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NEBRASKA COMMISSION ON LAW ENFORCEMENT AND CRIMINAL JUSTICE

(Nebraska Crime Commission)

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MINUTES OF THE CRIME VICTIM'S REPARATIONS COMMITTEE

October 16, 2015

The Crime Victim's Reparations (CVR) Committee met on Friday, October 16, 2015 at 1:00 pm in the Crime Commission conference room, Nebraska State Office Building, 14th & M Streets, Lincoln, Nebraska. A legal notice of the meeting was published in the Lincoln Journal Star on October 2, 2015. An agenda of this meeting was available for public inspection during normal office hours at the Crime Commission office, Nebraska State Office Building, Lincoln, Nebraska.

CALL TO ORDER

The meeting was called to order at 1:02 pm by Rand Hansen, Chair. The following members were present: JoAnna Briggs, Rand Hansen, Fred Ruiz, Michelle Schindler, and Brian Wachman. The following members were excused: Joe Kelly and Rita Sanders. Staff present: Bruce Ayers, Sher Schrader, and Mary Thomason.

APPROVAL OF MINUTES

A motion was made by Schindler and seconded by Ruiz to approve the minutes of the July 24, 2015 meeting. Motion carried by acclamation.

OVERVIEW OF CVR APPROPRIATIONS AND BUDGET

The Committee stipulated that the claim has been reviewed. Hansen proposed to review the budget report from the agenda to use the extra time before the scheduled appeal wisely.

Ayers provided an update regarding the CVR budget, appropriations, and LB 605, which took effect on August 30, 2015. The bill increased the maximum per claim from \$10,000 to \$25,000. We also received our 2015 federal award. This brings the total budget to \$469, 536. We had 51 pending claims as of the end of September with funding requests of \$992,439.

Davis asked how the program works when we come to the point where all funds are expended. Are all claims denied?

Ayers expressed that we could pro-rate the remaining claims or carry them over to the next fiscal year. This is not ideal as we would always start off with a deficit. It is difficult to get an additional infusion of money. We would like a mechanism in place to be able to pro-rate if the instance occurs so that we can remain on track. We need to continue to discuss.

Davis asked if based on previous requests do we know how likely it would be that full funding would be requested up to the \$25,000 limit?

Hansen asked how many claims end up being approved up to the full limit.

Schrader stated we would have to refer to our CVR ledger.

Ayers stated that most claims are not approved for the maximum amount.

Hansen stated that when this question comes up for discussion next that they would like to have that information.

Thomason stated we can email it out after the meeting.

Hansen stated it was not needed immediately, but would need the information to entertain a motion.

Schrader stated we could pull the information from the ledger.

Hansen stated they would be interested in how much more would have been paid over the course of time had the limit been higher.

Ayers stated that the idea regarding the increase in spending limit was to bring Nebraska in line with other states. A state senator expressed interest in moving towards beginning to pay misdemeanor assaults and potentially paying more for funerals. We received additional appropriations from cash funds in the amount of \$50,000 this fiscal year and \$50,000 next fiscal year.

Hansen stated last year we paid out \$325,510 and we have a budget this year of \$469,536, so a nice increase.

Wachman stated revenues last year were very small - \$227,000?

Ayers replied yes, our cash fund revenues are small. Spending authority is higher than revenue.

Hansen asked how much is in the cash fund.

Ayers stated about \$300,000, and after a couple of years the balance should be down to about \$200,000.

APPEALS

Claim #4-15-3640

Committee previously stipulated that the claim has been reviewed. The claim is for \$6,464.96 in funeral expenses.

Appearing was the claimant, her daughter, and two grandchildren.

Hansen introduced himself.

The claimant introduced herself.

The committee introduced themselves.

Hansen swore in the claimant, and expressed condolences.

The claimant gave information regarding her claim. Claimant stated she didn't know the money had to come directly from her account. She does not have a checking account. Her brother wrote the check to the funeral home because he has a checking account. She is still trying to deal with the situation and did not know what to do, and dealing with the other issues regarding the family situation. Coroner called several times about what she wanted because they didn't have room and didn't know her wishes. Her brother stepped in to help. This was a last minute decision as her brother was out of town.

Hansen inquired as to her arrangement with her brother.

Claimant stated that when she heard about the program, "they" let her know that she could be reimbursed and she told her brother that she would pay him back as she gets money.

Schindler asked if her intention is to pay her brother back.

Claimant stated yes.

Davis asked if her brother wrote the check for \$5,000, and she paid the rest out of pocket; is there any documentation stating intention to repay.

Claimant stated other than the check, no, just the statements in front of lady at the funeral home.

Davis asked if her brother was present at the original hearing. Claimant stated this is the only hearing she has been at. CVR staff stated this is the only hearing; the claimant is notified of the Hearing Officer's decision via letter.

Hansen asked if there is any documentation she has with brother stating her intent to repay.

Claimant stated only the funeral home lady witnessed conversation; she did not know it needed to be documented. Her intention is to repay her brother if she receives an award.

Hansen asked if any money has been paid back to her brother.

Davis asked how much money has been paid back to her brother.

Claimant stated she has paid her brother between \$300 and \$350 as she is on a fixed income.

Schindler asked if she has documented any reimbursement to her brother.

Claimant stated her brother is keeping track and asked if the Committee would like copies of that documentation.

