

[Cite as *In re Williams*, 2006-Ohio-2803.]

IN THE COURT OF CLAIMS OF OHIO

VICTIMS OF CRIME DIVISION

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IN RE: YUSEF K. WILLIAMS : Case No. V2005-80223
YUSEF K. WILLIAMS : ORDER OF A THREE-
Applicant : COMMISSIONER PANEL

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{¶ 1} On July 30, 2004, the applicant filed a supplemental reparations application seeking reimbursement of expenses incurred with respect to a January 9, 2003 shooting incident, which left him paralyzed. On November 5, 2004, the Attorney General denied the applicant's claim pursuant to R.C. 2743.52(A) contending that the applicant failed to prove he incurred economic loss. On November 19, 2004, the applicant filed a request for reconsideration. On January 19, 2005, the Attorney General determined that no modification of the previous decision was warranted. On April 1, 2005, the applicant filed a notice of appeal to the Attorney General's January 19, 2005 Final Decision. On December 30, 2005, a panel of commissioners issued an order reversing the Attorney General's Final Decision and finding that the applicant had incurred \$13,834.00 in unreimbursed allowable expense (wheelchair). The panel also granted a continuance and set the work loss matter for oral hearing on February 22, 2006. On February 21, 2006, the Attorney General filed a Supplemental Memorandum indicating the applicant had also incurred unreimbursed work loss in the amount of \$2,593.63 for the period covering January 9, 2003 through December 31, 2005. Accordingly, the applicant incurred total economic loss in the amount of \$16,427.63. The Attorney General, from a former inquiry made by Commissioner

Hewitt, also found pursuant to 5101:1-39-18(B)(28) of the Ohio Administrative Code that any payments received from the Ohio Victims of Crime Program would not be counted as income for Medicaid financial eligibility and patient liability/post eligibility computations. This matter came to be heard before this panel of commissioners on February 22, 2006 at 11:05 A.M.

{¶ 2} The applicant (via telephone), the applicant's attorney, and an Assistant Attorney General attended the hearing and presented brief comments for the panel's consideration. The Assistant Attorney General stated that the parties were in agreement with respect to the amount of economic loss sustained by the applicant. The wheelchair, the subject of the December 30, 2005 order, would be in the applicant's possession shortly. Accordingly, the Assistant Attorney General recommended the applicant be granted an additional award of reparations in the amount of \$2,593.63, which represented work loss for the period covering January 9, 2003 through December 31, 2005. It was also noted pursuant to the Ohio Administrative Code section 5101:1-39-18(B)(28), that an award from the Victims of Crime Compensation Program would not effect the applicant's eligibility to receive Medicaid benefits.

{¶ 3} The applicant's attorney concurred with the Assistant Attorney General concerning the work loss suffered by the applicant. However, he raised a new issue that the Attorney General had not considered. The applicant's attorney contended the applicant had suffered a loss due to reduced benefits experienced as the result of being a crime victim. Before the criminally injurious conduct, the applicant received \$363.00 per month in Social Security benefits. The applicant had lived with his mother and had paid her \$150.00 per month as a contribution to the household. Now, as a result of the injuries sustained from the criminally injurious conduct, he is residing in an assisted living facility, but his Social Security benefits have been reduced to

\$30.00 per month. Counsel contends the applicant suffered a loss of benefits in the amount of \$183.00 per month for 36 months. It is unclear whether this loss should be considered work loss or an allowable expense, but the fact remains that as the result of the criminally injurious conduct the applicant suffered some form of economic loss.

{¶ 4} In response to the applicant's attorney's argument, the Assistant Attorney General stated that Medicaid is now paying for the applicant's care while he is in the assisted living facility and therefore, the applicant has failed to incur any new economic loss. The Assistant Attorney General asserted the Social Security Administration took the applicant's current living arrangement into consideration when it recalculated his monthly benefits. However, the Assistant Attorney General was unclear as to whether there was a loss incurred that is recoverable under the Victims of Crime Compensation Act. After a discussion of the issue, it was determined that the best approach would be to research this matter and set an oral hearing at a future date. Applicant's attorney made an oral motion for a continuance of the hearing and the Assistant Attorney General raised no objection.

{¶ 5} From review of the file and with careful consideration given to all the information presented at the hearing, we find the applicant incurred unreimbursed work loss during the period covering January 9, 2003 through December 31, 2005 in the amount of \$2,593.63. Pursuant to Ohio Administrative Code 5101:1-39-18(B)(28) which states:

“(B) The following income exemptions are designated by law to be disregarded in whole or in part when determining countable income.

(29) Payments received under the provisions of the ‘Ohio Victims of Crime Program’ are not counted as income for medicaid financial eligibility and patient liability/post eligibility computations.”

{¶ 6} Based on the above, the granting of the award for work loss will not effect the applicant's eligibility for Medicaid. Finally, the issue concerning the applicant's reduced benefits from the Social Security Administration, as the result of being a victim of crime, is continued in conformity with this order issued herewith.

IT IS THEREFORE ORDERED THAT

- 1) The December 30, 2005 order of the three commissioner panel is MODIFIED;
- 2) Judgment is rendered in favor of the applicant in the amount of \$2,593.63;
- 3) This claim is referred to the Attorney General pursuant to R.C. 2743.191 for payment of the award;
- 4) This matter is continued and the oral hearing shall now be heard on **May 17, 2006 at 10:00 A.M. at the Courts of Claims of Ohio, The Ohio Judicial Center, 65 South Front Street, Fourth Floor, Columbus, Ohio 43215**, by a panel of three commissioners;
- 5) On or before **April 21, 2006**, the Attorney General shall file a supplemental memorandum addressing the applicant's reduction in Social Security benefits after the criminally injurious conduct and whether said loss is compensable under the Victims of Crime Compensation Act;
- 6) On or before **May 5, 2006**, the applicant shall submit a response to the Attorney General's supplemental memorandum;

- 7) The applicant shall be allowed to appear via telephone;
- 8) The clerk shall send applicant a copy of this order and a VC-21 (Confirmation of Attendance) postcard.

RANDI OSTRY LE HOTY
Commissioner

JAMES H. HEWITT III
Commissioner

GREGORY P. BARWELL
Commissioner

ID #\17-drb-tad-030606

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

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