

AMENDATORY SECTION (Amending WSR 01-22-105, filed 11/7/01, effective 12/8/01)

**WAC 296-30-010 Definitions.** The following definitions are used to administer the crime victims compensation program:

**Acceptance, accepted condition:** A determination by the department that the diagnosis of the claimant's medical or mental health condition is the result of the criminal act. The condition being accepted must be specified by one or more diagnostic codes from the current edition of the International Classification of Diseases, Clinically Modified (ICD-CM), or the Diagnostic and Statistical Manual of Mental Disorders (DSM).

**Authorization:** Notification by a qualified representative of the department that specific treatment, services or equipment provided for the accepted condition is allowable under the claim. Providers must ~~((insure they))~~ maintain records ~~((indicating the name of the qualified representative))~~ naming the claim manager who authorizes treatment, services or equipment.

**Bodily injury:** Any harmful or offensive touching, including severe emotional distress where no touching takes place when:

(1) The victim **is not** the object of the criminal act and:

(a) The distress is intentionally or recklessly inflicted by extreme or outrageous conduct;

(b) Caused the victim to have a reasonable apprehension of imminent bodily harm; and

(c) The victim is in the immediate vicinity at the time of the criminal act.

(2) The victim **is** the object of the criminal act and:

(a) The distress is intentionally or recklessly inflicted by extreme or outrageous conduct; and

(b) Caused the victim to have a reasonable apprehension of imminent bodily harm.

**Claimant:** A victim who submits an application for benefits, or on whose behalf an application is submitted.

**Consultation:** The services rendered by a ~~((mental))~~ health care provider whose opinion or advice is requested by the ~~((attending ( ) treating ( ) mental health))~~ provider, ~~((or agency,))~~ or by the department, in the evaluation and/or treatment of a claimant. Case management or case staffing does not constitute a consultation.

**Criminal act:** An act defined in RCW 7.68.020, the occurrence of which can be verified by the department or which is reasonably credible. Physically impossible acts, highly improbable acts for which verification is not available, or unverified memories of acts occurring prior to the age of two will not be accepted as reasonably credible. In evaluating evidence to determine verification of claimed criminal acts, the department will give

greater weight to the quality, than to the quantity, of evidence. Evidence that can be considered for verification of claimed criminal acts includes, but is not limited to, one or more of the following:

- (1) Police or other investigation reports.
- (2) Child protective services or other government agency reports.
- (3) Diaries or journals kept by victims and others.
- (4) Third party reports from school counselors, therapists and others.
- (5) Current medical examinations.
- (6) Medical or psychological forensic evaluations. In the absence of other adequate forensic evaluation reports, independent assessments per WAC 296-31-069 may be conducted when indicated.
- (7) Legal and historical reports.
- (8) Current and past medical and mental health records.
- (9) Reports of interviews with the victim's family members, friends, acquaintances and others who may have knowledge of pertinent facts. When such interviews are necessary to determine eligibility, the victim will be given the choice of whether to allow the interviews to be conducted. The victim will also be given the understanding that eligibility may be denied if the interviews are not conducted. The department will act according to the victim's choice.

**Crisis intervention:** Therapy to alleviate the claimant's most pressing problems. The vital mental and safety functions of the claimant are stabilized by providing support, structure and, if necessary, restraint.

~~((Disability awards for mental health conditions: Direct monetary compensation that may be provided to an eligible claimant who is either temporarily totally disabled, permanently totally disabled, or permanently partially disabled resulting from an accepted condition.))~~

**Evidence-based and curative treatment:** Treatment practices, interventions and services that are supported by empirically based research and shown to produce consistent and effective outcomes.

**Family therapy:** Therapy involving one or more members of the claimant's family, excluding the perpetrator, which centers on issues resulting from the claimant's sexual assault pursuant to WAC 296-30-080.

**Group therapy:** Therapy involving the claimant, and one or more clients who are not related to the claimant, which includes issues related to the claimant's condition and pertinent to other group members.

**Immediate family members:** Any claimant's parents, spouse, child(ren), siblings, grandparents, and those members of the same household who have assumed the rights and duties commonly associated with a family unit.

**Individual therapy:** Therapy provided on a one-to-one basis between a ((therapist)) provider and client.

**Lost wage certification:** Documentation from a treating provider based on objective medical evidence stating the claimant

is not able to work based on the effects of the crime injury.

