

STATE OF MINNESOTA
DEPARTMENT OF PUBLIC SAFETY

In the Matter of the Proposed
Adoption of Rules of the Minnesota
Crime Victims Reparations Board

STATEMENT OF NEED
AND REASONABLENESS

I. General

The need to adopt these rules arises from the extensive changes in the enabling legislation of the Crime Victims Reparations Board, and the increasing complexity of claims which are subject to the requirements of the Minnesota Crime Victims Reparations Act. The proposed rules are consistent with Minnesota Statutes 611A.51-.67. The repeal of existing rules brings the administrative rules up to date.

These rules are necessary to provide a consistent framework for the awarding and denial of reparations to crime victims under the Crime Victims Reparations Act. The rules have been designed to represent the public interest by implementing closer scrutiny of claims, while at the same time assuring sensitivity to the needs and rights of crime victims and private vendors who receive payments for services through the Reparations Board.

II. Statutory Authority

The board is required by Minn. Stat. Sect. 611A.56, subd. 1(b) to:

[A]dopt rules to implement and administer sections 611A.51 to 611.67, including rules governing the method of practice and procedure before the board, prescribing the manner in which applications for reparations shall be made, and providing for discovery proceedings. . . .

This provision clearly authorizes the board to adopt rules relating to claim procedures, information requests from service providers, as well as rules relating to prorating of claims and contributory misconduct.

III. Rule-By-Rule Analysis

7505.0100 Definitions

Changes in definitions are intended to create functional definitions which are consistent with existing law.

7505.0400 Commencement of a Claim

This subpart is being changed to reflect the elimination of a supplementary claim form, and the elimination of the requirement that claim forms be notarized.

7505.600 Scope of Discovery

This subpart is being amended to reflect changes in claim processing pursuant to M.S. Sect. 611A.51-67. The change to permissive language is reasonable because it permits the greatest speed and efficiency in making a determination on claim eligibility, and allows for avoidance of collection of unnecessary or duplicative data.

7505.0700 Cooperation with Board, Subrogation, Assignment

This subpart is being revised to assure reasonable consistency with existing claims processing procedures, and is reasonable in that it clarifies the application of the Boards requirement that claimants be cooperative. It is necessary to ensure that claimants understand the scope of cooperation necessary to avoid denial of a claim.

7505.1900 Disqualification by Prejudice

This subpart is being altered to apply to existing board processing of claims, and to allow for clear withdrawal from board decisions at any stage of the process of considering a claim. This section is necessary to assure that claimants will not have their claim considered by a prejudiced board member, and that claimants will have a source of information regarding withdrawal by board members. It is reasonable in that most Board members are involved in the criminal justice system and may have outside knowledge of a case or individual which may cause them to bear prejudice or have a conflict of interest with a claimant.

7505.2700 Treatment Plans.

7505.2700, subpart 1. Applicability.

This subpart is necessary to assure that payments are made only for reasonable services. The Board cannot determine reasonableness without a sufficient amount of information regarding the treatment planned for the victim. This subpart is consistent with requirements imposed by public and private health care insurers, in that larger claims require more thorough investigation. It also recognizes that requirements for such documentation vary with the type of service provided. The subpart is based upon two years of successful experience with requiring treatment plans of mental health providers under M.S. 611A.52, subd. 8. This subpart will assure that professionals requesting payment for services are informed of the basis upon which the Board will request treatment plans,

and of the charges and length of treatment which are considered customary.

7505.2700, subpart 2. Treatment Plan Contents.

This subpart is necessary to inform claimants and service providers of the information which the board will require. The subpart is reasonable because it conforms with existing professional standards required to measure quality of services provided, as well as the need for such services.

7505.2700, subpart 3. Submission Procedures.

This provision is necessary because it provides a mechanism by which professionals who will be required to submit treatment plans may do so. This provision also clarifies the responsibilities of the Board.

7505.2700, subpart 4. Treatment Plan Updates.

This subpart is necessary to protect the public interest through careful monitoring of treatment costs over a moderate length of time and through the imposition of sanctions where service providers fail to provide required updates. It is reasonable in that any form of treatment is subject to change as the result of external factors, unexpected recovery rates, or disclosure of additional problems. This subpart will assure that the Board's continued determination of reasonableness will be based upon current information.

