

[Cite as *In re Sparks*, 2005-Ohio-813.]

IN THE COURT OF CLAIMS OF OHIO
VICTIMS OF CRIME DIVISION

IN RE: PEARL M. SPARKS	:	Case No. V2004-60831
PEARL M. SPARKS	:	<u>ORDER OF A THREE-</u>
Applicant	:	<u>COMMISSIONER PANEL</u>
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{¶ 1} The applicant filed a supplemental compensation application seeking reimbursement of medical expenses (\$517.50) incurred with respect to a January 23, 1995 car jacking incident. On June 18, 2004, the Attorney General denied the applicant's claim pursuant to R.C. 2743.60(D) contending that all the applicant's allowable expense had been or may be recouped from Medicare. On July 21, 2004, the applicant filed a request for reconsideration. On August 2, 2004, the Attorney General denied the applicant's claim once again. On August 30, 2004, the applicant filed a notice of appeal asserting that a bullet is still lodged in her shoulder and that acupuncture therapy is necessary, but is not covered by Medicare. On October 7, 2004, the applicant filed a letter from Medicare indicating the acupuncture/acupressure treatments are not covered by Medicare. Hence, this matter came to be heard before this panel of three commissioners on November 17, 2004 at 12:30 P.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 this panel's consideration. The Assistant Attorney General stated that based on a review of the file and upon receipt of a letter from Medicare and Aetna Insurance Company, the Attorney General has

changed his position in this case. The Assistant Attorney General stated that the applicant's acupressure/acupuncture therapy qualifies as allowable expense pursuant to R.C. 2743.51(F) and that neither Medicare nor Aetna Insurance will cover the cost of the expense. The Assistant Attorney General recommended an award be granted to the applicant in the amount of \$367.50, which covers treatment received between July 13, 2003 through January 15, 2004. The Assistant Attorney General noted that prior treatments were reimbursed in a previous supplemental award.

{¶ 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. We find that the applicant incurred \$367.50 in unreimbursed allowable expense from July 13, 2003 through January 15, 2004. Therefore, the August 2, 2004 decision of the Attorney General shall be reversed and the claim shall be remanded to the Attorney General for payment of the \$367.50 award.

IT IS THEREFORE ORDERED THAT

{¶ 4} 1) The August 2, 2004 decision of the Attorney General is REVERSED to render judgment in the amount of \$367.50 in favor of the applicant;

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

{¶ 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.

KARL H. SCHNEIDER
Commissioner

JAMES H. HEWITT III
Commissioner

GREGORY P. BARWELL
Commissioner

ID #\1-DRB-tad-112304

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

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To S.C. Reporter 2-25-2005