Hansen stated he would like her to provide this, and asked how much she is paying back per week/month?

Claimant stated she initially gave him \$150, she gives as much as can, typically \$100-\$150. She stated her income is not that large, and she only gets income of \$881 per month.

Hansen asked if anyone has any other questions.

Ruiz asked regarding the initial award of about \$3,500, the difference between that and the maximum award of \$5,000 is approximately \$1,500, how much has she paid back to her brother.

Claimant stated \$300, and that she has not received the initial award.

Schrader stated we are holding payment pending the outcome of the appeal decision.

Schindler asked how much the service initially cost.

Claimant confirmed the amount of the service was just over \$8,000.

Claimant stated yes, it would go to repay that amount to her brother.

Davis asked if there was no additional award, would her initial award automatically go back to her brother.

Hansen asked if there are any other questions from the committee. He asked if there is anything else she would like to add.

Claimant stated not at this time.

Hansen let claimant know that the committee would review her testimony and a decision letter would be coming in 10 business days.

A motion was made by Schindler and seconded by Wachman to go into executive session at 1:30 pm. Motion carried by acclimation.

A motion was made by Davis and seconded by Ruiz to return from executive session at 2:06 pm. Motion carried by acclimation.

A motion was made by Davis and seconded by Schindler at 2:07 that upon receiving documentation from the brother that he loaned the money to his sister for the purposes of the funeral with the understanding that the amount would be repaid, to award the full \$5000 allowable to the claimant. The understanding is that CVR staff will verify this document as proposed by Hansen and seconded by Schindler, passed by acclimation.

CVR SPENDING PROPOSALS

Hansen asked if the budget discussion was complete.

Ayers stated yes; we will move on to spending proposal discussions. Ayers asked for further discussion with regard to proposed payment standards. Ayers outlined proposal 1, that our first priority should be to reimburse applicable expenses to victims and then pro-rate payments to service providers such as hospitals. Schindler asked about how our program is able to determine payments with claimants who may or may not have Medicaid eligibility. Briggs stated that they encourage victims to go to the hospital and to work out payment arrangements. CVR staff reiterated how difficult some of the medical claims are to determine.

Staff also gave observations on things that have happened with regards to claims and how quickly collections activity happens. Staff brought up that this discussion initially came to light as a result of the increase in homicide claims with dependents and the potentiality of increased loss of support claims. Briggs stated it wasn't the intent of the legislative bill to pay loss of support; the initial intent was to assist with medical and funeral expenses. Ayers will come up with more information with regards to proposal 1. Hansen asked if we could potentially just reimburse to vendors if we were able to pay in full to the vendor. Can we have the vendor sign off that any payment is payment in full? Staff stated that this verbiage is included in the letter to service providers that by cashing the check this is considered payment in full, however we cannot regulate what the vendor does after the fact. Hansen proposed sending a letter to the vendor once it is determined what we are able to pay to have them sign off that they will accept that amount as payment in full, and then once that is received process payment. Staff expressed what the difficulty is in getting in contact with a supervisor, as we are typically speaking with a call center, and they are not in a position to authorize accepting an amount as payment in full.

Can our attorney send the vendor a letter and what is the affordability option? How can we best assist the victim? Briggs mentioned paying misdemeanor assaults instead of felony assaults. Hansen mentioned what if the program only reimburses amounts victim has actually paid and victim can choose who to pay. Wachman inquired if we have the lowest budget of all the states. Staff confirmed that we do. Staff mentioned other states' restitution program and recovery efforts. Ruiz mentioned the possibility of obtaining the surcharge from interlock devices. Ayers mentioned that that is where the \$100,000 cash fund increase in LB 605 came from. Hansen inquired if the pro-ration would be permanent or temporary? Ayers stated it would be temporary until back on track and we would not go back and adjust previously pro-rated amounts.

Ayers gave an overview regarding Proposal 2

81-1819 – 3 Pecuniary loss to the dependents of the deceased victim;

The program is seeing an increase in claims regarding conservatorships. The limit in LB605 of \$25,000 is a maximum, not a minimum. Ayers outlined statistics related to homicides and the relevant payment to conservatorships. Briggs brought up misdemeanor assaults and potentiality for those payments. Ayers proposed that the program should retain the maximum on conservatorships at \$10,000.

Ayers gave an overview regarding Proposal 3

81-1801 – 6 Use the definition of relative as found in 81-1801 (6) when reimbursing relatives for funeral expenses of homicide victims;

Discussion ensued amongst CVR Committee and CVR staff regarding this definition. Does anything need to change? Not at this time.

Ayers asked that CVR Committee approve proposals 2 and 3.

A motion was made by Wachman and seconded by Briggs at 2:44 pm to approve proposals 2 and 3. Hansen asked if there was any discussion. Schindler stated she could approve 3 because it is written in statute as such. Ruiz asked if proposal 2 was regarding the \$10,000 amount. Motion passed by acclamation and proposals 2 and 3 were approved.

There being no further business, at 2:46 pm a motion was made by Hansen and seconded by Schindler to adjourn the meeting. The next scheduled Crime Victim's Reparations Committee meeting will be held Friday, January 22, 2016 at 1:00 pm in the Crime Commission's conference room at the Nebraska State Office Building, 14th & M Streets, Lincoln, Nebraska.

Respectfully submitted,

Sher Schrader