



# **Post-Assault Healthcare and Crime Victim Compensation for Immigrant Victims of Violence - Medical Coverage and Services for Immigrants**

**December 13, 2016**

By: Sarah Andrews, Vanessa Brown, Aurora de Heer, Joseph Leonard, Ryan Lighty, Katherine O’Keefe, Celia Soehner, William Springer, Josh Sterling, Linda Way-Smith, Beau Yanoshik

**Morgan, Lewis & Bockius, LLP**

**For: National Immigrant Women’s Advocacy Project, American University, Washington College of Law**

This project was supported by Grant Number 2015-TA-AX-K043, awarded by the Office on Violence Against Women, U.S. Department of Justice. The opinions, findings, conclusions and recommendations expressed in this publication are those of the author(s) and do not necessarily reflect the views of the Department of Justice, Office on Violence Against Women.

# Post-Assault Healthcare and Crime Victim Compensation for Immigrant Victims of Violence<sup>1</sup>

## Introduction

The Federal Victims of Crime Act established a Crime Victims Fund that provides grants to states for eligible crime victim compensation programs. If states meet certain requirements, this federal funding can be obtained to compensate victims of crimes through programs administered by the states and U.S. territories.<sup>2</sup>

As a preliminary matter, the receipt of assistance will not necessarily impede an immigrant's attempts to enter the country, become a legal permanent resident, or remain in the country, referred to as the "public charge rule." Under the public charge rule, if in the opinion of the consular office at the time of application for a visa or at the time of application for admission or adjustment to status, an immigrant is likely to become a public charge, that immigrant is inadmissible.<sup>3</sup> Only certain public benefits will trigger the public charge rule. A person may become a public charge if the person "is likely to become primarily dependent on the government for subsistence, as demonstrated by either the receipt of public cash assistance for income maintenance or institutionalization for long-term care at government expense."<sup>4</sup> Benefits that are not considered for income maintenance include, but are not limited to, health benefits, such as Medicaid and Children's Health Insurance Program, nutritional programs, housing benefits, and child care.<sup>5</sup> In addition to the receipt of benefits, the government will consider the immigrant's age, health, family status, assets, resources, financial status, education, and skills.<sup>6</sup> No single factor, except for the lack of an affidavit of support, if required, will determine an individual's public charge status.<sup>7</sup> Moreover, the 2013 reauthorization of the Violence Against Women Act ("VAWA") also exempts VAWA self-petitioners, qualified aliens (as further described below), and immigrants who are applicants for or are granted nonimmigrant status pursuant to a U visa from the public charge rule for the purposes of admission and status adjustments.<sup>8</sup>

---

<sup>1</sup> This training material incorporates information about emergency contraception. See Legal Momentum, *Post-Assault Healthcare and Crime Victim Compensation for Immigrant Victims of Violence* (2007).

<sup>2</sup> See 42 U.S.C. § 10602, and relevant federal law in the following discussion.

<sup>3</sup> 8 U.S.C. § 1182(a)(4), 8 U.S.C. § 1227(a)(5).

<sup>4</sup> U.S. Citizenship and Immigration Services, Public Charge Fact Sheet, Apr. 29, 2011,

<http://www.uscis.gov/portal/site/uscis/menuitem.5af9bb95919f35e66f614176543f6d1a/?vgnextoid=775d23cbea6bf210VgnVCM100000082ca60aRCRD&vgnnextchannel=8a2f6d26d17df110VgnVCM1000004718190aRCRD> (last visited Mar. 25, 2013).

<sup>5</sup> *Id.* For a full list of benefits not considered for public charge purposes see U.S. Citizenship and Immigration Services, Public Charge Fact Sheet, Apr. 29, 2011,

<http://www.uscis.gov/portal/site/uscis/menuitem.5af9bb95919f35e66f614176543f6d1a/?vgnextoid=775d23cbea6bf210VgnVCM100000082ca60aRCRD&vgnnextchannel=8a2f6d26d17df110VgnVCM1000004718190aRCRD> (last visited Mar. 25, 2013).

