

IDAPA 17 – IDAHO INDUSTRIAL COMMISSION

Crime Victims Compensation Program

17.10.01 – Administrative Rules Under the Crime Victims Compensation Act

Who does this rule apply to?

This rule applies to the following stakeholders:

- Victims of Crime;
- Medical Providers; and
- Alleged Offenders

What is the purpose of this rule?

This rule covers the administration of the Crime Victims Compensation Act in Idaho, including, but not limited to:

- Applications for compensation;
- Medical fee schedule, And Requesting A Hearing Before The Industrial Commission

What is the legal authority for the agency to promulgate this rule?

This rule implements the following statutes passed by the Idaho Legislature:

Industrial Commission -

Worker's Compensation and Related Laws:

- [72-1001, et. seq., Idaho Code](#) - Crime Victims Compensation

Who do I contact for more information on this rule?

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17.10.01 – ADMINISTRATIVE RULES UNDER THE CRIME VICTIMS COMPENSATION ACT

000. LEGAL AUTHORITY.

Sections 72-1004 and 72-1013, Idaho Code.

(7-1-24)

001. SCOPE.

This chapter includes the Industrial Commission's procedures for administering the Crime Victim's Compensation Act.

(7-1-24)

002. -- 009. (RESERVED)

010. DEFINITIONS.

01. Crime Victim's Compensation Program ("CVCP"). The program administered by the Crime Victim's Division of the Idaho Industrial Commission pursuant to the Crime Victim's Compensation Act.

(7-1-24)

02. Employer. The employer at the time of the criminally injurious conduct.

(7-1-24)

03. Good Cause. "Good cause" as that term is found in the Crime Victim's Compensation Act will be determined at the Commission's discretion on a case-by-case basis.

(7-1-24)

04. Medical Services. For purposes of the fee schedule adopted by the Commission as authorized by Section 72-1026, Idaho Code, the following terms apply:

(7-1-24)

a. "Allowable payment" means the lower of the charge for medical services calculated in accordance with this rule or as billed by the provider.

(7-1-24)

b. "Ambulatory Surgery Center (ASC)" means a facility providing surgical services on an outpatient basis only.

(7-1-24)

c. "Hospital" is any acute care facility providing medical or rehabilitation services on an inpatient and outpatient basis.

(7-1-24)

i. Large Hospital means any hospital with more than one hundred (100) acute care beds.

(7-1-24)

ii. Small Hospital means any hospital with one hundred (100) acute care beds or less.

(7-1-24)

d. "Provider" means any person, firm, corporation, partnership, association, agency, institution, or other legal entity providing any kind of medical service related to the treatment of a claimant for benefits under the Idaho Crime Victims Compensation Act.

(7-1-24)

e. "Medical Service" means medical, surgical, dental, mental health, or other attendance or treatment, nurse and hospital service, medicine, apparatus, appliance, prostheses and related service, facility, equipment and supply.

(7-1-24)

f. "Reasonable" means a charge does not exceed the Provider's "usual" charge and does not exceed the "customary" charge, as defined below.

(7-1-24)

g. "Usual" means the most frequent charge made by an individual Provider for a given medical service.

(7-1-24)

h. "Customary" means a charge that has an upper limit no higher than the 90th percentile, as determined by the Commission, of usual charges made by Idaho Providers for a given medical service.

(7-1-24)

011. CLAIMS FOR COMPENSATION.

01. Claim for Benefits. A claim for benefits is initiated by filing an Application in the form available on the agency's website. An Application for Compensation is deemed filed when the claimant has provided the required information and the signed application is received at the Commission's office in Boise.

(7-1-24)

02. Proceedings to Secure Benefits.

(7-1-24)

a. Initial Determination by CVCP Division. After sufficient information has been gathered, the CVCP

Division may make an initial determination granting, partially granting, or denying benefits. An initial determination of the CVCP Division shall be final and conclusive as to all matters adjudicated in the determination (7-1-24)

b. Request for Reconsideration. Within twenty (20) days from the date that the initial determination is issued, the claimant may file a request with the CVCP Division that the division reconsider its decision, or the CVCP Division may reconsider the matter on its own motion. The decision of the CVCP Division on reconsideration shall be final and conclusive as to all matters adjudicated in the decision. (7-1-24)

