

[Cite as *In re Cockrell*, 2007-Ohio-3491.]

IN THE COURT OF CLAIMS OF OHIO

VICTIMS OF CRIME DIVISION

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IN RE: STEVE L. COCKRELL	:	Case No. V2006-21239
STEVE L. COCKRELL	:	Commissioners:
_____	:	Gregory P. Barwell, Presiding
Applicant	:	Tim McCormack
_____	:	Clarence E. Mingo II
_____	:	
_____	:	<u>ORDER OF THE THREE-</u>
_____	:	<u>COMMISSIONER PANEL</u>
	: : : : :	

THE COURT FINDS THAT

{¶1} On July 18, 2006, the applicant filed a supplemental compensation application seeking reimbursement of expenses incurred with respect to a June 26, 2005 assault incident. On September 8, 2006, the Attorney General granted the applicant an award totaling \$2,280.00 in unreimbursed allowable expense for reconstructive surgery. On October 17, 2006, the applicant filed a request for reconsideration contending that he is entitled to additional allowable expense and work loss. On November 30, 2006, the Attorney General issued a Final Decision indicating that the previous decision warranted no modification. On December 20, 2006, the applicant filed a notice of appeal to the Attorney General's November 30, 2006 Final Decision. On March 15, 2007, the parties filed a joint motion to remand the claim for payment of a newly recommended award. The parties indicated that the applicant

incurred work loss from July 5, 2005 through July 24, 2005 in the amount of \$674.24. On March 21, 2007, a hearing was convened. On April 2, 2007, the panel issued an order denying the March 15, 2007 joint motion to remand, however the panel granted payment of the newly recommended work loss award totaling \$674.24 (which has been paid to the applicant). The panel also held a final determination in abeyance, ordered the applicant to file a supplemental brief, ordered the Attorney General to file a supplemental brief addressing the applicant's total economic loss ranging from June 26, 2005 through April 1, 2007, and continued the matter until May 24, 2007. On April 4, 2007, the applicant filed a supplemental compensation application. On April 30, 2007, the Attorney General filed a brief recommending that the applicant be granted an additional award totaling \$4,141.50 in unreimbursed medical expense. On May 1, 2007, the Attorney General issued a Finding of Fact and Decision granting the applicant an award totaling \$4,151.50 in unreimbursed medical expense. At 1:45 P.M. on May 24, 2007, this matter was heard by this panel of three commissioners.

{¶2} Applicant's counsel, via telephone, and an Assistant Attorney General attended the hearing and presented brief comments for the panel's consideration. Applicant's counsel summarized the facts of the case and addressed the chronology of actions taken by the parties regarding the April 4, 2007 supplemental compensation application and the Attorney General's May 1, 2007 Finding of Fact and Decision. Both parties recognized these actions taken outside of the appellate process were improper. Based upon the April 30, 2007 brief and the May 1, 2007 Finding of Fact and Decision,

the parties agreed that the applicant should be reimbursed \$4,151.50 in unreimbursed medical expense.

{¶3} From review of the file and with full and careful consideration given to the information presented at the hearing, this panel makes the following determination. First, we find that the applicant incurred additional medical expense totaling \$4,151.50.

{¶4} Second, we find that the Attorney General's May 1, 2007 Finding of Fact and Decision shall be deemed the Attorney General's Final Decision. Procedurally, once an appeal has been made to the panel, jurisdiction of the entire case vests with the panel. To ensure the applicants protection of due process and equity, it is clear that once an appeal is filed, all matters or issues shall be fully addressed before and by the panel. Panel hearings are trials de novo and afford applicants with their due process rights. New issues and new evidence may be addressed at panel hearings. *In re Martin* (1988), 61 Ohio Misc.2d 280.

{¶5} In addition, the three-commissioner panel component of the Victims' Program provides an applicant with the first platform for independent review of the claim. An applicant has a right to full due process before the panel and that right shall not be abridged, nor will due process be violated. Pursuant to R.C. 2743.53(A), the panel of commissioners is charged with the duty to hear and determine all matters relating to appeals from decisions of the Attorney General. Not doing such would abrogate our statutory responsibilities in that the Attorney General is charged with the duties of both protecting the fund and initially determining eligibility for the program.

{¶6} Therefore based upon the above, the May 1, 2007 Final Decision of the Attorney General shall be affirmed to grant the applicant an award totaling \$4,151.50 for unreimbursed allowable expense.

{¶7} IT IS THEREFORE ORDERED THAT

{¶8} 1) The Attorney General's May 1, 2007 Finding of Fact and Decision is hereby deemed the Final Decision;

{¶9} 2) The May 1, 2007 decision of the Attorney General is AFFIRMED and judgment is rendered in favor of the applicant in the amount of \$4,151.50;

{¶10} 3) This claim is remanded to the Attorney General for payment of the award;

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

GREGORY P. BARWELL
Presiding Commissioner

TIM MC CORMACK
Commissioner

CLARENCE E. MINGO II
Commissioner

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

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ORDER