<sup>6</sup> *Id.*

<sup>7</sup> *Id.*

<sup>8</sup> Violence Against Women Reauthorization Act of 2013, Pub. L. No. 114-4, § 804, 127 Stat. 54, 111 (2013).

In general a “compensable crime” under the Federal Victims of Crime Act includes motor vehicle accidents resulting from driving while intoxicated, domestic violence, and any crime where the victim suffers death or personal injury, including assault, battery, child abuse, reckless driving, murder, robbery, sexual assault, kidnapping, or other violent crimes.<sup>9</sup>

Each state and territory has a victims compensation program. Most of these programs provide compensation to victims of crimes that occur in that state. Generally, a victim must suffer physical (bodily) injury, emotional injury, economic loss, or some combination of these.

Many of the programs extend certain types of compensation to relatives of the victim, such as counseling, or, where the crime results in a death, coverage of funeral and burial expenses. Often, relatives or even non-relatives that paid for medical care of a victim can be compensated for those costs. Some states also extend benefits to those who prevent or attempt to prevent a crime.

Most states provide compensation to:

- state residents, or nonresidents, if the crime occurred in the state; and
- state residents if the crime occurred in another state, and there is no comparable compensation available from that other state.

Several states also provide compensation to:

- state residents for crimes committed outside of the country, in an act of international terrorism, or mass violence.

Most states do not deny compensation based upon immigration status.<sup>10</sup> Accordingly, in most states, both qualified and non-qualified immigrants can receive compensation if they are victims of a crime. However, several states either do not provide coverage for non-qualified immigrants or seek information that a non-qualified immigrant may not have. For example, several states ask for a social security number as part of the process of applying for compensation. Generally speaking, however, these states will process an application and provide compensation, even if the social security number is not available. Among the very few states where compensation is not provided to non-qualified immigrants, one will permit compensation if the crime victim is also a victim of human trafficking.

It is generally required that the crime be reported to law enforcement officials within a certain time period—often 72 hours. However, most states permit a crime to be reported later if for good cause, or if the victim was a juvenile. It is not necessary that the crime at issue be solved or that the

---

<sup>9</sup> 42 U.S.C. §10602.

<sup>10</sup> The U.S. Citizenship and Immigration Services (USCIS) has removed the Gardasil vaccination requirement for the human papillomavirus vaccine (HPV), from the list of vaccinations required for immigrants seeking a visa or an adjustment of status to permanent resident. However, an influenza vaccine is now required for applicants 6 months through 18 years during the influenza (flu) season. Also, the Meningococcal conjugate vaccine, specifically tetravalent meningococcal conjugate vaccine (MCV4), is now required for persons 11 through 18 years of age. Immigrant women must provide certification from a Civil Surgeon Center that they have received the proper vaccines. If they have not previously been vaccinated, as indicated by their medical history and records, a Civil Surgeon shall administer the vaccine. See Centers for Disease Control and Prevention, 2009 Technical Instructions for Vaccination for Civil Surgeons, <http://www.cdc.gov/immigrantrefugeehealth/exams/ti/civil/vaccination-civil-technical-instructions.html>; see also Department of Health and Human Services, Center for Disease Control and Prevention, Adjustment of Status for Permanent Residence Requirements, [http://www.cdc.gov/ncidod/dq/pdf/civil\\_surgeon\\_ti/technical\\_instructions.pdf](http://www.cdc.gov/ncidod/dq/pdf/civil_surgeon_ti/technical_instructions.pdf).

accused is convicted. However, it is generally required that the victim cooperate with law enforcement officials in investigating the crime, and that the victim be innocent, *e.g.*, not involved in the crime, and not incarcerated at the time of the crime.