03. Allowable Payments for Medical Services. The Commission shall pay providers the allowable payment for medical services under these rules adopted in accordance with Section 72-1026, Idaho Code. (3-31-22)

a. Adoption of Standard. The Commission hereby adopts the Resource-Based Relative Value Scale (RBRVS), published by the Centers for Medicare and Medicaid Services of the U.S. Department of Health and Human Services, as amended, as the standard to be used for determining the allowable payment under the Crime Victims Compensation Act for medical services provided by providers other than hospitals and ASCs. The standard for determining the allowable payment for hospitals and ASCs shall be: (3-31-22)

- i. For large hospitals: Eighty-five percent (85%) of the reasonable inpatient charge. (3-31-22)
- ii. For small hospitals: Ninety percent (90%) of the reasonable inpatient charge. (3-31-22)
- iii. For ambulatory surgery centers (ASCs) and hospital outpatient charges: Eighty percent (80%) of the reasonable charge. (3-31-22)
- iv. Surgically implanted hardware shall be reimbursed at the rate of actual cost plus fifty percent (50%). (3-31-22)

v. Paragraph 011.03.e. of this rule, does not apply to hospitals or ASCs. The Commission shall determine the allowable payment for hospital and ASC services based on all relevant evidence. (3-31-22)

b. Conversion Factors. The following conversion factors shall be applied to the fully-implemented facility or non-facility Relative Value Unit (RVU) as determined by place of service found in the latest RBRVS, as amended, that was published before December 31 of the previous calendar year for a medical service identified by a code assigned to that service in the latest edition of the Physicians' Current Procedural Terminology (CPT), published by the American Medical Association, as amended:

| MEDICAL FEE SCHEDULE | | |
|-----------------------|---------------|-------------------|
| DESCRIPTION | CODE RANGE(S) | CONVERSION FACTOR |
| Anesthesia | 00000 - 09999 | \$60.05 |
| Surgery - Group One | 22000 - 22999 | \$144.48 |
| | 23000 - 24999 | |
| | 25000 - 27299 | |
| | 27300 - 27999 | |
| | 29800 - 29999 | |
| | 61000 - 61999 | |
| | 62000 - 62259 | |
| Surgery - Group Two | 63000 - 63999 | \$129.00 |
| | 28000 - 28999 | |
| Surgery - Group Three | 64550 - 64999 | \$113.52 |
| | 13000 - 19999 | |
| | 20650 - 21999 | |

| MEDICAL FEE SCHEDULE | | |
|------------------------|---|-------------------|
| DESCRIPTION | CODE RANGE(S) | CONVERSION FACTOR |
| Surgery - Group Four | 20000 - 20615 Musculoskeletal System 30000 - 39999 Respiratory & Cardiovascular 40000 - 49999 Digestive System 50000 - 59999 Urinary System 60000 - 60999 Endocrine System 62260 - 62999 Spine & Spinal Cord 64000 - 64549 Nerves & Nervous System 65000 - 69999 Eye & Ear | \$87.72 |
| Surgery - Group Five | 10000 - 12999 Integumentary System 29000 - 29799 Casts & Strapping | \$69.14 |
| Radiology | 70000 - 79999 Radiology | \$87.72 |
| Pathology & Laboratory | 80000 - 89999 Pathology & Laboratory | To Be Determined |
| Medicine - Group One | 90000 - 90749 Immunization, Injections, & Infusions 94000 - 94999 Pulmonary / Pulse Oximetry 97000 - 97799 Physical Medicine & Rehabilitation 97800 - 98999 Acupuncture, Osteopathy, & Chiropractic | \$46.44 |
| Medicine - Group Two | 90750 - 92999 Psychiatry & Medicine 96040 - 96999 Assessments & Special Procedures 99000 - 99607 E / M & Miscellaneous Services | \$66.56 |
| Medicine - Group Three | 93000 - 93999 Cardiography, Catheterization, & Vascular Studies 95000 - 96020 Allergy / Neuromuscular Procedures | \$72.24 |

(3-31-22)

c. The Conversion Factor for the Anesthesiology CPT Codes shall be multiplied by the Anesthesia Base Units assigned to that CPT Code by the Centers for Medicare and Medicaid Services of the U.S. Department of Health and Human Services as of December 31 of the previous calendar year, plus the allowable time units reported for the procedure. Time units are computed by dividing reported time by fifteen (15) minutes. Time units will not be used for CPT Code 01996.

(3-31-22)

d. Adjustment of Conversion Factors. The conversion factors set out in this rule may be adjusted each fiscal year (FY), starting with FY 2012, as determined by the Commission.

