

REQUEST FOR CHANGES PURSUANT TO G.S. 150B-21.10

AGENCY: Crime Victims Compensation Commission

RULE CITATION: 14B NCAC 09 .0302

DEADLINE FOR RECEIPT: January 16, 2025

PLEASE NOTE: This request may extend to several pages. Please be sure you have reached the end of the document.

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may email the reviewing attorney to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following changes be made:

Page 1, Line 12, Paragraph (b): Which rule, if any, sets forth the substantive requirements of the application form? See G.S. 150B-2(8a)d.

Page 1, Line 21, Paragraph (c): Explain why the Director's determination of eligibility is not contrary to G.S. 150B-10 in which the Commission decides eligibility over \$12.5K or in matters involving future economic loss.

Page 1, Lines 21-22, Paragraph (c): Who makes the decision whether a claimant has cooperated?

Page 1, Line 22, Paragraph (c): Replace "may" with "shall" or explain the criteria which will be used in exercising this discretion.

Page 1, Line 23, Paragraph (c): Investigated by whom?

Page 1, Line 25, Paragraph (d): The use of the word "may" implies discretion. What criteria will be considered in exercising this discretion?

Page 1, Line 27-28, Paragraph (d): I believe you mean G.S. 15B-11(d).

Page 2, Line 3, Paragraph (h): The use of the word "may" implies discretion. What criteria will be considered in exercising this discretion?

Page 2, Line 3, Paragraph (h): While the Director can make the determination based upon stated criteria, the Director Commission does not have complete subjective discretion.

Page 2, Line 3, Paragraph (h): As written, the rule permits the Director to make the determination for matters over \$12.5K.

William W. Peaslee
Commission Counsel

Date submitted to agency: January 2, 2025

Page 2, Line 7, Paragraph (h): The use of the word “may” implies discretion. What criteria will be considered in exercising this discretion?

Page 2, Line 3, Paragraph (h): Explain how G.S. 15B-7(b) authorizes the Director or the Commission to reduce or deny an award.

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

1 14B NCAC 09 .0302 is adopted for amendment as follows:

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3 **14B NCAC 09 .0302 PROCESSING AND PAYMENT OF CLAIMS**

4 (a) ~~An application for a claim shall be accepted only when submitted on an approved claim application form located~~
5 ~~on the Crime Victim Compensation website, <http://www.ncdps.gov/4victims> and a determination is made by the~~
6 ~~Director that the application is complete with the required information in accordance with G.S. 15B-7. An application~~
7 ~~for a claim shall be accepted when submitted through approved electronic application portal, or by fax, or email on an~~
8 ~~approved claim application and a determination is made by the Director that the submitted application is complete.~~

9 (b) ~~Claims will be processed in the order in which the completed applications are received, deliverable by United~~
10 ~~States mail-received. In any consideration of competing claims, with respect to priority order of processing, the filed~~
11 ~~date stamped on the claim shall be controlling. An application for a claim shall only be submitted on an approved~~
12 ~~claim application form located on the Crime Victim Compensation website, <http://www.ncdps.gov/4victim>. An~~
13 ~~application for a claim shall be submitted on an approved claim application through an approved electronic portal, the~~
14 ~~Crime Victim Compensation application portal, or by fax, or by email. The portal will be accessed through the NCDPS~~
15 ~~Victim Compensation Services website where there will be access to the portal using a weblink or a QR code. The~~
16 ~~public will gain access using electronic devices such as smart phones, computers, tablets and I-pads. The Director~~
17 ~~shall determine if the application is complete with the required information in accordance with G.S. 15B-7. An~~
18 ~~application for a claim shall be accepted only if all the preceding conditions are met. The date stamped on the claim~~
19 ~~shall control the order of processing any competing claims.~~

20 (c) ~~Every claim filed is subject to investigation to determine eligibility in accordance with G.S. 15B-8 by the Director.~~
21 ~~The Director shall determine compensation eligibility in accordance with G.S. 15B-8. Failure of the claimant to~~
22 ~~cooperate in the with any investigation in accordance with G.S. 15B-11 (c) involving their claim may result in a denial~~
23 ~~of the claim or a reduction in the amount awarded. Each claim filed is investigated to determine eligibility in~~
24 ~~accordance with G.S. 15B-8.~~

25 (d) ~~The Director or the Commission may reopen the investigation of into any claim upon a finding that the claimant~~
26 ~~has provided additional information. receiving additional information regarding the claim incident. This information~~
27 ~~may be provided by the victim/claimant, law enforcement, medical documents and the court system according to G.S.~~
28 ~~11 (d).~~

29 (e) ~~The Director shall mail a written statement of the award decision to the claimant claimant, along with the check~~
30 ~~for the award, if any, within 15 business days of the Director's or the Commission's decision according to G.S. 15B-~~
31 ~~10 or verification of current collateral source information, whichever occurs last according to G.S. 15B-16. This~~
32 ~~written statement shall notify the claimant: claimant whether this check is a partial or complete payment of the award;~~
33 ~~award, of any payments made directly to a service provider; provider, and of appeal rights.~~

34 (f) ~~Claims shall be docketed on a list to be reviewed by the Commission or the Director for determination of payment~~
35 ~~in accordance with G.S. 15B-8 and 15B-10 in an order determined by the Director.~~

36 (g) ~~All payments of compensation shall be made in strict accordance with the award issued by the Director or the~~
37 ~~Commission according to G.S. 15B-2 (1), 15B-10, and 15B-11.~~

1 (h) A claimant who fails to cooperate with or supply requested information including medical expenses, current
2 contact information, details regarding circumstances of crime to the Director or who supplies inaccurate or incomplete
3 information may have the claim denied or the award reduced, in the discretion of the Director or the Commission.

4 (i) The claimant shall inform the Director at any time before any action brought to recover damages for the criminally
5 injurious conduct that is the basis of any claim or award and the availability of any collateral source. Each claim filed
6 is investigated to determine eligibility in accordance with G.S. 15B-7 (b). The failure to provide such information
7 may be considered as fraud in accordance with G.S. 15B-7(b), allowing the Director or the Commission to reduce or
8 deny an award or to recover monies previously paid.

9 (j) All notifications and payments or other documents transmitted by ~~mailing~~ U.S. Mail will be sent to the address
10 submitted by the claimant. The claimant shall notify the Director in writing of any change of address.

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12 *History Note: Authority G.S. 15B-2; 15B-3; 15B-4; 15B-6;~~15B-7~~; 15B-8; 15B-10; 15B-11; 15B-16*
13 *Temporary Rule Eff. November 24, 1987 For a Period of 171 Days to Expire on May 13, 1988;*
14 *Eff. April 1, 1988;*
15 *Transferred from 14A NCAC 11 .0501 Eff. June 1, 2013;*
16 *Readopted Eff. September 1, 2020.*
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