

# RESPONSIBILITY FOR REPAYMENT

## of Victim Funds

California Victim  
Compensation Program  
Liens Against Settlements,  
Awards, and Judgments



CaIVCP 

CALIFORNIA VICTIM COMPENSATION PROGRAM



## Liens Against Settlements, Awards and Judgments

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The Victim Compensation and Government Claims Board (VCGCB) administers the California Victim Compensation Program (CalVCP). CalVCP can reimburse victims for crime-related expenses such as medical and mental health treatment, funeral costs, relocation and income loss.

According to California law, CalVCP can only reimburse victims for crime-related expenses if there are no other sources of reimbursement. If CalVCP reimburses a victim for losses, but another source of funds becomes available to the victim due to the same criminal incident, CalVCP is entitled to reimbursement.

This guide is intended to help CalVCP claimants and attorneys understand the requirements for repaying victim compensation relating to reimbursement from, but not limited to, civil suits, workers' compensation and vehicle insurance.

All monies recovered by the VCGCB are deposited into the State's Restitution Fund and are used to assist victims of crime in California.

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## REPAYMENT OF VICTIM FUNDS

CalVCP is entitled to be repaid when a recipient of victim compensation funds receives a judgment, award or settlement for their crime-related expenses. The amount of repayment will not exceed the amount of compensation granted by CalVCP.

CalVCP must be given notice and opportunity to collect repayment before the settlement funds, where CalVCP has an interest, are disbursed.<sup>1</sup>

If a recipient of victim compensation initiates a lawsuit for monetary damages or reimbursement through an insurance claim, that person or their attorney must notify CalVCP within 30 days of filing any action or submitting a claim.

Similarly, if a recipient of victim compensation receives reimbursement from another source due to the same criminal incident, the recipient or their attorney must notify CalVCP.

California law gives CalVCP statutory lien rights on any settlement or funds received by the compensation recipient that are related to the same criminal incident.

In order to apply for and receive victim compensation, all applicants must agree to the above reporting requirements.





## WHAT IS A LIEN?

A lien is a legal right or interest against another person's real or personal property, in order to settle a debt or pay an obligation.

A lien may be filed by CalVCP to recover any money received by, or on behalf of the claimant as a result of the same criminal incident, from any source in the amount of the compensation granted by VCGCB.<sup>2</sup>

If the lien demand is disregarded by the claimant or attorney, it will be considered an overpayment. VCGCB has contracted with the California Franchise Tax Board (FTB) to recover overpayments, through garnishment if necessary, and may pursue all legal remedies available.

Under certain circumstances, CalVCP may also reduce a lien by up to 25 percent if the total amount of the lien is rewarded.<sup>2</sup>

After the balance of the lien has been paid or resolved, a satisfaction and release of the lien will be provided to the claimant's attorney or directly to the claimant, if not represented.

## **NOTIFYING CalVCP OF CIVIL LAWSUITS**

As noted, the recipient of victim compensation and his or her attorney must notify CalVCP within 30 days of initiating any civil lawsuit that is related to the crime for which victim compensation has been or is being paid.

Written notification to CalVCP must contain the following information and documents:

- Names and addresses of all parties named in the lawsuit, except for those persons represented by an attorney, in which case include only the parties name and the name and address of the attorney.
- The nature of the claim asserted or action brought.
- The full title of the case, including the identity of the court agency, the county where the lawsuit is filed and case or docket number.
- Settlement documents including the name and address of the insurance company directly or indirectly providing satisfaction.

The victim compensation recipient or attorney will be mailed information explaining the necessary steps and options available to satisfy the payment obligation, if any.

For more information about which documents to include, please call CalVCP's Revenue Recovery Section at **916.491.3766**.





## WORKERS' COMPENSATION CLAIMS

CalVCP must be provided with proper notice of any workers' compensation claim related to the same incident or injuries for which victim compensation has been paid or is being paid.

All forms of workers' compensation may be subject to repayment including but not limited to:

- Temporary disability
- Permanent disability
- Proceeds of a compromise and release<sup>3</sup>

CalVCP is required to prove that its funds were paid to, or on behalf of, the injured worker relating to the same crime or injuries for which he or she has filed a workers' compensation claim. CalVCP will assert its lien against the injured worker's settlement.

CalVCP's lien is a statutory lien. All benefits provided by CalVCP are recoverable pursuant to California Labor Code for the amount of indemnification granted by CalVCP.<sup>4</sup>

Information about filing a workers' compensation claim is available at **[dwc.ca.gov](http://dwc.ca.gov)**.



## VEHICLE INSURANCE CLAIMS

CalVCP must be provided with proper notice of any vehicle insurance claim (automotive, boat, motorcycle, aircraft, etc.) related to the same injuries for which victim compensation has been paid or is being paid.

Notification must include the following:

- Names and addresses of all parties in the claim
- Names and addresses of all insurance companies
- Nature of the claim or action brought

Insurance company information must also include the names of the adjustors, addresses, phone numbers and all policy/claim numbers.

CalVCP has subrogation rights, meaning that CalVCP can request re-payment from third-parties such as an insurance company, on behalf of the victim compensation recipient.<sup>5</sup>

## WHAT IF CaIVCP IS NOT NOTIFIED OF A SETTLEMENT?

Attorneys and/or victim compensation recipients who receive crime-related reimbursements, including but not limited to, civil lawsuits, workers' compensation or vehicle insurance, must contact CaIVCP's Revenue Recovery Section within 30 days of filing an action.

If the settlement or reimbursement has been distributed and the obligation to repay CaIVCP is disregarded, then it will be considered an overpayment. CaIVCP has contracted with FTB to recover the money through garnishment and will pursue all legal remedies available.



## SPECIAL NOTE TO ATTORNEYS:

Attorneys who distribute crime-related settlement proceeds, without first giving CalVCP notice and reasonable opportunity to perfect and satisfy its lien, may be held liable for the loss.<sup>6</sup>

Attorneys who represent victims of crime should consult their clients to determine if they have received victim compensation.



### VCGCB BOARD MEMBERS

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and Board Chairperson

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## SOURCES

[1] Government Code Section 13963(d)

[2] Government Code Section 13963(b)

[3] *Burnsed v. State Board of Control* (1987) 189 Cal.App.3d 213

[4] Labor Code § (4903)(i)

[5] Government Code 13963(A)

[6] *Miller v. Rau* (1963) 216 Cal.App.2d 68.

*Siciliano v. Fireman's Fund* (1976) 62 Cal.App.3d 745.





## California Victim Compensation Program Lien Section

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All languages accommodated.

Deaf and hard of hearing: Please call the  
California Relay Service at 711.

