

California Victim Compensation and Government Claims Board

Victim Compensation Program Service Limitations Mental Health and Counseling Expenses Government Code section 13957.2 (a)

Effective February 3, 2009

Reimbursement of outpatient mental health and counseling expenses by the Victim Compensation and Government Claims Board is based on the definitions, session limitations, documentation requirements and other criteria (guidelines) set forth below.

These guidelines are subject to the maximum reimbursement provisions of Government Code section 13957 and other statutes governing the administration of the Victim Compensation Program codified at Government Code section 13900 et seq.

Section I. Session Definitions

- a) An individual mental health counseling session lasting less than 45 minutes is one-half session.
- b) An individual mental health counseling session lasting 45 to 74 minutes is one session.
- c) An individual mental health counseling session lasting 75-104 minutes is one and one-half sessions.
- d) An individual mental health counseling session lasting 105-120 minutes is two sessions.
- e) One group mental health counseling session is the equivalent of one-half of an individual mental health counseling session of the same length.
- f) "Collateral Sessions" are meetings or discussions between the treating therapist and collateral contacts of the persons being treated such as a school counselor or teacher, a religious leader, physician, or other medical provider, or a social worker.

Section II. Initial Session Limits

- a) Direct Victims: Except as noted, an eligible victim may be reimbursed for up to 40 initial mental health counseling sessions. A minor victim of unlawful sexual intercourse with a minor, as defined in Penal Code section 261.5 (d), may be reimbursed for up to 30 initial mental health counseling sessions.
- b) Derivative Victims/Minor Witnesses: An eligible derivative victim or minor witness may be reimbursed under these guidelines for the number of initial sessions set forth in one of the categories that follow. A derivative victim eligible in more than one category may use only the most favorable category.

- 1) An adult derivative victim may receive up to 15 mental health counseling sessions.
- 2) A minor derivative victim or minor witness may receive up to 30 mental health counseling sessions.
- 3) Each derivative victim who is the direct victim's primary caretaker at the time of the crime may receive up to 30 mental health counseling sessions, for up to two primary caretakers.
- 4) If the qualifying crime resulted in the death of the victim, a surviving parent, sibling, child, spouse, fiancé, fiancée, or registered domestic partner as defined in Family Code section 297.5, may receive up to 30 mental health counseling sessions.

Section III. Documentation Requirements for Initial Sessions

- a) Reimbursement of the initial sessions described in Section II is subject to the following documentation requirements:
 - 1) First Five Sessions: A victim, derivative victim or minor witness who is eligible for outpatient mental health counseling expenses may be reimbursed for the first five mental health counseling sessions without completion of a Treatment Plan.
 - 2) Treatment Plan: Reimbursement of mental health counseling sessions beyond the first five sessions requires the treating therapist to complete a Treatment Plan by the end of the fifth session. The Treatment Plan may be kept in the victim's or derivative victim's file, but must be submitted to the Board upon request and shall include the following:
 - A) A description of the presenting complaint, symptoms and impairment;
 - B) A description of the crime for which the victim, derivative victim or minor witness is receiving treatment;
 - C) An evaluation using all of the axes described in the Multiaxial Assessment in the most recently published version of the *Diagnostic and Statistical Manual of Mental Disorders* (DSM);
 - D) An evaluation of functioning using each of the following criteria in the DSM: A Global Assessment of Functioning (GAF), Social and Occupational Functioning Assessment Scale (SOFAS) and Global Assessment of Relational Functioning (GARF);
 - E) A description of symptoms or behaviors that are the focus of treatment;
 - F) A description of the plan of treatment, including a specific description of the method by which the symptoms or behaviors will be treated;

- G) A description of the means by which progress will be measured;
- H) An estimate of the percentage of the treatment that is necessary as a direct result of the qualifying crime; and
- I) Any other information required to determine whether the treatment will best aid the victim, derivative victim or minor witness and is necessary as a direct result of the qualifying crime.

