

Paying for Forensic Exams in Sexual Assaults: *Compensation Programs With Special Procedures*

Fifteen victim compensation programs serve rape victims in their states as primary payment sources for forensic exams. While other compensation programs will cover exam expenses as well, these 15 programs are special in offering these benefits through separate procedures designed to expedite payment outside the regular claims process. In other states, police and prosecutors generally are responsible for payment of forensic-exam costs.



The compensation programs with special procedures include:

Alabama	North Carolina
Arkansas	Oklahoma
Delaware	Pennsylvania
Florida	South Carolina
Indiana	Utah
Iowa	Vermont
Maine	Washington state
New Hampshire	

Another state, Oregon, is designated as a primary payment source for forensic exams only for children.

While these programs share some similar characteristics, there are significant differences as well. Most have caps or maximums on how much they will pay, but some do not. Many require the victim's insurance to be billed first, but others do not. About half the states require that the victim report to and cooperate with law enforcement and/or prosecutors, and about half do not impose such requirements. A few programs never know the names of the victims for whom the exams are being paid, since the transaction is one solely between the hospital and the program—the program simply reimburses the hospital for however many exams are done, often in a bill that totals up all the exams for a particular month.

Maximums

Alabama, North Carolina, Utah, Vermont and Washington have no general cap on how much can be paid on forensic exams. Caps in other states range from about \$750 to \$200, with some states using a fee schedule to place maximums on specific procedures.

As examples, Iowa can pay up to \$200 to the facility where the exam is done, and another \$100 for the examiner. Oklahoma pays \$200 for the exam plus another \$50 for medications; Pennsylvania allows \$500 for the exam and other \$100 for medications.

Arkansas, Delaware, Florida, Iowa, Maine, New Hampshire, Pennsylvania, and South Carolina require that providers accept the program's payment as payment in full.

Specific Cost Items

States vary somewhat in the types of individual procedures and tests that they will pay for. Among the specific things states that most states pay for are the following:

- Performing the forensic examination*
- STD testing*
- Hepatitis testing*
- Date-rape-drug testing*
- Pregnancy testing*

In addition, some states will pay for DNA testing to determine offender identity, and preventive drug-treatment regimens for HIV and for hepatitis.

Billing Procedures

Nearly all the states indicated that the hospital or treating facility bills the program directly. About half the states require that the victim's insurance be billed first for the exam, and most of these states also expect Medicaid to be billed if the victim is eligible for those benefits. States that require insurance to be billed indicate that they work hard to train hospitals to bill the compensation program, rather than the victim, for any remaining balance after insurance benefits are paid.

Reporting and Cooperation

Most of the state compensation programs using these special procedures to pay for forensic exams still require that law enforcement be notified of the crime. Some of these states said that the rape-kit form that comes from the hospital to the program has a space on it to be checked to show that police have been notified. A majority of the states do not look further to see whether the victim has cooperated fully in the investigation and prosecution of the crime, but some do contact police and prosecutors to confirm cooperation.

Staffing and Processing

Most states use very few staff to process claims for forensic exams. Many use just one part-time staff. Processing times for forensic claims are generally short, with some programs paying in 10 days or less after receiving a bill, and others taking several weeks. An effort is made to coordinate benefits as necessary with any regular compensation claim the victim files.

Claims and Costs

Naturally enough, the number of claims and total costs to the programs operating these special payment functions vary according to the size of the state. Florida gets more than 4,500 forensic exam payment requests each year, at a cost of \$676,000 annually. Iowa pays close to \$350,000 for 1,500 claims per year, and Vermont covers 100 exams for about \$35,000.

Many states do not provide extra funds for paying for forensic exams; the compensation programs use their regular compensation funds to cover these costs. Some states do have special appropriations from their legislatures to pay for the exams.

VOCA and VAWA

While the federal Victims of Crime Act (VOCA) does not require that state compensation programs pay for forensic exams, it can provide funds for states that do pay for them. Forensic-exam costs are allowable expenses for inclusion in the state's certified payout figure, upon which VOCA's 40% matching grant is based. So, for example, if a state paid \$100,000 in its own dollars for forensic exams in a particular year, the federal government through VOCA would provide \$40,000 to the program—which the program can use for payment of future forensic exams or any other compensable expense.

VOCA does not require that victims of sexual as-

sault and rape "fully cooperate" with police and prosecutors in order for the costs of the exam to be considered compensable and allowable expenses under VOCA. VOCA guidelines, in fact, say that simply submitting to a forensic exam for evidentiary purposes can be sufficient to meet VOCA's requirement that compensation programs must "promote cooperation with reasonable requests of law enforcement."

VAWA — the Violence Against Women Act — provides grant funds for states (not state compensation programs) that can be used for a variety of purposes in providing services and better police protection for female victims. One of VAWA's eligibility requirements that states must meet to get the funds is a guarantee that victims in the state will not have to bear the costs of forensic exams. While this can be achieved through a variety of means — and again, in most states, it is left up to local police and prosecutors to pay for these exams — states can meet this requirement through using their compensation programs as primary payment sources for the exams.

Again, it is important to note that VAWA itself does *not* provide funds for paying these exams. The benefit to the state in ensuring that victims don't pay for the exams are VAWA grants for other purposes related to preventing violence against women and helping victims of such violence.

Policy Considerations

While states where compensation programs are primary payers of forensic-exam costs may be more successful than other states in ensuring that victims don't bear these costs (no data exists on this score, but it makes sense that a central payment source may be better than scores of local authorities trying to pay), some difficult issues remain. Many advocates urge compensation programs not to require insurance or Medicaid to become involved in payment of the exams, since doing so may compromise a victim's privacy. And some advocates also question requirements for reporting and cooperation, believing that the victim should be able to choose in her own best interest whether to assist police and prosecutors.

