

ADVISORY BULLETIN

TRANSMITTAL NO. 2022-04

**TO: ALL FUNDED PROGRAMS
ADVISORY COUNCIL MEMBERS**

**FROM: ELIZABETH CRONIN, ESQ.
DIRECTOR**

SUBJECT: EXECUTIVE LAW UPDATE

DATE: October 12, 2022

Dear Colleague:

There were changes made to OVS' enacting statute in the 2022-2023 State Budget that will benefit victims of crime / survivors who have had property lost or damaged as the result of a crime. These changes significantly increased the available reimbursement for items considered Essential Personal Property (EPP) and take effect for all claims filed on or after **October 6, 2022**.

IT IS CRUCIAL THAT OUR PARTNERS HAVE, AND PROVIDE THE CORRECT INFORMATION TO, ALL CURRENT AND POTENTIAL OVS CLAIMANTS. These changes do not apply to claims filed before October 6, 2022. Claims filed before that date cannot be reopened and these new provisions do not apply to these claims. The new law and related regulations are attached to the end of this notice.

Essential Personal Property or EPP (Chapter 55 of the Laws of 2022)

This new law increases the cap for all items considered EPP from \$500 to \$2,500. The cash loss cap of \$100 remains unchanged. It also provides the authority for OVS to adopt, “. . . rules for the definition and reasonable reimbursement of individual items of essential personal property considered essential and necessary for the victim's welfare . . . “

The previous, capped reimbursement rate for EPP was \$500 and had been the same amount since 1998. Over the past two decades, through inflation and other cost- of- living increases, this capped amount had become insufficient to meet the needs of victims of crime in 2022 and often failed to make them whole for their EPP losses. Five-hundred dollars was often insufficient to cover the expense of a stolen or damaged mobile phone, let alone many other items of EPP that may have been stolen or damaged during the same crime.

Importantly, personal property is not a federally [Victim of Crime Act (VOCA)] reimbursable expense, and therefore EPP is paid entirely with State funds [namely, funds provided via the State Criminal Justice Improvement Account (CJIA)]. While this new law significantly raises the financial cap, items of EPP considered essential and necessary for a victim of crime's "welfare" had to be

limited to balance the needs of victims of crime with the finite, financial resources of the CJIA. As authorized by the new law, OVS promulgated the rules at the end of this bulletin, which will be effective for all claims filed on or after October 6, 2022.

Besides these changes, the processing of EPP claims will be largely unchanged. While the increased cap applies to all items considered EPP, these rules only apply to EPP items considered necessary and essential to a victim's welfare; the rules at the end of this bulletin do not apply to those EPP items considered necessary and essential for one's health or safety.

For any questions regarding these policy changes, please reach out to Katie Egglefield or Tana Orologio at 1-800-247-8035.

A handwritten signature in black ink, appearing to read "Elizabeth Cronin". The signature is fluid and cursive, with a prominent loop at the end.

Elizabeth Cronin, Esq.
Director

1 Section 1. Subdivision 9 of section 631 of the executive law, as
2 amended by chapter 487 of the laws of 2014, is amended to read as
3 follows:

4 9. Any award made for the cost of repair or replacement of essential
5 personal property, including cash losses of essential personal property,
6 shall be limited to an amount of [~~five~~] twenty-five hundred dollars,
7 except that all cash losses of essential personal property shall be
8 limited to the amount of one hundred dollars. In the case of medically
9 necessary life-sustaining equipment which was lost or damaged as the
10 direct result of a crime, the award shall be limited to the amount of
11 ten thousand dollars.

12 § 2. Subdivision 3 of section 623 of the executive law, as amended by
13 section 8 of part A1 of chapter 56 of the laws of 2010, is amended to
14 read as follows:

15 3. To adopt, promulgate, amend and rescind suitable rules and regu-
16 lations to carry out the provisions and purposes of this article,
17 including rules for the determination of claims, rules for the approval
18 of attorneys' fees for representation before the office and/or before
19 the appellate division upon judicial review as provided for in section
20 six hundred twenty-nine of this article, rules for the definition and
21 reasonable reimbursement of individual items of essential personal prop-
22 erty considered essential and necessary for the victim's welfare pursu-
23 ant to section six hundred thirty-one of this article, and rules for the
24 authorization of qualified persons to assist claimants in the prepara-
25 tion of claims for presentation to the office.

26 § 3. This act shall take effect on the one hundred eightieth day after
27 it shall have become a law and apply to all claims filed on or after
28 such effective date.

Regulations

TITLE 9
EXECUTIVE DEPARTMENT
SUBTITLE M
OFFICE OF VICTIM SERVICES
PART 525
PRACTICE AND PROCEDURE BEFORE THE OFFICE OF VICTIM SERVICES
9 NYCRR §§525.3, 525.12

Section 525.3 is amended, adding new subdivisions (i) and (j) to read as follows:

(i) Welfare as used in subdivision (n) of section 525.12 of this Part, shall mean items related to a victim's clothing, bedding, ability to communicate, and safe operation of their personal means of transportation.

(j) Receipted as used in subdivision (n) of section 525.12 of this Part, shall mean the original or replacement receipt indicating the purchase price of an item or items of essential personal property.

Section 525.12 is amended, adding new subdivision (n) to read as follows:

(n) Pursuant to and in accordance with this Part and Executive Law article 22 and subject to any applicable maximum award limitations contained therein, any award for essential personal property related to the victim's welfare shall be subject to the following limitations:

(1) All awards related to clothing shall be limited as follows: (i) Items of outerwear, suits and footwear shall be the receipted amount, in an amount not exceeding five-hundred dollars per item. (ii) All other items of clothing shall be the receipted amount, in an amount not exceeding one-hundred dollars per item.

(2) All awards related to bedding shall be limited as follows: (i) Mattress and platform or box spring shall be the receipted amount, in an amount not exceeding two-thousand dollars. (ii) All other items of bedding shall be the receipted amount, in a cumulative amount not exceeding five-hundred dollars.

(3) All awards made pursuant to Executive Law article 22 and this Part related to a victim's ability to communicate shall be limited to the receipted amount, in an amount not exceeding one-thousand five-hundred dollars per item.

(4) All awards made pursuant to Executive Law article 22 and this Part related to a victim's safe operation of their personal means of transportation shall be limited to the receipted amount, in an amount not exceeding two-thousand five-hundred dollars per item.

(5) Notwithstanding the provisions of paragraphs (1), (2) or (3) of this subdivision, if the information developed in the course of the investigation discloses that the victim's domicile was damaged or destroyed as a result of the crime of arson as defined by article 150 of the Penal Law and the claim is based upon such crime, or that the victim had to flee their domicile due to the crime upon which the claim is based, and the Office has not made or cannot make an award for relocation expenses pursuant to Executive Law article 22, the Office may make an award for related clothing, bedding and/or ability to communicate, unreceipted, in an amount up to the applicable maximum award limitations contained in Executive Law article 22.

(6) Notwithstanding the provisions of paragraphs (1), (2), (3) or (4) of this subdivision, if the information developed in the course of the investigation discloses that the claim for essential personal property is related to the victim's health or safety, such award shall be limited to the receipted amount, subject to the applicable maximum award limitations contained in Executive Law article 22.