Compensation is available for a wide variety of financial costs. Most often this includes medical costs, such as physician services, hospital care, dental services, prescription drugs, and mental health treatment. For victims of sexual assault, compensated medical care can include STD and HIV/AIDS screening/treatment, pregnancy testing, hepatitis screening, emergency contraception,<sup>11</sup> and pre-natal care.

Most states provide compensation for loss of income and funeral/burial costs. Many states also provide compensation for travel for court appearances or for medical treatment, rehabilitation, crime scene clean-up, necessary moving/relocation costs, necessary home security or modifications, limited attorney's fees, and replacement costs for the work victim is no longer able to perform, *e.g.*, housekeeping or child care. A few states compensate for lost, stolen, or damaged property. Very few states compensate for pain and suffering.

Most states have limits on how much will be reimbursed in each category, as well as a limit on total compensation. Most also consider this compensation of last resort, *i.e.*, compensation will not be provided if the costs are reimbursable by insurance or other benefits.

Emergency benefits can often be provided if the victim would suffer substantial hardship without immediate compensation. Emergency awards can range, in general, from \$500 to \$1500.

To obtain compensation, victims must generally file an application in the particular state with the agency that administers the program. Time limits for filing vary, but are generally one to three years from the time of the crime. There are usually allowances for good cause that enable an application to be submitted at a later time. Applications are then reviewed and a decision is reached. Most states have an appeal process that may be used if the victim's request is denied.

## **RELEVANT FEDERAL LAW**

### ***Victims of Crime Act***

---

<sup>11</sup> Immigrant rape victims may be able to prevent pregnancy if emergency contraception is taken within 72 hours of a sexual assault. On June 10, 2013, the Obama Administration sent a letter to the U.S. District Court for the Eastern District of New York, stating that it would abide by the court's decision requiring emergency contraception to be made available for purchase at pharmacies over the counter by women and girls of any age without a prescription. [Tummino v. Hamburg](#), 2013 U.S. Dist. LEXIS 49666 (April 5, 2013).

Additionally, a number of states require hospitals that offer emergency services to offer counseling and access to emergency contraception if desired. See Cal. Penal Code § 13823.11; Conn. Gen. Stat. § 19a-112e; 410 Ill. Comp. Stat. §§ 70/1a et seq.; Mass. Gen. Laws ch. 41 § 97B and ch. 111 § 70E; Minn. Stat. § 145.4711; N.J. Stat. Ann. § 26:2H-12.6b; N.M. Stat. 24-10 D-3; N.Y. Public Health Law § 2805-p; Or. Rev. Stat § 147.225 et seq. and 147.395 et seq. and Or. Rev. Stat. §§ 435.250, 435.252, 435.254 and 435.456; Wash. Rev. Code Ann. §§ 70.41.020, 70.41.350; Wis. Stat. § 50.375. Advocates should consult the Post Assault Health Care Chart to determine if the immigrant survivor with whom they are working is eligible for subsidized coverage of emergency contraception in their state.

The Victims of Crime Act established a Crime Victims Fund from which grants are provided to states for eligible crime victim compensation programs. Under 42 U.S.C. § 10602, a compensation program qualifies as an eligible crime victim compensation program if:

1. the program is operated by the state and offers compensation to victims and the survivors of victims of criminal violence (including drunk driving and domestic violence) for (i) medical expenses attributed to a physical injury related to compensable crime, including expenses for mental health counseling and care, (ii) lost wages attributable to a physical injury resulting from a compensable crime, and (iii) funeral expenses attributable to a death resulting from a compensable crime;
2. the program promotes victim cooperation with reasonable requests from law enforcement;
3. the grants will not supplant state funds otherwise available for victim compensation;
4. the program makes compensation awards to victims who are nonresidents of the state on the basis of the same criteria used to make awards to victims who are residents of the state;
5. the program provides compensation to victims of federal crimes occurring within the state on the same basis as compensation to victims of state crimes;
6. the program provides compensation to residents of the state who are victims of crimes occurring outside the state if (i) the crimes would be compensable crimes had they occurred inside that state, and (ii) the places the crimes occurred in are states not having eligible crime victim compensation programs;
7. the program does not, except pursuant to rules issued by the program to prevent unjust enrichment of the offender, deny compensation to any victim because of that victim's familial relationship to the offender, or because of the sharing of a residence by the victim and the offender; and
8. the program does not provide compensation to any person who has been convicted of an offense under federal law with respect to any time period during which the person is delinquent in paying a fine, other monetary penalty, or restitution imposed for the offense.