Section IV. Additional Sessions for Direct Victims

- a) A victim may be reimbursed for additional mental health counseling sessions beyond those described in Section II if an Additional Treatment Plan is submitted and the additional treatment meets the criteria listed in subsection (b) below.
- b) Reimbursement for additional sessions for an adult victim beyond those pursuant to Section II may be approved if:
 - 1) At least one of the following factors is present:
 - A) The qualifying crime resulted in substantial impairment of the victim's activities of daily living; or
 - B) The qualifying crime resulted in permanent and substantial disfigurement; or
 - C) The qualifying crime resulted in injuries that severely impaired the victim's ability to successfully engage in an occupation commensurate with his or her experience, education and training and his or her occupation or activities immediately before the qualifying crime; or
 - D) The qualifying crime is a sexual assault offense involving conduct described in Penal Code section 11165.1(b)(1), (2) or (3); or
 - E) The qualifying crime includes a series of acts of significant frequency or duration; or
 - F) The qualifying crime includes a single act which a reasonable person would consider to constitute a threat of serious harm to bodily integrity; or
 - G) The qualifying crime includes a single act which resulted in serious bodily injury as defined in Penal Code section 243(f)(4); or
 - H) The victim is scheduled to testify as a witness in any criminal or dependency proceeding related to the qualifying crime. To be reimbursed, the mental health counseling must be initiated within three months of being scheduled to testify; or

- l) The perpetrator is released from custody. To be reimbursed, the mental health counseling must be initiated within three months of learning that the perpetrator will be, or was, released from custody.
 - 2) Additionally, the treatment must be focused on behaviors or beliefs that are directly attributable to the qualifying crime and could reasonably be remediated by the proposed treatment.
 - 3) Additionally, the victim suffers substantial impairment of functioning that is sufficient to warrant additional sessions and is directly attributable to the qualifying crime. Impairment shall be determined by the criteria required by Section III(a)(2)(C) and (D) and substantiation submitted to support the request for additional sessions.
 - 4) Additionally, treatment has progressed, as evidenced by the percentage of treatment completed that is aimed at the remediation of the impairment caused by behaviors or beliefs that are directly attributable to the qualifying crime.
- c) A minor victim may be reimbursed for additional sessions as specified in subsections (a) and (b) above. In addition, a minor may be reimbursed for additional sessions if the requirements of subsection (b)(2), (3) and (4) above are met and any of the following factors are present:
- 1) The qualifying crime resulted in injuries that severely impaired the victim's ability to successfully engage in daycare, pre-school, or school commensurate with his or her activities immediately before the qualifying crime; or
 - 2) The qualifying crime is a sexual assault offense involving conduct described in Penal Code section 11165.1(a), (b)(4) or (b)(5) and at least one of the following applies:
 - A) The perpetrator of the qualifying crime was a person in a position of trust or authority with the victim, including, but not limited to a parent, teacher, or religious leader; or
 - B) The victim was removed from the home as a result of the qualifying crime and is still out of the home at the time of treatment; or
 - C) The victim's parent minimizes the significance of the qualifying crime, blames the victim for the qualifying crime, fails to acknowledge that the suspect committed the qualifying crime, or does not believe the qualifying crime occurred; or
 - D) Another minor in the victim's immediate family was also a victim of the same qualifying crime of sexual abuse committed by the same perpetrator.

- 3) The victim reaches a developmental stage or a stage of cognitive development that results in impairment as a direct result of the qualifying crime; or
 - 4) The alleged suspect persists in making uninvited and unwelcome contact with the victim that is not authorized by a court; or
 - 5) The victim is scheduled to testify as a witness or is required to be involved with or participate in any criminal or dependency proceeding related to the qualifying crime. To be reimbursed, the mental health counseling must be initiated within three months of the victim being scheduled to testify or learning that the victim is required to be involved with or participate in the proceeding.
- d) If the Board previously approved reimbursement for additional sessions under subsection (a), any subsequent request may be reimbursed only if both of the following requirements are met:
- 1) The requirements of subsection (a) above are met; and
 - 2) The Board determines that the proposed treatment is reasonably likely to successfully overcome the factors that hindered the progress of treatment.

