962, 13964 and 13965 of the Government Code.

649.10. Supplemental Claim Process.

(a) All supplemental claims shall be deemed complete within the meaning of Section 13962(a) of the code only if the applicant or authorized representative provides the following information:

- (1) The name of the applicant, and if different the name of the victim.
- (2) The mailing address and telephone number of the applicant, or any named representative of the applicant if such information has changed since the filing of the regular application.
- (3) The claim or file number assigned by VOC to the regular application filed by or on behalf of the victim.
- (4) A statement that invoices for services received which are appended to the supplemental claim are for services directly related to injuries sustained as a result of the crime and for no other reason and that such services were actually received by the victim.
- (5) If, since the date of the regular application commencement of a civil action is contemplated or has been filed, a statement whether the victim or his or her survivors have commenced or intend to commence a civil action to recover monetary damages from the perpetrator or perpetrators of the crime or from any other party in connection with the crime, along with the name, telephone number and address of any attorney representing the applicant or victim in such civil proceedings.
- (6) In the event that collateral benefits have been applied for or received since the time of filing the regular application, a disclosure as to these collateral benefits or assistance.

(b) In addition to the above, a request for supplemental assistance shall contain the following documentation attached to the supplemental claim:

- (1) If medical or mental health expenses are claimed to have been incurred as a direct result of the crime, an itemized statement from the professional provider for all medical or mental health

expenses claimed, including the license number of the professional certificate issued by the State of California or other jurisdiction to the medical or mental health practitioner providing the service as well as his or her business address and telephone number. If mental health psychotherapy services were provided, a designation as to whether any counseling or psychotherapy provided was in an individual, family or group setting. Providers of services who are authorized by law to offer such services as part of their on-going business activity, but who are not required to obtain a professional or occupational license must provide either their social security number, or their Federal Employer Identification Number.

- (2) If loss of income is claimed to have occurred as a direct result of the crime and the applicant has not previously made a claim for loss of income, he or she shall produce evidence of income loss as well as a statement of disability as required by Section 649.9(b)(2) of these regulations. Where documentation of income loss has previously been submitted with the regular application and no change as to the level of income or earnings has occurred, no further documentation of income loss shall be required to be submitted. Where a statement of disability was previously submitted with the regular application, but the prognosis for recovery has changed or the term of disability is changed, a new statement of disability shall be required, to be signed by the treating medical or mental health provider. Such statement of disability shall provide that information as is required by Section 649.9(b)(2) of these regulations.
- (3) If funeral or burial expenses are claimed as a direct result of the crime, an itemized statement for all funeral or burial expenses incurred as of the date of the supplemental application and not previously submitted.
- (4) If rehabilitative services are claimed, the applicant shall produce that evidence of need, and documentation for rehabilitation as specified in Section 649.3(c) of these regulations.

(c) Providers may submit the supplemental claims directly to the board in only the following two instances:

- (1) When the victim is a minor; or
- (2) When the provider certifies that they are unable to obtain the applicant's signature, they performed the services billed and the services are related to the crime.

NOTE: Authority cited: Section 13968(a) of the Government Code. Reference: Sections 13960, 13961, and 13962(b) and 13965 of the Government Code.

649.11. Applications for Emergency Awards.

Applications for emergency awards shall be completed by the applicant or his or her representative and shall provide that information specified in Section 13961.1(f) of the code. Applications which fail to provide the stated information shall be deemed incomplete and shall not be accepted, but shall be returned to the applicant in accordance with the terms of Section 13962(a) of the code.

NOTE: Authority cited: Sections 13961.1, and 13968(a) of the Government Code. Reference: Sections 13961.1, 13961.2 and 13962 of the Government Code.

649.12. Incomplete applications.

Incomplete applications for supplemental claims and emergency awards shall be returned to the applicant for completion or appeal in the same manner as an incomplete regular application is returned to the applicant pursuant to Section 13962(a) of the code.

NOTE: Authority cited: Sections 13961.1, 13962 and 13968(a) of the Government Code. Reference: Sections 13961.1, and 13962 of the Government Code.

649.13. Certification.

All applications and claims shall be certified under penalty of perjury by the victim where the victim is the applicant, or shall be attested to under information and belief if completed by an applicant other than the victim, by a provider or by an authorized representative.