### ***Federal Healthcare Programs***

On March 23, 2010, President Obama signed the Patient Protection and Affordable Care Act ("PPACA") into law. Once all of the law's provisions go into effect, it will significantly expand healthcare access in the United States. The law, however, does restrict the eligibility for benefits based on immigration status.

One of the cornerstones of PPACA is the establishment of state health benefit exchanges (“Exchanges”).<sup>12</sup> As explained by the Centers for Medicare & Medicaid Services, the Exchanges will be state-based “competitive marketplaces” where individuals will be able to purchase affordable private health insurance.<sup>13</sup> Each state must establish an exchange by January 1, 2014.<sup>14</sup> Through these Exchanges, health coverage is made available to “qualified individuals[.]”<sup>15</sup> “Qualified individuals” are defined as “an individual who is seeking to enroll in a qualified health plan in the individual market offered through the Exchange; and (ii) resides in the state that established the Exchange.”<sup>16</sup> “Qualified individuals” do not include individuals who are not lawfully present<sup>17</sup> in the United States.<sup>18</sup> PPACA states, “If an individual is not, or is not reasonably expected to be for the entire period for which enrollment is sought, a citizen or national of the United States or an alien lawfully present in the United States, the individual shall not be treated as a qualified individual and may not be covered under a qualified health plan in the individual market that is offered through an Exchange.”<sup>19</sup>

If an individual is a “qualified individual,” he or she may be eligible for financial assistance to reduce the financial burden of purchasing health insurance through the Exchanges. One form of financial assistance is tax credits. Tax credits will be available to “taxpayer[s]” whose household income for the taxable year is between 100 percent and 400 percent of the federal poverty line for a family of the applicable size.<sup>20</sup> Tax credits are not available to individuals eligible for other forms of public health coverage or individuals offered affordable coverage through an employer.<sup>21</sup> Tax credits are further available to lawfully present immigrants<sup>22</sup> beyond the regular eligibility criteria if the person’s household income is no greater than 100 percent of the Federal poverty line and such person is not eligible for Medicaid due to his or her immigration status.<sup>23</sup> Because enrollment in Exchanges is not available to individuals who are not lawfully present, tax credits to assist with the cost of exchanges are also not available to individuals who are not lawfully present.<sup>24</sup> Moreover, if a person is eligible for enrollment in a health plan through an Exchange, but has members of his or her household who are not lawfully present in the United States, special rules apply for the calculation of the tax credit, which remove the person who is not lawfully present from the calculation.<sup>25</sup>

Financial assistance for insurance purchased through Exchanges is also available via cost-sharing subsidies. Through cost-sharing subsidies, individuals who enroll in a silver level Exchange health plan (the second lowest cost plan) and whose household income exceeds 100% but does not exceed 400%

---

<sup>12</sup> 42 U.S.C. § 18031.

<sup>13</sup> HealthCare.gov, Affordable Insurance Exchanges: More Choices, Competition and Clout, HealthCare.gov, Apr. 5, 2012, <http://www.healthcare.gov/news/factsheets/2011/07/exchanges07112011b.html> (last visited Mar. 19, 2013).

<sup>14</sup> 42 U.S.C. § 18031(b)(1).

<sup>15</sup> *Id.* at § 18031(d)(2)(A).

