

[Cite as *In re Smith*, 2005-Ohio-2650.]

IN THE COURT OF CLAIMS OF OHIO
VICTIMS OF CRIME DIVISION

IN RE: KIMBERLY K. SMITH	:	Case No. V2004-61233
KATHA J. HARPER	:	<u>ORDER OF A THREE-</u>
Applicant	:	<u>COMMISSIONER PANEL</u>
: : : : :		

{¶ 1} On April 1, 2004, the applicant filed a supplemental compensation application seeking reimbursement of expenses incurred with respect to a pre-2002 sexual abuse incident involving her minor granddaughter, Kimberly Smith. On July 27, 2004, the Attorney General denied the claim pursuant to R.C. 2743.60(D) contending that all the applicant's expenses had been or may be recouped from Medicaid. On August 25, 2004, the applicant filed a request for reconsideration. On October 25, 2004, the Attorney General granted the applicant an award in the amount of \$3,917.90 for counseling expenses incurred between January 15, 2002 through July 14, 2004 with Michelle Preuss, L.P.C.C., then an employee of Hocking Hills Family Counseling and Psychiatry Inc. On November 26, 2004, the applicant filed a notice of appeal to the Attorney General's October 25, 2004 Final Decision objecting to Hocking Hills Family Counseling and Psychiatry Inc. receiving the payment. The applicant asserted that Michelle Preuss should be paid directly, since she has not received compensation from Hocking Hills

Family Counseling and Psychiatry Inc. for the above noted service dates. Hence, this matter came to be heard before this panel of three commissioners on February 23, 2005 at 10:40 A.M.

{¶ 2} Neither the applicant nor anyone on her behalf appeared at the hearing. An Assistant Attorney General attended the hearing and presented brief comments for the panel's consideration. The Assistant Attorney General argued, despite the applicant's contention, that payment of the fees should be directed to Hocking Hills Family Counseling and Psychiatry Inc. since Michelle Preuss was an employee of the company at the time her services were rendered to the applicant.

{¶ 3} From review of the file and with full and careful consideration given to all the information presented at the hearing, this panel makes the following determination. We find that the applicant has failed to prove, by a preponderance of the evidence, that she incurred additional economic loss as a result of the criminally injurious conduct.¹ Therefore, the October 25, 2004 Final Decision of the Attorney General shall be affirmed without prejudice.

IT IS THEREFORE ORDERED THAT

{¶ 4} 1) The October 25, 2004 decision of the Attorney General is AFFIRMED without prejudice;

{¶ 5} 2) This claim is referred to the Attorney General for direct payment of the award to Hocking Hills Family Counseling and Psychiatry Inc.;

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In the event the applicant incurs future expense with Michelle Preuss, all payments may be personally directed to the counselor.

{¶ 6} 3) This order is entered without prejudice to the applicant's right to file a supplemental compensation application, within five years of this order, pursuant to R.C. 2743.68;

{¶ 7} 4) Costs are assumed by the court of claims victims of crime fund.

JAMES H. HEWITT III
Commissioner

THOMAS H. BAINBRIDGE
Commissioner

GREGORY P. BARWELL
Commissioner

ID #\1-dld-tad-030405

A copy of the foregoing was personally served upon the Attorney General and sent by regular mail to Hocking County Prosecuting Attorney and to:

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