7505.2700, subpart 5. Board Action.

This subpart is necessary to allow the Board to use treatment plans to assure the reasonableness and economy of services provided. It is reasonable in that it permits the Board to make a determination of reasonableness as required in the statute.

7505.2700, subpart 6. Extension Beyond Termination Dates.

This subpart is reasonable because it provides service providers with an opportunity to document a need for unforeseen treatment of conditions related to victimization. It also informs the public of the opportunity for expansion of services beyond original projections. It is necessary to guarantee compliance with rules requiring treatment plans and to assure continued assessment of reasonableness by the Board.

7505.2800. Board Determination of Reasonableness.

7505.2800, subpart 1. Board Consideration.

This subpart is necessary to inform the public and private interests of the criteria upon which the Board will

base a finding of reasonableness, and to assure the Board's consistent handling of claims. It is reasonable because it is based on practical considerations such as quantity and necessity of services. It also provides professionally acceptable parameters and sufficient latitude to allow individual concerns, while protecting the right of all claimants to equal consideration of their claims.

7505.7800, subpart 2. Utilization Review.

This subpart is necessary so that highly complex claims are given a fair review by a person qualified to understand the treatment issues relevant to a Board determination of reasonableness. Professional training is often necessary to assess whether services are reasonable. It is reasonable for the Board to assure that determinations of reasonableness in clinically complicated cases are as rigorous as those in simple cases.

7505.2900. Contributory Misconduct.

7505.2900, subpart 1. Contributory Misconduct.

This subpart is necessary to assure consistent consideration and award of reparations claims where the victims may have contributed to the incident through their own misconduct. The Board considers a wide variety of claims with many extenuating circumstances, but has not yet provided any guidelines to claimants as to the specific factors it deems to be contributory misconduct. This subpart provides the public with a clear definition of the acts or omissions which may lead to a reduction or denial of benefits. This subpart provides reasonable criteria for a determination of contributory misconduct because it reflects 12 years of Board decisions regarding the issue of victim contribution. It is also reasonable because the provisions of the section can be waived for specific crimes having facts and causes which may lead to inequitable results. Respect is given to the possibility that certain acts or omissions may occur in concert with, or proximate, to a crime without contributing to its causation.

7505.3000 Claims Prorating

This part is necessary to provide consistent and clearly delineated implementation of appropriation requirements which prohibit the Reparations Board from making reparations awards in excess of its annual appropriation. See 1987 Minn. Laws 2 ch. 358, Section 5, subd. 10, 2402. Subparts provide procedures which guarantee equitable treatment of all claims received and provide for payment of emergency claims without regard to the monthly allotment.

7505.0500, 7505.0800 through 7505.1800 and 7505.2000

through 7505.2500.

These subparts were repealed. This was necessary because the administrative procedures described in these subparts were outdated.

IV. Other Statutory Requirements

Minn. Stat. Section 14.115 requires agencies, when proposing a new rule or amending existing rules which may affect small businesses, to consider certain methods for reducing the impact of the rule on small businesses.

The proposed amendments to the Crime Victims Reparations Board rule indirectly impact small businesses. However, the rule does not affect small businesses disproportionately. The Board considered the impact of the amendments on small businesses and determined that no feasible alternative to the rule exists.

Minn. Stat. Section 14.11, subd. 2 is inapplicable because the proposed amendments will not have any direct and substantial adverse impact on agricultural land. Sections 115.43, subd. 1, 116.07, subd. 6 and 144A.29, subd. 4 are not applicable. Section 16A.128, subd. 1 does not apply because the proposed amendments do not set any fee. Likewise, a fiscal note is not required pursuant to section 3.982 as the rule will not force any local agency or school district to incur costs.

CONCLUSION

Based on the foregoing, the Minnesota Crime Victims Reparations Board's proposed amendments are both necessary and reasonable.

. Dated: _____

(Original Signed) _____

DR. WILLIAM KOZIAK
Chairman, Minnesota Crime
Victims Reparation Board