<sup>16</sup> 42 U.S.C. § 18032(f)(1).

<sup>17</sup> *See* 45 C.F.R. § 152.2 for the definition of “lawfully present.” 45 C.F.R. § 155.20.

<sup>18</sup> *Id.* at § 18032(f)(3).

<sup>19</sup> 42 U.S.C. § 18032(f)(3).

<sup>20</sup> 26 U.S.C. § 36B(c)(1)(A).

<sup>21</sup> *See* 26 U.S.C. § 36B(c)(2)(C) for specific information on eligibility for tax credits when employer sponsored health plans are available.

<sup>22</sup> “Lawfully present” is defined as an individual who “is, and is reasonably expected to be for the entire period of enrollment for which the credit under this section is being claimed, a citizen or national of the United States or an alien lawfully present in the United States.” 26 U.S.C. § 36B(e)(2).

<sup>23</sup> *Id.* at § 36B(c)(1)(B).

<sup>24</sup> 42 U.S.C. § 18032(f)(3).

<sup>25</sup> 26 U.S.C. § 36B(e)(1).

of the federal poverty line, are eligible for out of pocket expense reductions.<sup>26</sup> As in the case of tax credits, cost-sharing is available to lawfully present immigrants<sup>27</sup> beyond the regular eligibility criteria if the person's household income is no greater than 100 percent the Federal poverty line and such person is not eligible for Medicaid due to his or her immigration status.<sup>28</sup> However, like the tax credits, a person's immigration status will impact eligibility and the household income calculation.<sup>29</sup> Cost-sharing is not available to a person who is not lawfully present and household income is determined by excluding any illegally present persons from the calculation. *Id.*

Another central tenant of the PPACA is Medicaid expansion. Under the Medicaid expansion provisions, persons whose income does not exceed 133% of the federal poverty line may be eligible for Medicaid benefits, depending on the state.<sup>30</sup> Medicaid's eligibility rules, though, remain intact.<sup>31</sup>

Accordingly, Medicaid benefits are available only to:

- Lawful permanent residents;
- Refugees, persons granted asylum or withholding of deportation/removal, and conditional entrants;
- Persons granted parole by the Department of Homeland Security (DHS) for a period of at least one year;
- Cuban and Haitian entrants;
- Certain abused immigrants, their children, and/or their parents; and
- Certain victims of trafficking.<sup>32</sup>

If an immigrant is eligible under the above criteria and entered the United States on or after August 22, 1996, such person must generally wait a period of five years from the point the immigrant became qualified before he/she becomes eligible for Medicaid benefits from Federal funding, assuming all other Medicaid eligibility criteria are met.<sup>33</sup> Some states, however, have waived the five year requirement for certain categories of immigrants, such as

---

<sup>26</sup> 42 U.S.C. § 18071(b).

<sup>27</sup> "Lawfully present" is defined as an individual who "is, and is reasonably expected to be for the entire period of enrollment for which the credit under this section is being claimed, a citizen or national of the United States or an alien lawfully present in the United States." 42 U.S.C. § 18071(e)(2).

<sup>28</sup> *Id.* at § 18071(b).

<sup>29</sup> *Id.* at § 18071(e)(1).

<sup>30</sup> 42 U.S.C. § 1902(a)(10)(A)(i)(VIII). In 2012, the Supreme Court found that the Medicaid Expansion provision of the ACA was unconstitutionally coercive. *Nat'l Fed'n of Indep. Bus. v. Sebelius*, 132 S.Ct. 2566 (June 28, 2012). Accordingly, the Court limited the ability of the federal government to enforce the Medicaid Expansion provisions. *Id.* States, therefore, may opt to participate in Medicaid Expansion, but are not required to do so. According to the Advisory Board Company, a research, technology, and consulting firm, as of March 13, 2013, 14 states were not participating, 24 states were participating, 3 states were leaning toward not participating, 6 states were undecided or had no comment on the issue, and 2 states were leaning toward participating. "Where each state stands on PPACA's Medicaid expansion," the Advisory Board Company, <http://www.advisory.com/Daily-Briefing/2012/11/09/MedicaidMap#lightbox/1/> (last visited Mar. 19, 2013).

