

## § 81.54

### § 81.54 Submission of requests to the Department.

(a) Requests submitted to the Department must be submitted in the form and manner, and supported by documentation, specified from time to time by the Department. The Department's website will contain directions on how to access the claims system for defined monetary assistance.

(b) Requests may be submitted to the Department at any time. The Department may decline to present to a court any application based on a request that duplicates a previously received request. A request duplicates a previously received request if it is submitted by or in connection with the same claimant and is premised on the same conduct as the previously received request. If a claimant obtains new information relevant to a claim after submitting a request, the claimant should amend that request rather than submitting a new request. If the Department has already returned the request to the claimant, the claimant may submit a new request, so long as such request contains material, additional information supporting the claimant's eligibility for defined monetary assistance.

(c) If a claimant is represented by an authorized representative, the request to the Department and any supporting information may be submitted to the Department by that authorized representative. The authorized representative must submit a separate request on behalf of each represented claimant.

### § 81.55 Supporting information.

(a) As part of a request to the Department, the claimant should submit information as instructed by the Department. The Department's website will provide instruction about what information is required in support of a claim. Failure to submit all required information may result in delay or a decision by the Department not to present the claimant's application to a court.

(b) All information supporting the request should be updated as necessary while the request to the Department is pending, including the amounts of any restitution collected, address changes, changes to information needed to proc-

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ess payment to the claimant, and any other pertinent information that may be relevant to the request.

(c) To avoid a potential violation of Federal law, claimants (or authorized representatives, if applicable) shall not send images or videos of child pornography when providing supporting information.

### § 81.56 Procedures for determining the personal representative of an estate.

(a) *In general.* For any request to the Department by the estate of a deceased claimant, the personal representative of the estate, who will be the authorized representative for purposes of defined monetary assistance from the Reserve, shall be determined as follows:

(1) First preference will be given to an individual appointed by a court of competent jurisdiction as the personal representative of the deceased claimant or as the executor or administrator of the deceased claimant's will or estate.

(2) In the event that no personal representative or executor or administrator has been appointed by any court of competent jurisdiction, and such issue is not the subject of pending litigation or other dispute, the next preferred personal representative for purposes of defined monetary assistance from the Reserve will be the person named by the deceased claimant in the deceased claimant's will as the executor or administrator of the deceased claimant's estate.

(3) In the event that no will exists, the next preference for personal representative for purposes of defined monetary assistance from the Reserve will be the first person in the line of succession for inheritance established by the laws of the deceased claimant's domicile governing intestacy. In the case where State law provides for two or more persons to inherit in equal shares (*e.g.*, parents or siblings), the defined monetary assistance payment will be split accordingly.

(4) In the event that none of the individuals described in paragraphs (a)(1) through (3) of this section are available to serve as personal representative,

any other person may seek to be appointed by a court of competent jurisdiction as the personal representative for purposes of defined monetary assistance from the Reserve. Upon appointment, that person will serve as personal representative.

(b) *Notice to beneficiaries.* (1) Any purported personal representative must, before submitting a request to the Department, provide written notice of the intent to submit a request and the procedures in paragraph (c) of this section to object to such status as personal representative to the immediate family of the deceased claimant; to the executor, administrator, and beneficiaries of the deceased claimant's will; and to any other persons who may reasonably be expected to assert an interest in an award or to have a cause of action to recover damages relating to the wrongful death of the deceased claimant.

(2) Personal delivery or transmission by certified mail, return receipt requested, shall be deemed sufficient notice under this subpart. The purported personal representative must certify that such notice (or other notice that the Department deems appropriate) has been given.

(c) *Objections to personal representatives.* Objections to the authority of an individual to file as the personal representative of a deceased claimant may be submitted to the Department, as instructed on the Department's website for this program, by parties who assert a financial interest in the award. Any such objection must be submitted within 30 days following receipt of notice by the personal representative as defined under this section. If timely submitted, such objections shall be treated as evidence of a "dispute" under paragraph (d) of this section.

(d) *Disputes as to the identity of the personal representative.* The Department will not, and shall not be required to, arbitrate, litigate, or otherwise resolve any dispute as to the identity of the personal representative. In the event of a dispute over the appropriate personal representative, the Department may suspend or return a request to the claimant without prejudice to its later resubmission and may withhold any payment until the dispute is resolved either by agreement of the disputing

parties or by a court of competent jurisdiction. Alternatively, the disputing parties may agree in writing to the identity of a personal representative to act on their behalf, who may seek and accept defined monetary assistance from the Reserve while the disputing parties work to settle their dispute.

#### §81.57 Request and order processing.

(a) Upon receipt of a request to the Department, the Department will review it and may follow up with the claimant (or authorized representative, if applicable) to resolve any gaps in the request's supporting information.

(b) The Department will then use reasonable efforts to identify an open or closed Federal criminal case involving the claimant to present the claimant's application (with supporting information, as appropriate) for a court to determine the claimant's eligibility to receive defined monetary assistance. If the Department is unable to locate such a case, it will notify the claimant (or the claimant's authorized representative, if applicable). If the Department presents the claimant's application to a court, in its sole discretion, the Department may or may not present the claim with an accompanying recommendation that the court order payment or not. If the Department determines that it will recommend against the court ordering payment, the Department will make reasonable efforts to inform the claimant (or the claimant's authorized representative, if applicable) of such recommendation prior to any presentation of the application to the court.

(c) If a court issues an order requiring payment to any claimant, the Department will process payment of defined monetary assistance to the claimant or, where appropriate, to the claimant's authorized representative, in accordance with the order in the amount specified therein, upon receipt of the order and the requisite information from the claimant following instructions on the Department's website for this program. Failure to submit all required information to the Department may result in delay of payment.

(d) If the court issues an order denying eligibility based on an application