

§ 94.13

§ 94.13 Terms.

The first three provisions of 1 U.S.C. 1 (rules of construction) shall apply to this subpart.

COVERAGE

§ 94.21 Eligibility.

(a) Except as provided in paragraphs (b) and (c) of this section, reimbursement of qualified expenses under this subpart is available to a victim of international terrorism or his representative, pursuant to 42 U.S.C. 10603c(a)(3)(A). For purposes of eligibility for this program only, the Attorney General shall determine whether there is a reasonable indication that an act was one of international terrorism, within the meaning of that section.

(b) Reimbursement shall be denied to any claimant if the Director, in consultation with appropriate Department of Justice (DOJ) officials, determines that there is a reasonable indication that either the victim with respect to whom the claim is made, or the claimant, was criminally culpable for the act of international terrorism.

(c) Reimbursement may be reduced or denied to a claimant if the Director, in consultation with appropriate DOJ officials, determines that the victim with respect to whom the claim is made contributed materially to his own death or injury by—

(1) Engaging in conduct that violates U.S. law or the law of the jurisdiction in which the act of international terrorism occurred;

(2) Acting as a mercenary or “soldier of fortune”;

(3) (As a non-U.S. Government employee), acting as an advisor, consultant, employee, or contractor, in a military or political capacity—

(i) For a rebel or paramilitary organization;

(ii) For a government not recognized by the United States; or

(iii) In a country in which an official travel warning issued by the U.S. Department of State related to armed conflict was in effect at the time of the act of international terrorism; or

(4) Engaging in grossly reckless conduct.

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§ 94.22 Categories of expenses.

The following categories of expenses, generally, may be reimbursed, with some limitations, as noted in § 94.23: medical care; mental health care; property loss; funeral and burial; and miscellaneous expenses (including temporary lodging, emergency travel, and transportation). Under this subpart, the Director shall not reimburse for attorneys’ fees, lost wages, or non-economic losses (such as pain and suffering, loss of enjoyment of life, loss of consortium, etc.).

§ 94.23 Amount of reimbursement.

Different categories of expenses are capped, as set forth in the chart below. Those caps may be adjusted, from time to time, by rulemaking. The cap in effect within a particular expense category, at the time that the application is received, shall apply to the award.

§ 94.24 Determination of award.

After review of each application, the Director shall determine the eligibility of the victim or representative and the amount, if any, eligible for reimbursement, specifying the reasons for such determination and the findings of fact and conclusions of law supporting it. A copy of the determination shall be mailed to the claimant at his last known address.

§ 94.25 Collateral sources.

(a) The amount of expenses reimbursed to a claimant under this subpart shall be reduced by any amount that the claimant receives from a collateral source in connection with the same act of international terrorism. In cases in which a claimant receives reimbursement under this subpart for expenses that also will or may be reimbursed from another source, the claimant shall subrogate the United States to the claim for payment from the collateral source up to the amount for which the claimant was reimbursed under this subpart.

(b) Notwithstanding paragraph (a) of this section, when a collateral source provides supplemental reimbursement

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for a specific expense, beyond the maximum amount reimbursed for that expense under this subpart, the claimant's award under this subpart shall not be reduced by the amount paid by the collateral source, nor shall the claimant be required to subrogate the United States to the claim for payment from the collateral source, except that in no event shall the combined reimbursement under this subpart and any collateral source exceed the actual expense.

PROGRAM ADMINISTRATION

§ 94.31 Application procedures.

(a) To receive reimbursement, a claimant must submit a completed application under this program requesting payment based on an itemized list of expenses, and must submit original receipts.

(b) Notwithstanding paragraph (a) of this Section, in cases involving incidents of terrorism preceding the establishment of this program where claimants may not have original receipts, and in cases in which the claimant certifies that the receipts have been destroyed or lost, the Director may, in his discretion, accept an itemized list of expenses. In each such case, the claimant must certify that original receipts are unavailable and attest that the items and amounts submitted in the list are true and correct to the best of his knowledge. In the event that it is later determined that a fraudulent certification was made, the United States may take action to recover any payment made under this section, and pursue criminal prosecution, as appropriate.

§ 94.32 Application deadline.

The deadline for an application is three years from the date of the act of international terrorism. At the discretion of the Director, the deadline for filing a claim may be extended to a date not later than three years from the date of the determination that there is a reasonable indication that an act of international terrorism has occurred, under § 94.21(a). For claims related to acts of international terrorism that occurred after December 21, 1988, but before the establishment of this

program, the application deadline is three years from the effective date of these regulations.

§ 94.33 Investigation and analysis of claims.

The Director may seek an expert examination of claims submitted if he believes there is a reasonable basis for requesting additional evaluation. The claimant, in submitting an application for reimbursement, authorizes the Director to release information regarding claims or expenses listed in the application to an appropriate body for review. If the Director initiates an expert review, no identifying information for the victim or representative shall be released.

PAYMENT OF CLAIMS

§ 94.41 Interim emergency payment.

Claimants may apply for an interim emergency payment, prior to a determination under § 94.21(a). If the Director determines that such payment is necessary to avoid or mitigate substantial hardship that may result from delaying reimbursement until complete and final consideration of an application, such payment may be made to cover immediate expenses such as those of medical care, funeral and burial, short-term lodging, and emergency transportation. The amount of an interim emergency payment shall be determined on a case-by-case basis, and shall be deducted from the final award amount.

§ 94.42 Repayment and waiver of repayment.

A victim or representative shall reimburse the program upon a determination by the Director that an interim emergency award or final award was: Made to an ineligible victim or claimant; based on fraudulent information; or an overpayment. Except in the case of ineligibility pursuant to a determination by the Director, in consultation with appropriate DOJ officials, under § 94.21(b), the Director may waive such repayment requirement in whole or in part, for good cause, upon request.