<sup>31</sup> For a detailed overview of access to public benefits for immigrant populations, see American University Washington College of Law, NIWAP, Legal Momentum, Empowering Survivors: Legal Rights of Immigrant Victims of Sexual Assault, Chap 16: Access to Programs and Services that Can Help Victims of Sexual Assault and Domestic Violence (2011), available at <http://niwaplibrary.wcl.american.edu/reference/manuals/sexual-assault> (last visited Mar. 20, 2013).; see also Centers for Medicare & Medicaid Services, Publication #45: State Medicaid Manual, Chap. 3: Eligibility, available at <http://www.cms.gov/Regulations-and-Guidance/Guidance/Manuals/Paper-Based-Manuals-Items/CMS021927.html> (last visited Mar. 20, 2013).

<sup>32</sup> 8 U.S.C. § 1611(a), 1641. See 8 U.S.C. § 1611(b) for certain limited exceptions.

<sup>33</sup> 8 U.S.C. § 1613(a). For exceptions to the five year rule, see 8 U.S.C. § 1613(c), see also American University Washington College of Law, NIWAP, Legal Momentum, Empowering Survivors: Legal Rights of Immigrant Victims of Sexual Assault, Chap 16: Access to Programs and Services that Can Help Victims of Sexual Assault and Domestic Violence (2011), available at <http://niwaplibrary.wcl.american.edu/reference/manuals/sexual-assault> (last visited Mar. 20, 2013).. Even once the five year period has passed,

pregnant women and minor children, or use state funds to provide medical care for non-qualified immigrants.<sup>34</sup>

Despite the above limitations, coverage for emergencies is available to immigrants through Emergency Medicaid and the Emergency Medical Treatment and Active Labor Act (“EMTALA”). Under Emergency Medicaid, if the only reason for an individual’s ineligibility for Medicaid benefits is his or her status as an immigrant, he or she may still be eligible for coverage for “emergency medical conditions.”<sup>35</sup> An “emergency medical condition” is defined as “a medical condition (including emergency labor and delivery) manifesting itself by acute symptoms of sufficient severity (including severe pain) such that the absence of immediate medical attention could reasonably be expected to result in (A) placing the patient’s health in serious jeopardy, (B) serious impairment to bodily functions, or (C) serious dysfunction of any bodily organ or part.”<sup>36</sup>

Under EMTALA, if any individual “comes to the emergency department” of a hospital and requests examination or treatment, the hospital must provide appropriate medical screening to determine if the individual has an emergency medical condition.<sup>37</sup> If the hospital determines that an emergency medical condition does exist, the hospital must provide treatment until the patient is stabilized or transfer the patient to another hospital in accordance with the statute.<sup>38</sup> Under EMTALA, an “emergency medical condition” means “a medical condition manifesting itself by acute symptoms of sufficient severity (including severe pain) such that the absence of immediate medical attention could reasonably be expected to result in—(i) placing the health of the individual (or, with respect to a pregnant woman, the health of the woman or her unborn child) in serious jeopardy, (ii) serious impairment to bodily functions, or (iii) serious dysfunction of any bodily organ or part; or (B) with respect to a pregnant woman who is having contractions— (i) that there is inadequate time to effect a safe transfer to another hospital before delivery, or (ii) that transfer may pose a threat to the health or safety of the woman or the unborn child.”<sup>39</sup>

## STATE LAW PROVISIONS

The following is a chart briefly summarizing the provisions available to victims of sexual assault and other violent crimes. This chart is followed by a detailed listing for each U.S. state and territory setting forth the relevant provisions for eligibility, compensation, and the application process for crime victim compensation (“CVC”).