(3-31-22)

e. Services Without a CPT Code, RVU or Conversion Factor. The allowable payment for medical services that do not have a current CPT code, a currently assigned RVU, or a conversion factor will be the reasonable charge for that service, based upon the usual and customary charge and other relevant evidence, as determined by the Commission. Where a service with a CPT Code, RVU, and conversion factor is, nonetheless, claimed to be exceptional or unusual, the Commission may, notwithstanding the conversion factor for that service set out in Subsection 011.07.b. of this rule, determine the allowable payment for that service, based on all relevant evidence.

(3-31-22)

f. Coding. The Commission will generally follow the coding guidelines published by the Centers for Medicare and Medicaid Services and by the American Medical Association, including the use of modifiers. The procedure with the largest RVU will be the primary procedure and will be listed first on the claim form. Modifiers

will be reimbursed as follows: (3-31-22)

- i. Modifier 50: Additional fifty percent (50%) for bilateral procedure. (3-31-22)
- ii. Modifier 51: Fifty percent (50%) of secondary procedure. This modifier will be applied to each medical or surgical procedure rendered during the same session as the primary procedure. (3-31-22)
- iii. Modifier 80: Twenty-five percent (25%) of coded procedure. (3-31-22)
- iv. Modifier 81: Fifteen percent (15%) of coded procedure. This modifier applies to MD and non-MD assistants. (3-31-22)

012. HEARING PROCEDURES.

01. Request for Hearing Before Commission. Within forty-five (45) days from any final and conclusive initial determination of the CVCP Division, a claimant who disagrees with the determination may request a de novo hearing on the compensability of the subject claim before the Commission. Such a request must be received by the Commission within forty-five (45) days following the initial determination or order on reconsideration of the initial determination. The Commission may conduct the hearing or it may assign the matter to a Commissioner or Referee. If the matter is assigned to a Commissioner or a Referee, the Commissioner or Referee shall submit recommended findings and decision to the Commission for its review. (7-1-24)

02. Recommendation. If the Commission does not approve the recommendations of a Commissioner or Referee, the Commission may review the record and enter its own findings and decision. (7-1-24)

03. Notice of Hearing. The Commission shall give the claimant at least ten (10) days' advance written notice of the time and place of hearing and of the issues to be heard, either by personal service, certified mail, or electronically to the email address provided by the claimant. Service by mail shall be deemed complete when a copy of such notice is deposited in the United States post office, with postage prepaid, addressed to a party at their last known address as shown in the records and files of the Commission. Evidence of service by certificate or affidavit of the person making the same shall be filed with the Commission. Service by electronic means is deemed complete upon receipt by the intended party. (7-1-24)

04. Transcript of Hearing. All hearings shall be recorded. (7-1-24)

05. Subpoenas. Subpoenas shall be served in the manner provided by the Idaho Rules of Civil Procedure. Witness fees and mileage shall be in the amounts provided by the Idaho Rules of Civil Procedure and the claimant shall pay the fees of any witness who is subpoenaed to testify on their behalf. (7-1-24)

06. Record. At the hearing the Application for Compensation filed by the claimant and any other documents in the Commission's file that contain information relevant to the issues in the case shall be admitted into the record. Such documents shall be marked for identification and the record shall specify that those documents are admitted. The Commission, Commissioner, or Referee conducting the hearing shall give those documents the weight that is appropriate under the circumstances of the particular case. (7-1-24)

07. Evidence. At the hearing the claimant may present such testimonial or other evidence that the claimant would have the Commission consider in support of the claim for benefits. Such evidence may include evidence previously considered by the CVCP Division in connection with the initial determination, or new evidence. The Commission shall allow a representative of the CVCP Division to present testimonial or other evidence in support of the CVCP Division's initial determination. (7-1-24)

08. Finality of Decision. After a hearing, the decision of the Commission shall be final and conclusive as to all matters adjudicated. Within twenty (20) days from the date that such decision is issued, the claimant may file a Motion for Reconsideration or the Commission may reconsider the matter on its own motion. (7-1-24)

09. Modification of Final Order. At the request of the claimant or on its own motion the Commission may review and amend any final order or decision, within three (3) years of the date of issue of such order or

- decision: (7-1-24)
- a. If there is a change in circumstances that affects the claimant's entitlement to benefits; (7-1-24)
 - b. To correct a manifest injustice; (7-1-24)
 - c. If the order or award is based upon facts which were misrepresented or that were not fully disclosed; or (7-1-24)
 - d. To correct payments made erroneously. (7-1-24)

