

IN THE COURT OF CLAIMS OF OHIO
VICTIMS OF CRIME DIVISION

IN RE: BARBARA J. HEATH	:	Case No. V2002-50692
BARBARA J. HEATH	:	<u>ORDER OF A THREE-</u>
Applicant	:	<u>COMMISSIONER PANEL</u>
: : : : :		

{¶1} On February 5, 2002, the Attorney General denied the applicant's claim for an award of reparations pursuant to R.C. 2743.60(D) contending that all the applicant's economic loss had been or may be recouped from a collateral source, specifically Medicaid. The Attorney General also indicated that no counseling or replacement services loss expense was able to be verified. On April 19, 2002, the Attorney General denied the claim again contending that all the applicant's purported expenses are either unverifiable or unrecoverable. On May 6, 2002, the applicant appealed the Attorney General's Final Decision. On October 18, 2002, a panel of commissioners ordered the Attorney General to file a supplemental memorandum addressing the applicant's economic loss and continued the hearing. On November 21, 2002, the Attorney General filed a supplemental memorandum recommending the applicant be granted an award in the amount of \$62.41 for travel expenses. On February 14, 2003, a panel of commissioners ordered the Attorney General to file an additional supplemental memorandum addressing the applicant's economic loss and continued the hearing. On March 28, 2003, the Attorney General

filed a supplemental memorandum recommending the applicant be granted a mileage award in the amount of \$78.43 (\$62.41 + \$16.02). Hence, this appeal came to be heard before this panel of three commissioners on April 16, 2003 at 10:10 A.M.

{¶2} The applicant, via telephone, and an Assistant Attorney General attended the hearing and presented testimony and oral argument for this panel's consideration. The applicant testified that as a result of the criminally injurious conduct she sustained two broken arms and was thus unable to drive or perform other needed tasks. The applicant stated that Donald Turner assisted her and drove her to and from doctor visits listed on the January 23, 2003 fax. The applicant indicated that she failed to maintain any receipts of the transaction because she was unable to write in light of her broken arms.

{¶3} Donald Turner testified that he assisted the applicant and transported her to and from her physician visits. Mr. Turner stated that he and the applicant's original agreement for his services was \$25.00 per trip. However, Mr. Turner indicated that later the agreement was modified to \$15.00 per trip in light of the applicant's financial situation.

{¶4} 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. The applicant and Mr. Turner testified that the applicant was incapacitated for a period of time as a result of the broken arms she sustained during the criminally injurious conduct. We find that since the applicant was unable to drive or perform certain tasks for herself she reasonably relied on Mr. Turner for such assistance during her disability period. In light of this information, we find the applicant incurred replacement services loss in the amount of \$270.00 (18 trips x

\$15.00). Therefore, the Attorney General's April 19, 2002 decision shall be reversed to award \$348.43 (\$270.00 + \$78.43) to the applicant as economic loss.

{¶5} IT IS THEREFORE ORDERED THAT

{¶6} 1) The April 19, 2002 decision of the Attorney General is REVERSED to render judgment in the amount of \$348.43 in favor of the applicant;

{¶7} 2) This claim is referred to the Attorney General pursuant to R.C. 2743.191 for payment of the award;

{¶8} 3) This order is entered without prejudice to the applicant's right to file a supplemental compensation application pursuant to R.C. 2743.68;

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

JAMES H. HEWITT III
Commissioner

LEO P. MORLEY
Commissioner

KARL H. SCHNEIDER
Commissioner