



Court of Claims of Ohio Victims of Crime Division

The Ohio Judicial Center
65 South Front Street, Fourth Floor
Columbus, OH 43215
614.387.9860 or 1.800.824.8263

www.cco.state.oh.us

IN RE: BETH HOBBS

BETH HOBBS

Applicant

Case No. V2008-30642

Commissioners:
Thomas H. Bainbridge, Presiding
Gregory Barwell
Karl C. Kerschner

ORDER OF A THREE COMMISSIONER PANEL

{1}On December 7, 2007, the applicant, Beth Hobbs, filed a compensation application as the result of being assaulted on August 9, 2007. On March 25, 2008, the Attorney General issued a finding of fact and decision determining that the applicant qualified as a victim of criminally injurious conduct and granting an award of reparations in the amount of \$1,257.96. On April 21, 2008, the applicant submitted a request for reconsideration. The applicant asserted that the expenses related to treatment at the Grandview Hospital and rendered by Dr. Reid were related to the criminally injurious conduct; that the counseling expenses provided by Gail Chmielewski, M.S., P.C.C., LIDC were 100 percent related to the criminally injurious conduct not 75 percent related as asserted by the Attorney General; and that her cell phone bill of \$767.68 should be reimbursed as an allowable expense. On June 20, 2008, the Attorney General rendered a Final Decision granting the applicant an additional award of reparations in the amount of \$222.46. On July 16, 2008, the applicant filed a notice of appeal from the Attorney General's Final Decision of June 20, 2008. The only issue on appeal was whether the cell phone bill incurred by the applicant constituted an allowable expense.

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ORDER

Hence, a hearing was held before this panel of three commissioners on January 7, 2009 at 10:30 A.M.

{2}On December 29, 2008, the applicant filed a motion to allow her to testify via telephone. The applicant, Beth Hobbs, appeared via telephone. Her attorney, Michael Falleur and Assistant Attorneys General Heidi James and Amy O'Grady appeared at the hearing.

{3}The applicant, Beth Hobbs, testified that as a result of an assault she used her cell phone to make calls to medical providers, police, prosecutors, work and a variety of friends who offered emotional support. At the time of the injury, she did not have a land line and consequently incurred charges when she exceeded the 1,000 minutes provided by her cell phone plan. Ms. Hobbs related the details surrounding the criminal prosecution and the importance of her cell phone calls in ensuring the offender was charged with the appropriate offense. Numerous calls were made to friends which constituted her support system to deal with this traumatic situation.

{4}On cross examination the Attorney General questioned Ms. Hobbs concerning the specifics of the calls made to the prosecutor's offices and to friends. Whereupon the applicant's testimony was concluded.

{5}In closing argument, the applicant emphasized that the cell phone expense was used to communicate with her employer, network with friends to lessen the psychological impact of the crime, and cooperate with law enforcement. The applicant asserted such conduct should be encouraged by the Fund. The applicant argued, therefore, the expense incurred for cell phone usage should be considered a compensable allowable expense under the statute. Furthermore, the applicant mitigated her damages by acquiring a land line as soon as it became evident that her cell phone bill was becoming a major expense.

{6}The Attorney General argued that the cell phone bill was a “basic living expense” and as such should not be compensable from the fund. Furthermore, the state maintained the applicant did not submit a complete bill and, accordingly, an analysis of all the calls made during the time in question could not be made. Finally, the state asserted this expense was not reasonable since the calls did not directly involve applicant’s remedial treatment and care. Making an appointment to see a doctor or mental health counselor is far different than receiving treatment from that individual. The Attorney General stated all allowable medical expenses incurred by the applicant have been reimbursed. While, the Attorney General did concede that if substantive counsel occurred via the telephone which resulted in an additional telephone charge this would be a matter that the Attorney General would take under advisement, such a situation did not occur in the case at bar. Accordingly, the Final Decision of the Attorney General should be affirmed. Whereupon the hearing was concluded.

{7}R.C. 2743.51(F)(1) in pertinent part states:

“(F)(1) ‘Allowable expense’ means reasonable charges incurred for reasonably needed products, services, and accommodations, including those for medical care . . .”

{8}From review of the file and with full and careful consideration given to all the information and testimony presented at the hearing, we find the cell phone bill incurred by the applicant is not an allowable expense. While the applicant argued that the portion of the cell phone bill concerning communication with the police and prosecutor should be allowed, this court in *In re Meggitt*, V94-25797tc (5-18-95) stated:

{9}“Although applicant claims a telephone was necessary to keep in contact with the police and prosecutor, evidence does not substantiate the telephone was

necessary for her medical care, rehabilitation, or other remedial treatment and care. Hence, as the \$55.05 charge for the telephone installation is not compensable as allowable expense.”

{10}Furthermore, in *In re Davis*, V82-41237sc (11-21-83) affirmed tc (4-16-84), a panel of commissioners found telephone expenses incurred by the applicant to speak to friends were not a reimbursable allowable expense since the applicant failed to establish such expenses related to her remedial treatment and care.

{11}In the case at bar, the applicant failed to meet her burden of proof and failed to provide this panel with sufficient evidence to establish the excess cell phone charges related to her remedial treatment and care as is required by R.C. 2743.51(F)(1). Therefore, the June 20, 2008 decision of the Attorney General is affirmed.

IT IS THEREFORE ORDERED THAT

{12}1) Applicant’s motion to permit telephone testimony is GRANTED;

{13}2) The June 20, 2008 decision of the Attorney General is AFFIRMED;

{14}3) This claim is DENIED and judgment is rendered for the state of Ohio;

{15}4) 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;

{16}5) Costs are assumed by the court of claims victims of crime fund.

THOMAS H. BAINBRIDGE
Presiding Commissioner

GREGORY P. BARWELL
Commissioner

KARL C. KERSCHNER
Commissioner

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

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