---

immigrants may still be barred from Medicaid benefits based upon other Medicaid criteria, such as income under the sponsor deeming rules. *See* American University Washington College of Law, NIWAP, Legal Momentum, Empowering Survivors: Legal Rights of Immigrant Victims of Sexual Assault, Chap 16: Access to Programs and Services that Can Help Victims of Sexual Assault and Domestic Violence (2011), available at <http://niwaplibrary.wcl.american.edu/reference/manuals/sexual-assault> (last visited Mar. 20, 2013). Certain exceptions apply to the deeming rules for abused immigrants. *Id.*

<sup>34</sup> National Immigration Law Center, Table: Medical Assistance Programs for Immigrants in Various States, July 2012, available at <http://www.nilc.org/guideupdate.html> (last visited Mar. 19, 2013)

<sup>35</sup> 42 U.S.C. § 1396b(v)(2).

<sup>36</sup> *Id.* at § 1396b(v)(3). For a detailed review of state specific Emergency Medicaid requirements, see Legal Momentum & Morgan Lewis, LLP, Emergency Medicaid for Non-Qualified Aliens, available at [http://niwaplibrary.wcl.american.edu/public-benefits/health-care/17\\_Emergency-Medicaid-Chart-MANUAL-ES.doc](http://niwaplibrary.wcl.american.edu/public-benefits/health-care/17_Emergency-Medicaid-Chart-MANUAL-ES.doc) (last visited Mar. 19, 2013).

<sup>37</sup> 42 U.S.C. § 1395dd(a).

<sup>38</sup> *Id.* at § 1395dd(b)(1).

<sup>39</sup> *Id.* at § 1395dd(e)(1).



Jurisdiction	Eligibility (Income, Residency or Time Period Requirements)	Coverage (What services are covered? How are key terms defined?)	Emergency Contraception Rules	Application Process	Notice/ Recordkeeping Requirements
New Mexico	<p>There are no eligibility restrictions based on immigration status.</p> <p>The following <u>victims of violent crime</u> (see below) may be eligible for compensation if:</p> <ul style="list-style-type: none"> <li>• The crime occurred in New Mexico</li> <li>• A police report was filed within 30 days of the incident, or 180 days of the incident if relating to cases of domestic violence and sexual assault</li> <li>• The victim fully cooperates with all law enforcement agencies and the Commission, including being willing to prosecute the offender</li> <li>• The victim incurred expenses as a result of the crime</li> <li>• The application is completed and returned to the Commission within two years of the date of the crime</li> </ul> <p>A victim of violent crime may qualify if the victim has suffered physical injury or extreme mental distress as a result of one or more of the following crimes:</p> <ul style="list-style-type: none"> <li>• Aggravated assault;</li> <li>• Aggravated battery;</li> <li>• Criminal sexual contact of a minor;</li> <li>• Criminal sexual penetration;</li> <li>• Murder;</li> <li>• Voluntary manslaughter;</li> </ul>	<p>Awards may be made up to a maximum of \$20,000 (\$50,000 in the case of permanent physical disability). Awards can be made for the following:</p> <ul style="list-style-type: none"> <li>• Medical and dental care;</li> <li>• Mental health counseling (30 session maximum);</li> <li>• Funeral and burial expenses (\$6,000.00 maximum);</li> <li>• Loss of earnings as a result of the crime;</li> <li>• Eyeglasses (\$350.00 maximum); or</li> <li>• Other medically necessary devices.</li> </ul> <p>Victims of family violence, sexual assault, or human trafficking may be eligible for a one-time award up to \$3,000 for rent (up to \$1,500) and relocation (up to \$1,500) assistance.</p> <p>No compensation will be paid for property loss, pain and suffering, or attorney's fees.</p>	Emergency contraception is available over the counter to women of all ages.	<p>Victims must complete the Commission's application for compensation.</p> <p>Application forms may be received from and submitted to:</p> <p>Crime Victims Reparation Commission 6200 Uptown Blvd., Suite 210 Albuquerque, NM 87110 (505) 841-9432 1-800-306-6262 (toll-free) Fax: (505) 841-9437 E-Mail: [email=cvrc@state.nm.us]cvrc@state.nm.us[/email]</p> <p><i>Link to English-Language Application for Compensation</i> <a href="http://www.cvrc.state.nm.us/wp-content/uploads/CVRC-app-Jan2016.pdf">http://www.cvrc.state.nm.us/wp-content/uploads/CVRC-app-Jan2016.pdf</a></p> <p><i>Link to Spanish-Language Application for Compensation</i> <a href="http://www.cvrc.state.nm.us/pdf/SpanAppNew2.pdf">http://www.cvrc.state.nm.us/pdf/SpanAppNew2.pdf</a></p> <p>The Commission is a payer of last resort, and all sources (Medicare, Medicaid, health insurance, worker's compensation, and indigent funds) must be exhausted before payment can be made. The Commission also will consider any contributory</p>	