NOTE: Authority cited: Sections 13961, and 13968(a) of the Government Code. Reference: Sections 13961, 13961.1, and 13962 of the Government Code.

649.14. Third party verification.

In all cases where VOC requests verification from hospitals, physicians, law enforcement officials or other interested parties and these third parties fail to return the requested information within 10 (ten) days as specified in Section 13962(b) of the code, the board may through its staff, review the application and all attachments as filed by the applicant and may in the exercise of its sound judgment deem the application to be verified based solely on a review of those documents.

NOTE: Authority cited: Sections 13961.1, 13962 and 13968(a) of the Government Code. Reference: Sections 13961.1, and 13962 of the Government Code.

649.15. Application Without Verified Pecuniary Loss.

When an applicant files a regular application for assistance supplying all of the required information as set forth in paragraph (a) of section 649.9 but either fails or declines to provide any of the information needed to verify actual pecuniary loss as set forth in paragraph (b) of Section 649.9, the VOC shall treat the application as a regular application for a zero award and so notify the applicant and his or her representative. Nothing in this section shall be construed to prevent VOC from paying those claims for which documentation required by subparagraph (b) of Section 649.9 has been provided while treating the balance of any claims for which information required by that regulation has not been submitted as an regular application for a zero award.

NOTE: Authority cited: Section 13968(a) of the Government Code. Reference: Sections 13960, 13961, 13962 and 13965 of the Government Code.

649.16. Lien.

In all cases the victim shall execute a lien in favor of the fund, which lien shall be submitted with the regular application and may be utilized by the VOC to seek reimbursement in the event that subsequent civil proceedings are commenced and successfully prosecuted.

NOTE: Authority cited: Section 13968(a) of the Government Code. Reference: Sections 13961 and 13966 of the Government Code.

649.17. Collateral benefits.

In the event that other sources of benefits (collateral benefits) are disclosed as required during verification, the applicant shall obtain and provide a written explanation of such benefits from the insurer, or benefit program setting forth a determination of eligibility as regards the victim or survivor as well as the dollar amount of assistance or reparations to which the victim or survivor is entitled. In the event that the applicant is unable to obtain an explanation of benefits, the VOC or a local victim witness center under contract to the board shall take steps to obtain such explanation of benefits and the claim or portion of the

claim governed by such explanation of benefits shall be treated as a "zero award" until such time as the explanation of benefits is received.

NOTE: Authority cited: Section 13968(a) of the Government Code. Reference: Sections 13960, 13961, 13962 and 13965 of the Government Code.

649.18. Objection to Direct Payment.

The Board shall inform the victim of his or her right to object to direct payments by VOC to providers of services in accordance with Section 13965(a) of the code. In the event that the victim asserts such right the VOC shall reimburse pecuniary loss to the victim only in amounts equal to sums actually paid out by the victim to the service provider and only upon submission by the victim, or his or her survivors, of evidence of such payments. Following such an objection, direct payment shall be made to the provider only upon a demonstration of good cause as determined by the board.

NOTE: Authority cited: Section 13968(a) of the Government Code. Reference: Sections 13965 of the Government Code.

649.20. Consideration of Applications.

(a) Verification of regular applications and applications for supplemental claims shall take place within the average 90 days prescribed by Section 13962(b) of the code.

(b) Following the verification process, VOC staff shall make a recommendation to the Board regarding the application. Staff may recommend that the Board allow the claim, disallow the claim, or allow the claim in part and disallow the claim in part.

(c) If the VOC staff recommends that the Board allow the claim, the matter shall be placed either on the Board's consent hearing agenda or on the discussion hearing agenda. Notice of the hearing and staff recommendation for approval shall be given as required by Section 13962(b) of the code.