Section V. Additional Sessions for Derivative Victims

- a) A derivative victim may be reimbursed for additional sessions beyond those identified in Section II if:
- 1) Either:
 - A) The qualifying crime resulted in the death of the victim; or
 - B) The derivative victim is scheduled to testify as a witness in any criminal proceeding related to the qualifying crime. To be reimbursed, the mental health counseling must be initiated within three months of being informed that the derivative victim is scheduled to testify; and
 - 2) The treatment is focused on behaviors or beliefs that are directly attributable to the qualifying crime and could reasonably be remediated by the proposed treatment; and
 - 3) The derivative victim suffers substantial impairment of functioning that is directly attributable to the qualifying crime. Impairment shall be determined by the criteria required by Section III, subsection (a)(2) above and by substantiation submitted to support the request for additional treatment; and
 - 4) Treatment has progressed, as evidenced by the percentage of treatment completed that is aimed at the remediation of the impairment caused by behaviors or beliefs that are directly attributable to the qualifying crime.

- b) A derivative victim may also be reimbursed for additional sessions beyond those identified in Section II if:
 - 1) One of the factors listed in Section IV, subsection (b) or (c) is present; and
 - 2) The treatment is necessary for the recovery of the victim; and
 - 3) The treatment has progressed, as evidenced by the percentage of treatment completed that is aimed at the remediation of the victim's impairment caused by behaviors or beliefs that are directly attributable to the qualifying crime.
- c) If the Board previously approved reimbursement for additional sessions under subsection (a), any subsequent request may be reimbursed only if both of the following requirements are met:
 - 1) The requirements of subsection (a) above are met; and
 - 2) The Board determines that the proposed treatment is reasonably likely to successfully overcome the factors that hindered the progress of treatment.
- d) If the Board previously approved reimbursement for additional sessions under subsection (b), any subsequent request may be reimbursed only if both of the following requirements are met:
 - 1) The requirements of subsection (b) above are met; and
 - 2) The treatment is focused on behaviors or beliefs that are directly attributable to the qualifying crime and could reasonably be remediated by the proposed treatment; and
 - 3) The victim suffers substantial impairment of functioning that is directly attributable to the qualifying crime; and
 - 4) The Board determines that the proposed treatment is reasonably likely to successfully overcome the factors that hindered the progress of treatment.

Section VI. Documentation Requirements for Additional Treatment

- a) Requests for reimbursement beyond those described in Section II require submission of an Additional Treatment Plan and approval of additional treatment by the Board. (The initial Treatment Plan must be submitted with the Additional Treatment Plan if the service provider is the continuing therapist.)
 - 1) The Additional Treatment Plan shall include:
 - A) An update on all information required by Section III, subsection (a)(2); and

- B) A detailed description of the factors supporting the request for reimbursement for additional treatment.
- b) The Board may require the submission of any other information required to determine whether the treatment will best aid the victim or derivative victim and is necessary as a direct result of the qualifying crime.
 - c) The Board shall not reimburse additional outpatient mental health counseling sessions unless the requirements of Section IV or V are met; or, in the Board's sole discretion, it determines that additional treatment will best aid the victim or derivative victim and is necessary as a direct result of the crime.
 - d) When evaluating a request for additional sessions, objective assessment measures with demonstrated reliability and validity in peer review literature will be given significant weight.
 - e) When evaluating a request for additional treatment, independent corroborative information may be given significant weight.
 - f) Notwithstanding Section IV, subsection (b)(4) and Section V, subsection (a), if inadequate progress has been shown in treatment, the Board may, in its sole discretion, authorize additional treatment with a different treatment modality, method, or provider.
 - g) Reimbursement made in excess of the limits in Government Code section 13957(a)(2)(A) or (B) must comply with this section and must be based on a finding that dire or exceptional circumstances require more extensive treatment.

Section VII. Collateral Sessions

The Board may reimburse up to three collateral sessions for adult victims and up to six collateral sessions for minor victims as part of the initial sessions limits described in Sections II and III. The Board may also in its sole discretion reimburse additional collateral sessions pursuant to Sections IV and V.