

§ 15B-11. Grounds for denial of claim or reduction of award.

- (a) An award of compensation shall be denied if:
- (1) The claimant fails to file an application for an award within two years after the date of the criminally injurious conduct that caused the injury or death for which the claimant seeks the award;
 - (2) The economic loss is incurred after one year from the date of the criminally injurious conduct that caused the injury or death for which the victim seeks the award, except in the case where the victim for whom compensation is sought was 10 years old or younger at the time the injury occurred. In that case an award of compensation will be denied if the economic loss is incurred after two years from the date of the criminally injurious conduct that caused the injury or death for which the victim seeks the award;
 - (3) The criminally injurious conduct was not reported to a law enforcement officer or agency within 72 hours of its occurrence, and there was no good cause for the delay;
 - (4) The award would benefit the offender or the offender's accomplice, unless a determination is made that the interests of justice require that an award be approved in a particular case;
 - (5) The criminally injurious conduct occurred while the victim was confined in any State, county, or city prison, correctional, youth services, or juvenile facility, or local confinement facility, or half-way house, group home, or similar facility; or
 - (6) The victim was participating in a felony at or about the time that the victim's injury occurred.
- (b) A claim may be denied or an award of compensation may be reduced if:
- (1) The victim was participating in a nontraffic misdemeanor at or about the time that the victim's injury occurred; or
 - (2) The claimant or a victim through whom the claimant claims engaged in contributory misconduct.

(b1) The Commission or Director, whichever has the authority to decide a claim under G.S. 15B-10, shall exercise discretion in determining whether to deny a claim under subsection (b) of this section. In exercising discretion, the Commission or Director shall consider whether any proximate cause exists between the injury and the misdemeanor or contributory misconduct, when applicable. The Director or Commission shall deny claims upon a finding that there was contributory misconduct that is a proximate cause of becoming a victim. However, contributory misconduct that is not a proximate cause of becoming a victim shall not lead to an automatic denial of a claim.

(c) A claim may be denied, an award of compensation may be reduced, and a claim that has already been decided may be reconsidered upon finding that the claimant or victim, without good cause, has not fully cooperated with appropriate law enforcement agencies or in the prosecution of criminal cases with regard to the criminally injurious conduct that is the basis for the award.

(c1) A claim may be denied upon a finding that the claimant has been convicted of any felony classified as a Class A, B1, B2, C, D, or E felony under the laws of the State of North Carolina and that such felony was committed within 3 years of the time the victim's injury occurred.

(d) After reaching a decision to approve an award of compensation, but before notifying the claimant, the Director shall require the claimant to submit current information as to collateral sources on forms prescribed by the Commission.

An award that has been approved shall nevertheless be denied or reduced to the extent that the economic loss upon which the claim is based is or will be recouped from a collateral source. If an award is reduced or a claim is denied because of the expected recoupment of all or part of the economic loss of the claimant from a collateral source, the amount of the award or the denial of the claim shall be conditioned upon the claimant's economic loss being recouped by the collateral source. If it is thereafter determined that the claimant will not receive all or part of the expected recoupment, the claim shall be reopened and an award shall be approved in an amount equal to the amount of expected recoupment that it is determined the claimant will not receive from the collateral source, subject to the limitations set forth in subsections (f) and (g).

(e) Repealed by Session Laws 1998-212, s. 19.4(m), effective December 1, 1998.

(f) Repealed by Session Laws 2011-267, s. 3, effective July 1, 2011.

(g) Compensation payable to a victim and to all other claimants sustaining economic loss because of injury to, or the death of, that victim may not exceed thirty thousand dollars (\$30,000) in the aggregate in addition to allowable funeral, cremation, and burial expenses.

(h) The right to reconsider or reopen a claim does not affect the finality of its decision for the purpose of judicial review. (1983, c. 832, s. 1; 1987, c. 819, ss. 17-21; 1989 (Reg. Sess., 1990), c. 898, s. 1; c. 1066, s. 131; 1991, c. 301, s. 1; 1994, Ex. Sess., c. 3, s. 1; 1997-227, s. 3; 1998-212, s. 19.4(m); 1999-269, s. 3; 2004-159, s. 1; 2006-183, ss. 4, 5; 2009-354, s. 4; 2011-267, s. 3; 2011-326, s. 3.)