(d) In the event that VOC staff recommends disallowance of a claim or application, the staff of VOC shall prepare a "Notice of Staff Recommended Disallowance", or in the case of approval of payment in some amount less than that for which the application or claim was made, a "Notice of Staff Recommended Partial Disallowance." Such notice shall include a statement as to why the matter is recommended for disallowance and shall be mailed to the affected applicant and his or her representative at their last known address of record as set forth on the application or most recent supplemental claim on file with the VOC, or more current notice of address change as stated in any more recent correspondence from the applicant or his or her representative. Such notice shall be mailed within the average 90 days prescribed by Section 13962(b) of the code. Every "Notice of Staff Recommended Disallowance" or "Notice of Staff Recommended Partial Disallowance" shall contain the following statement in bold upper case type:

"THIS STAFF RECOMMENDED DISALLOWANCE DOES NOT CONSTITUTE A FINAL ADMINISTRATIVE DETERMINATION BY THE BOARD OF CONTROL TO DENY YOUR APPLICATION OR CLAIM. IT MERELY CONSTITUTES NOTICE THAT THE STAFF OF THE BOARD FOLLOWING ITS VERIFICATION PROCESS HAS RECOMMENDED DISALLOWANCE OR PARTIAL DISALLOWANCE. THIS RECOMMENDATION IS SUBJECT TO HEARING BY THE BOARD OF CONTROL. TO PARTICIPATE IN SUCH HEARING AND TO ENSURE A FULL DISCUSSION OF ALL RELEVANT ISSUES YOU SHOULD FOLLOW THE PROCEDURES SET FORTH ON THIS NOTICE."

(e) If the claim is recommended by staff for disallowance or partial disallowance, the applicant shall have 45 days from the date of receipt of such notice to request in writing, that the matter be set for full discussion hearing before the board to contest the staff recommendation. Nothing in this section shall be

construed to prevent an applicant or his or her representative from communicating with VOC staff during the period between notice of disallowance and the date of hearing in order to supply additional information. Nothing in this section shall be construed to prevent VOC staff from amending their initial recommendation where additional documentation or information provides the necessary evidence to recommend approval of an application or claim. All written requests for hearing shall be mailed or delivered to the headquarters office of the Victims of Crime Program at Sacramento, California, the address for which shall be provided on the notice. Failure to request a hearing within the stated 45 days shall result in the matter being placed on the board's consent hearing agenda with a staff recommendation for disallowance or partial disallowance. Such items may be removed from the consent agenda and made subject to a full discussion hearing only upon request by a member of the board. Board staff shall notify the applicant or his or her representative of such hearing in accordance with Section 13962 (b) of the code.

(f) Upon receipt of a written request for full discussion hearing as specified in Paragraph (e) of this section and after considering the convenience to the applicant as to location for hearing, the staff of the board shall calendar and set a full discussion hearing before the board to consider the disputed claim, and shall notify the applicant or his or her representative of the time and place of such hearing. The board may delegate such hearings to hearing examiners to be designated and appointed by the board, which examiners shall render a written proposed decision to the board which may then adopt, modify or reject the proposed decision. Nothing in this section shall be construed to prevent the board on its own motion from hearing de novo any case previously heard by a hearing examiner.

NOTE: Authority cited: Section 13968(a) of the Government Code. Reference: Sections 13962(b) 13963, 13964 and 13969.1 of the Government Code.

649.21. Requests for Reconsideration.

Requests for reconsideration filed by applicants or their representatives in accordance with Section 13969.1 of the code shall be accepted by the board only after the board has acted on the claim at a hearing following a "Notice of Staff Recommended Disallowance" or a "Notice of Staff Recommended Partial Disallowance." Requests for reconsideration shall not be granted unless the applicant produces new and additional evidence not reasonably available to the applicant at the time of the hearing. Nothing in this section shall be construed to prevent the board from granting reconsideration on its own motion.

NOTE: Authority cited: Section 13968(a) of the Government Code. Reference: Section 13962(b) of the Government Code.

649.22. Zero Awards.

In cases where VOC determines that the regular application filed by the applicant merely seeks an initial determination of eligibility without reference to specific pecuniary loss, or where the applicant fails to produce evidence of pecuniary loss as required in Section 649.9(b) of these regulations, the board shall process the claim as a "zero award" as defined in regulation Section 649. In such cases the VOC notice of eligibility to the applicant and his or her representative within a period of 90 days from the acceptance of a complete regular application shall constitute compliance with the average 90 day processing requirement as set forth in Section 13962(b) of the code. The issuance of a zero award shall not obligate the board to pay claims until it has received fully verified evidence of pecuniary loss by the victim, and has satisfied itself that no other source of benefits or assistance is available to the victim to compensate for this loss.

NOTE: Authority cited: Section 13968(a) of the Government Code. Reference: Section 13962(b) of the Government Code.