**Mental health provider:** Any person, firm, corporation, partnership, association, agency, institution, or other entity providing any kind of mental health services related to the treatment of a claimant. This includes, but is not limited to, hospitals, psychiatrists, psychologists, advanced registered nurse practitioners with a specialty in psychiatric and mental health nursing, registered and/or licensed master level counselors, and other qualified service providers licensed, registered and/or certified with the department of health and registered with the crime victims compensation program. (Refer to WAC 296-31-030 for specific details.)

~~((Permanent partial disability: Any anatomic or functional loss after maximum recovery has been achieved. When the attending provider has reason to believe a permanent functional loss exists, the department should be notified. Specified disabilities (amputation or loss of function of extremities, loss of hearing or vision) are to be rated utilizing a nationally recognized impairment rating guide. Unspecified disabilities (internal injuries, spinal injuries, mental health, etc.) are to be rated utilizing the category system detailed under WAC 296-20-200, et al. Under Washington law disability awards are based solely on physical or mental impairment due to the accepted injury or conditions without consideration of economic factors. Maximum benefit levels are established by statute.~~

~~Permanent total disability (pension): A condition permanently incapacitating a claimant from performing work at any gainful employment. Maximum benefit levels are established by statute.)~~

Payer of last resort: The crime victims compensation program pays after all other public or private insurance programs, up to our fee schedule.

**Proper and necessary:** ~~((1))~~ Proper and necessary services for the diagnosis or rehabilitative treatment of an accepted condition~~((7))~~:

~~((2))~~ (1) Reflective of accepted standards of good practice within the scope of the provider's license, certification, or registration;

~~((3))~~ (2) Not delivered primarily for the convenience of the claimant, the claimant's attending provider, or another provider;

~~((4))~~ (3) Curative or rehabilitative care that produces long lasting changes which reduces the effects of the accepted condition;

~~((5))~~ (4) Provided at the least cost and in the least intensive setting of care consistent with the other provisions of this definition; and

~~((6))~~ (5) Concluded once a claimant has reached a state of maximum improvement. Maximum improvement occurs when no fundamental or marked change in an accepted condition can be expected with or without treatment. A claimant's condition may have reached maximum improvement though it might be expected to improve or deteriorate with the passage of time. Once a claimant's condition has reached maximum improvement, treatment that results

only in temporary changes is not proper and necessary. Maximum improvement is equivalent to fixed and stable.

**Reasonable cooperation:** The victim is able to talk to the police and give information to help in the investigation and prosecution of the alleged offender. There may be circumstances in which the victim is not able to fully cooperate. In these instances, consideration is given to the needs of the victim. The department may consider the following issues. The list is not inclusive:

- (1) There is fear of retribution from the offender;
- (2) There is a mental or physical condition which inhibits cooperation;
- (3) The victim is dependent upon the offender for support;
- (4) The victim is a minor.

~~((Temporary partial disability (loss of earning power): Partial time loss compensation may be paid when the claimant can return to work on a limited basis, or return to a lesser paying job is necessitated by the accepted condition. The claimant must have a reduction in wages of at least five percent before consideration of partial time loss can be made. No partial time loss compensation can be paid after the claimant's condition is stationary. All time loss compensation must be certified by the attending provider based on objective findings.~~

~~**Temporary total disability (time loss compensation):** Time loss compensation may be paid when the claimant is temporarily unable to return to reasonable continuous gainful employment as a direct result of an accepted condition. Maximum benefit levels are established by statute.)~~

**Termination of treatment:** Treatment is concluded when ((treatment)) it is no longer ((required)) curative because the accepted condition for which the claim was allowed has become stable. The provider ((should)) shall submit a report indicating the date the condition became stable to the department. ~~((The claimant may require continued treatment for conditions not related to the crime injury condition; however, financial responsibility for such care must be the claimants.))~~

**The result of:** The test used to define "the result of" used in RCW ((7.68.070 (3))) 7.68.060 (2)(a) is two-pronged. First, it must be determined that cause in fact exists, and second, it must then be determined that proximate cause exists.

(1) Cause in fact exists if "but for" the acts of the victim the crime that produced the injury would not have occurred.

(2) Proximate cause exists if, once cause in fact is found, it is determined that the acts of the victim:

- (a) Resulted in a foreseeable injury to the victim;
- (b) Played a substantial role in the injury; and
- (c) Were the direct cause of the injury.