013. COMPENSATION.

01. Disbursements of Compensation. Eligible payments shall be made directly to the provider of the service unless the claimant has already paid the provider. If the claimant has already paid the provider, payment shall be made to the claimant. (7-1-24)

02. Wage Loss Benefits. "Wages received at the time of the criminally injurious conduct" shall be the claimant's gross weekly wage; which shall be determined under Section 72-419(1)-(3), Idaho Code, if applicable, and if not, as follows: (7-1-24)

a. If the Wages were fixed by the hour, and the claimant worked or was scheduled to work the same number of hours each week, the weekly wage shall be the hourly rate times the number of hours that the claimant worked or was scheduled to work each week. (7-1-24)

b. If the Wages were fixed by the hour and the claimant did not work the same number of hours each week, or if the claimant was paid on a piecework or commission basis, the weekly wage shall be computed by averaging the amounts that the claimant was paid during his last four completed pay periods prior to the criminally injurious conduct and converting that amount to a weekly basis using a method consistent with 72-419(1)-(3); provided that, if the claimant was employed for less than four (4) pay periods before the criminally injurious conduct, the average shall be computed based upon the time period that they worked. (7-1-24)

c. If none of the above methods are applicable, the weekly wage shall be computed in a manner consistent with the above methods. (7-1-24)

03. Weekly Compensation Benefits If Claimant Employable But Not Employed. If a claimant qualifies under Section 72-1019(7)(a), Idaho Code, the following provisions apply: (7-1-24)

a. If at the time of the criminally injurious conduct the claimant was receiving unemployment benefits and as a result of that conduct the claimant becomes ineligible for those benefits, the claimant's weekly benefits under the Crime Victim's Compensation Act shall be the lesser of one hundred fifty dollars (\$150) or their weekly benefit amount under the Employment Security Law. (7-1-24)

b. If at the time of the criminally injurious conduct the claimant was unemployed, but scheduled to begin employment on a date certain and if they were unable to work for one (1) week as a result of that conduct, weekly benefits under the Crime Victim's Compensation Act shall be the lesser of one hundred fifty dollars (\$150) or two-thirds (2/3) of the amount that they would have earned at their scheduled employment, and those benefits shall be payable beginning on the date that their employment was scheduled to begin. (7-1-24)

c. If prior to the criminally injurious conduct the claimant was performing necessary household duties which they are disabled from performing as a result of that conduct and it is necessary to employ a person who does not reside in the claimant's house to perform those duties, the claimant shall receive weekly benefits under the Crime Victim's Compensation Act equal to the amount paid to the person so employed, but not exceeding one hundred fifty dollars (\$150) per week. (7-1-24)

d. In other circumstances, the Commission may award an amount it deems appropriate. (7-1-24)

- 04. Treating Physician.** A claimant may choose their own treating physician. (7-1-24)
- 05. Overpayment.** The Commission may reduce future payments by an amount equal to the overpayment or request a refund when overpayments are made to either the claimant or the provider. (7-1-24)
- 06. Reimbursement for Transportation Expenses.** If the claimant utilizes a private vehicle, reimbursement shall be at the mileage rate allowed by the State Board of Examiners for state employees. Reimbursement is limited to one (1) round trip per day. The claimant shall not be reimbursed for the first fifteen (15) miles of any round trip, nor for traveling any round trip of fifteen (15) miles or less. Such distance shall be calculated by the shortest practical route of travel. The mileage reimbursement amount shall be credited to the medical benefit. (7-1-24)
- 07. Payment of Bills.** (7-1-24)
- a.** Bills for treatment and sexual assault forensic examinations must be submitted within three (3) years from the date of treatment or the date of eligibility, whichever is later, to be compensable. The time for submission may be extended upon Commission approval. (7-1-24)
- b.** For the purpose of dispersing payment, the claimant may be required to provide certain documentation, including a W-9 form. (7-1-24)
- 08. Right to Recover.** (7-1-24)
- a.** The Commission's right to recover its full economic loss under a restitution order as a victim under Section 19-5304, Idaho Code, is independent from any other legal remedy it may have, including its statutory right to subrogation under Section 72-1023, Idaho Code, and is not barred by civil settlements entered into by other victims. (7-1-24)
- b.** The Commission may reduce or waive its subrogated interest in a settlement or civil action. (7-1-24)
- 014. -- 999. (RESERVED)**