Jurisdiction	Eligibility (Income, Residency or Time Period Requirements)	Coverage (What services are covered? How are key terms defined?)	Emergency Contraception Rules	Application Process	Notice/ Recordkeeping Requirements
	<ul style="list-style-type: none"> <li>• Involuntary manslaughter;</li> <li>• Abandonment or abuse of a child;</li> <li>• Homicide by vehicle or great bodily injury by vehicle;</li> <li>• Aggravated stalking;</li> <li>• Kidnaping;</li> <li>• Arson resulting in bodily injury;</li> <li>• Aggravated arson;</li> <li>• Aggravated indecent exposure;</li> <li>• Dangerous use of explosives; or,</li> <li>• Negligent use of a deadly weapon;</li> <li>• Human Trafficking</li> </ul> <p>In order to qualify for compensation, the following factors must be met:</p> <ul style="list-style-type: none"> <li>• The crime must have occurred in New Mexico.</li> <li>• A police report must have been filed within thirty (30) days of the incident, however in cases of domestic violence and sexual assault the victim has one hundred and eighty (180) days to file a police report. There is also an exception for minors in some cases.</li> <li>• A completed application must be filed within two (2) years of the incident, with exceptions for minors under eighteen (18) years of age.</li> <li>• The victim or claimant must cooperate fully with the New Mexico Crime Victims Reparation Commission and all</li> </ul>			<p>behavior on the part of the victim.</p> <p>After the applicant submits the claim, he or she will be given a claim number. The Commission will review the application and related documentation, including a complete offense report (which the Commission requests and receives from law enforcement). The application then will be reviewed to determine if the victim and/or claimant is eligible for compensation. This process involves verifying all the information presented in the application. A decision about whether the victim/claimant is eligible is usually made within 120 days. If the application is approved and expenses incurred as a result of the crime are eligible, payment will be made directly to providers or the victim/claimant. The victim/claimant is notified in writing of the decision to award or deny the claim.</p> <p>Appeals may be filed with the agency director by written notification of the reason for the appeal, as well as providing additional information for reconsideration</p>	

Jurisdiction	Eligibility (Income, Residency or Time Period Requirements)	Coverage (What services are covered? How are key terms defined?)	Emergency Contraception Rules	Application Process	Notice/ Recordkeeping Requirements
	law enforcement agencies. This includes a willingness to prosecute the offender.			of the original request. If the original decision is upheld, the victim/claimant may request, in writing, a meeting with agency staff and an independent victim advocate. If the victim/claimant does not agree with the outcome of this meeting, the final step would be to request an appearance in front of the agency Commission members. The decision from that meeting is final.	

© 2016 - Morgan, Lewis and Bockius LLP and the National Immigrant Women’s Advocacy Project, American University, Washington College of Law