~~((**Time loss certification:** Documentation from a physician, or mental health professional qualified to treat under the Crime Victims Act, based upon objective findings which are specific symptoms that an accepted condition of a claimant either partially or totally incapacitates the claimant from returning to work.))~~

**Treating provider:** A person licensed to practice one or more of the following professions: Medicine and surgery, osteopathic medicine and surgery, chiropractic naturopathic physician, podiatry, dentistry, optometry, advanced registered nurse practitioner (ARNP), mental health therapists, and certified medical physician assistants or osteopathic physician assistants. A treating provider actively treats an injured or ill claimant.

**Unjustly enriched:** It would not be fair or equitable justice to allow a person to obtain, or have control of, or access to benefits or compensation paid to a victim of crime.

AMENDATORY SECTION (Amending WSR 00-03-056, filed 1/14/00, effective 2/14/00)

**WAC 296-30-085 What is different about billing for a crime victim ((client)) claimant?** (1) Providers must qualify as approved providers and register with the crime victims compensation program before they are authorized to provide treatment and receive payment. To register with the crime victims compensation program, you must send us:

(a) A completed provider application and Form W-9.

(b) A legible copy of your professional license, certification and/or registration.

(c) Ph.D.s not licensed as psychologists and master level counselors must provide a legible copy of their degree.

(2) Providers must determine if any public or private insurance benefits are available before billing the department. ~~((Available))~~ Public or private insurance must be billed first and a copy of the insurance explanation of benefits must be attached to billings submitted to the department. All copayments, deductibles or out-of-pocket expenses not covered by primary insurance should be included in your billings to the department.

~~(3) ((A client must not be billed for treatment of his or her accepted condition. All copayments, deductibles or out of pocket expenses not covered by primary insurance should be included in your billings to the department.~~

**EXCEPTION:**

~~A provider may require the client to pay for treatment if the client's eligibility is in question (e.g., when an investigation or claim determination is pending). If the claim is subsequently allowed, the provider must refund the client in full and bill us at their usual and customary fees if such rates are in excess of the public or private insurance entitlements.~~

~~(4))~~ On claims closed over ninety days, and the maximum benefit has not been reached, we will pay up to the maximum benefit for completion of a reopening application, an office visit, and diagnostic studies necessary to complete the application. No other benefits will be paid until the reopening decision is made. If the reopening application is approved, we can pay benefits for a period not to exceed sixty days prior to the date the reopening application was received by us.

NEW SECTION

**WAC 296-30-087 Can a victim be billed for expenses related to their claim?** (1) If claim costs are under fifty thousand dollars, the claimant should not pay any expenses relating to an allowed claim. Providers must bill the claimant's public or private insurance first, and then bill the department.

EXCEPTION: A provider may require the claimant to pay for treatment if the claimant's eligibility is pending. If benefits are authorized, and payable by the department, the provider must refund the claimant in full.

(2) If claim costs exceed fifty thousand dollars, the claimant is responsible for expenses.

AMENDATORY SECTION (Amending WSR 05-16-096, filed 8/2/05, effective 9/2/05)

**WAC 296-30-090 What are the maximum allowable fees?** (1) Maximum allowable fees for medical and mental health services ~~((are)), that are not hospital inpatient or outpatient services, are a percentage of those fees ((established by the department of labor and industries for the crime victims compensation program)) published in the medical aid rules and fee schedules,~~ less any available benefits of public or private insurance.

EXCEPTION: If any of the percentage of the maximum allowable fees ~~((established by the department of labor and industries for the crime victims compensation program))~~ in the medical aid rules and fee schedules, are lower than the maximum allowable fees for those procedures established by the department of social and health services under Title 74 RCW, the Title 74 RCW fees are the maximum allowable fees for those procedures.

(2) The percent of allowed charges for authorized ~~((for))~~ hospital inpatient and outpatient services billed by revenue codes are those rates established by the department ~~((of social and health services under Title 74 RCW and WAC 388-550-4500 (1)(a) and 388-550-6000 (1)(a) less any available benefits of public or private insurance))~~. If the maximum allowable fees for hospital inpatient or outpatient services is lower than the maximum allowable fees for those procedures established under Title 74 RCW for the ratio of costs to charges (RCC) rate, the department will use the RCC rate as the percent of allowed charges for hospital inpatient and outpatient services, regardless of whether the hospital is diagnosis related group (DRG) exempt.

AMENDATORY SECTION (Amending WSR 00-03-056, filed 1/14/00,  
effective 2/14/00)

**WAC 296-30-100 Will the department notify providers if a fee schedule is amended or established?** (~~We will give you~~) Our web site will be updated at least thirty days in advance (~~notice by mail~~) when we amend or establish a fee schedule.