

## **Frequently Asked Questions regarding the Board of Claims**

### **Who can I file a claim against with the Board of Claims?**

The Board accepts negligence claims filed against state agencies, state departments or state employees while working within the scope of their employment.

### **Is there a filing fee for filing a claim?**

No.

### **How many copies of the claim form are needed?**

A signed claim form with all evidence attached is required. One copy of the claim form and evidence may also be submitted with the original, but is not required.

### **Who needs to sign the claim form?**

The claim form must be signed by the Claimant and by the attorney if an attorney is representing the Claimant.

### **Why is a social security or federal ID number needed?**

The Claimant's social security number is required if a check is to be processed. Please note that inmate ID numbers are also required where applicable.

### **Is there a minimum amount of damages to claim?**

The Board only accepts claims of \$250 and above pursuant to KRS 49.020.

### **Is there a maximum award?**

Yes. A single award shall not exceed \$250,000. If a single act of negligence results in multiple claims, the total award shall not exceed \$400,000, to be equitably divided among the claimants. However, in no case shall any claimant individually receive more than \$250,000 pursuant to KRS 49.040.

### **Is there a deadline for filing a claim?**

Yes. Claims generally must be filed within one year of the date of the incident. For claims regarding personal injury or medical malpractice, consult with the staff attorney, whom may be contacted at (502) 782-8255.

### **How long does it take to receive a decision?**

- Claims under \$2,500 are investigated by the Board and a decision should be received within 60 days of the date of the letter acknowledging receipt of the claim.
- The time varies for claims \$2,500 and above. The responding agency has 30 days from the date of notice sent by the commission, to investigate and respond to the Board with an answer.
- If the agency admits liability for the full amount of recoverable damages, the award is placed on the Board's agenda for consideration at the next scheduled monthly meeting. Once approved by the Board, a check is requested.
- If the agency denies liability or admits liability but disagrees with the amount of damages claimed, the claim is assigned to a hearing officer to conduct a hearing.

- Also, if an agreed settlement is involved, the agreed settlement with signatures of both parties is placed on the Board's agenda for the next scheduled meeting to be approved by the Board.
- Once approved by the Board, the check is requested.

**Where is the hearing held?**

The claim will be assigned to a hearing officer who will schedule the hearing date in the county in which the incident occurred pursuant to KRS 49.080.

**Does the hearing officer decide the claim?**

No. After the hearing, the hearing officer will make a recommendation to the Board, who will make the decision on the claim.

**How long does it take to receive a check?**

If an award is entered on a claim, the check should be received within 30 days of the date of the order making that award.

- Claims under \$5,000 - the check will be requested and mailed directly to the claimant from the responding state agency.
- Claims \$5,000 and above - the check will be requested and mailed by the Board of Claims.
- For all awards made against the Transportation Cabinet, a check will be requested and mailed from the Transportation Cabinet.

**What if I disagree with a decision?**

- For claims under \$2,500, the Claimant may request a full Board review within 14 days of the date of the order.
- For claims \$2,500 and above, the Claimant may file a request for appeal to the circuit clerk in the circuit court in the county where the incident occurred. Notice will be sent from the circuit court to the Board requesting the file.

**What are some reasons for reducing the amount of award?**

- Any damage awarded shall be reduced by the amount of payments received or that the Claimant has a right to receive from any insurance policy/program, for instance: worker's compensation insurance, social security programs, unemployment insurance programs, medical, disability or life insurance programs, or other federal or state or private programs designed to supplement income or pay the Claimant's expenses or damages incurred. These are referred to as off sets.

**What is prohibited?**

- The Board is prohibited from making any awards for mental distress, pain or suffering.
- The Board is prohibited from making any awards for collateral or dependent claims that are dependent on loss to another and not to the Claimant. This includes consortium claims and subrogation claims.