



STATE OF KANSAS

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July 22, 1980

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ATTORNEY GENERAL OPINION NO. 80- 157

Mary Beth Blake, Assistant General Counsel  
The University of Kansas  
College of Health Sciences and Hospital  
39th and Rainbow Boulevard  
Kansas City, Kansas 66103

Re: State Boards, Commissions and Authorities--Crime Victims  
Reparations; Board--Meaning of term "claimant"

Synopsis: A hospital or medical clinic does not qualify as a  
"claimant" under K.S.A. 1979 Supp. 74-7301(c) and  
cannot seek direct recovery as a claimant under  
the Crime Victims Reparations Act; however, a hospital  
or medical clinic may place a lien on a reparations  
award or take an assignment of such award as permitted  
by K.S.A. 1979 Supp. 74-7313(d) to recover the expenses  
of treating persons who have been the primary victims  
of crimes under the Act. Cited herein: K.S.A. 1979  
Supp. 74-7301, 74-7305, 74-7313.

\* \* \*

Dear Ms. Blake:

At the request of the University of Kansas, you have submitted  
questions arising under the Crime Victims Reparations Act (K.S.A.  
1979 Supp. 74-7301 et seq.). Because the practice of awarding crime  
victims reparations is of recent origin in Kansas, there are no Kansas  
cases bearing precisely on your inquiry. Therefore, of necessity, our  
response is predicated on our reading and interpretation of pertinent  
statutes.

Most of your questions depend on whether a hospital or medical center  
is a "claimant," defined in K.S.A. 1979 Supp. 74-7301(c) as:

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"a victim; a dependent of a deceased victim;  
a third person other than a collateral source;  
Or an authorized person acting on behalf of  
any of them." (Emphasis added.)

Therefore, a hospital could qualify as a claimant, not acting on behalf of the victim or his/her dependents, only if it is a "third person other than a collateral source." Although "person" may be defined as an individual, public or private corporation (accord, K.S.A. 77-201), government, partnership, or unincorporated association, which definition would include a hospital, the phrase "third person other than a collateral source," as used in this Act, is not intended to refer to a creditor providing medical services to a crime victim.

To recover under the Act the claimant must demonstrate that financial stress would be experienced by the claimant unless the board awards compensation. The factors for determining financial stress include:

- "(i) The number of claimant's dependents;
- "(ii) the usual living expenses of the claimant and the claimant's family;
- "(iii) the special needs of the claimant and the claimant's dependents;
- "(iv) the claimant's income and potential earning capacity; and
- "(v) the claimant's resources." K.S.A. 1979 Supp. 74-7305(d).

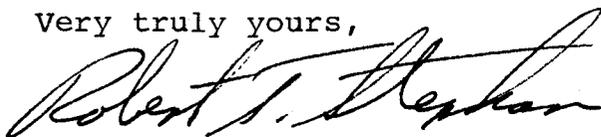
Hospitals or medical centers could not demonstrate "financial stress" by using the factors set forth in the above-cited statute. Because this is a primary element of a claim, the legislature could not have intended that the Act extend to hospitals or medical centers.

Because a hospital or medical center cannot be a "claimant" acting in its own behalf, the other questions raised which are predicated on that assumption need not be separately considered. We would hasten to add, however, that under K.S.A. 1979 Supp. 74-7313(d), the Kansas University Medical Center may place a lien against an award for "allowance expense" as defined in K.S.A. 1979 Supp. 74-7301(a). In addition, subsection (e) of the former section (74-7313) permits the taking and enforcing of assignments by providers of products, services and accommodations to the claimant. These latter provisions of the statute provide a remedy for health care providers, such as KUMC, in their efforts to recoup medical care expenses.

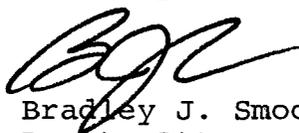
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In summary, it is our opinion that a hospital or medical clinic does not qualify as a "claimant" under K.S.A. 1979 Supp. 74-7301(c) and cannot seek direct recovery as a "claimant" under the Crime Victims Reparations Act; however, a hospital or medical clinic may place a lien on a reparations award or take an assignment of such award as permitted by K.S.A. 1979 Supp. 74-7313(d) to recover the expenses of treating persons who have been the primary victims of crimes under the Act.

Very truly yours,



ROBERT T. STEPHAN  
Attorney General of Kansas



Bradley J. Smoot  
Deputy Attorney General

RTS:BJS:phf  
Encl.