

The Medical Provider Forensic Rape Examination (FRE) Direct Reimbursement Program

Section 631 (13) of the
NYS Executive Law

Presented by:

The Office of Victim
Services - Legal Unit



Training Information

- This version of the FRE Direct Reimbursement Program Training module was last updated on November 12, 2013
- Please contact the Office of Victim Services for the latest version

History/Legislative Background Executive Law Section 631(13)

- Dates back to 2005 and is designed to ease payment of forensic exams and to provide quality exams by knowledgeable practitioners
- Designed to give the victim the ability to choose payment through this program or their own insurance coverage

What is a "forensic exam?"

- An examination performed by trained medical personnel **for the purpose of gathering evidence of a sexual assault** in a manner suitable for use in a court of law

Statute Applies to:

- Victim of Rape or Sexual Assault
- Completed Forensic Examination

Statute Applies to cont'd:

- A New York State Accredited Hospital
- A Sexual Assault Examiner certified by the Department of Health
- A Licensed healthcare provider performing forensic examination within the scope of the discipline in which the provider is licensed

Application of the Statute

Applies to forensic examinations performed by licensed healthcare providers using the

- a) **Sexual Offense Evidence Collection Kit (SOEC), or**
- **b) Drug Facilitated Sexual Assault kit AND/OR**
- **c) NYS Department of Health’s *Protocol for the Acute Care of the Adult Patient Reporting Sexual Assault* OR**
- **d) *DOH Child and Adolescent Sexual Offense Protocol***

Providers shall

- Provide **FORENSIC** services without charge to the victim
- Advise victim of payment options to either bill victim's insurance or bill OVS directly for forensic related services
- Bill OVS directly for such services, if victim chooses not to use own insurance

Services intended to be covered by the reimbursement fee

- Forensic examiner services
- Facility services *related to the forensic examination*
- Labs and Pharmaceuticals *related to the forensic examination*

Services not included

- Unrelated Medical Services (e.g. suturing, broken limbs, inpatient services)
- Post exposure HIV prophylaxis **beyond the 7-day supply** and post exposure counseling services
- **NOTE: *Victims can apply to OVS and/or use their insurance to cover costs of medical care beyond the Forensic Exam and its related costs, IF COSTS NOT INCLUDED BY THE PROVIDER ON THE BILL FOR THE FORENSIC EXAM DIRECT REIMBURSEMENT***

Rate

- SHALL BE the amount of itemized charges not exceeding \$800.00 as defined in statute
- Rate Cap was established in collaboration with the Department of Health, Division of Criminal Justice Services and Division of the Budget, among others, and is reviewed annually pursuant to statute

An OVS claims application **MUST be filed by the victim/guardian for follow-up medical and other benefits to be considered by OVS**

- Medical expenses
- Funeral expenses (up to \$6,000)
- Loss of earnings or support (up to \$30,000)
- Counseling expenses
- Crime-scene cleanup costs (\$2,500)
- Loss of essential personal property (\$500)
- Reasonable court-transportation expenses in connection with the prosecution
- Costs for DV shelter residence and / or services
- Moving expenses (\$2,500)

What types of healthcare providers are eligible under the program?

- A New York State accredited hospital (any Article 28 facility with a DOH-issued operating certificate)
- A Physician licensed to practice medicine in the State of New York and practicing within his/her discipline
- NYS Facility in which exam **took place** files the claim

What types of healthcare providers are eligible under program? Cont'd

- A registered physician's assistant, nurse practitioner or registered nurse practicing as a SAE w/in a medically supervised facility or Sexual Assault Forensic Examiner program (Includes **SAE, SANE, SANE-A, SAFE, SART, FNE, NE**)
- Including those conducting exams within a Child Advocacy Center (**CAC**)

How does a healthcare provider apply for Direct Reimbursement?

- Claim Forms available online at www.ovs.ny.gov and included in the Sexual Offense Evidence Collection Kit
- No later than one year from the date of the exam, provider submits Direct Reimbursement Claim Form with an itemized bill
- The OVS requires the original claim form - Copies and faxes will be rejected

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Direct Reimbursement cont'd

- An itemized bill means one that includes:
- **CPT codes for each** forensic exam related service performed,
- the **charges** for each coded service,
- the sum total of all charges billed, **and**
- the primary diagnosis of “sexual assault” or “sexual abuse” or diagnostic code **V71.5**, **E960.1**, **995.83** or **995.53** if rape kit not used

Social Security

- The Social Security number is used to identify duplicate billing
- The SSN field **must not be left blank**
- If no SSN, the billing provider must fill in the words:
 - ***“Undocumented alien”***,
 - ***“Infant-not issued”*** or
 - ***“NOT AVAILABLE”*** or ***N/A***

Crime Date

- Can be a date certain, a month/year, a season/year or a date range
- Must be filled in and can not be altered
- Does not have to be the same date as the forensic exam
- OVS can cover only one forensic exam for each date of crime

Signature Issues

- Victim/Guardian and forensic examiner signatures required
- Photocopies will be rejected
- Must be signed and dated at the time of services or after services rendered

Signature Issues Cont'd

- Victim/Guardian signature is insurance waiver – triggers payment through direct reimbursement program
- Child in Foster Care – Guardian is Commissioner of Local Service Agency and he/she must sign Claim Form

Does a victim have to file the regular application with OVS to ensure payment for the forensic exam?

- No
- BUT – A victim MAY file an application if medical services, **other than those related to the forensic exam**, are needed, including HIV prophylaxis beyond the initial 7-day dose pack, or to recover reimbursement for additional follow-up medical care, loss of personal property, earnings or support, counseling expenses , crime scene cleanup, court transportation and rehabilitative services

Does a victim have to use private healthcare insurance to pay for the forensic exam?

- No
- The victim may decline to provide information about insurance, especially if it would interfere with personal privacy or safety

Does a victim have to use Medicaid to pay for the forensic exam?

- No
- Victims do not have to use private insurance, Medicaid, Medicare, HMO or any other insurance program for the forensic exam

Is it necessary to file a police report to qualify for FRE direct reimbursement?

- No
- Police Report not needed from a victim of sexual assault for a regular OVS claim – For sexual assault victims, OVS will accept the medical documentation of the sexual assault forensic examination in lieu of a police report if the victim files a claim with OVS and does not report to police
- If Police or other Criminal Justice Agency Report is filed – OVS will need report and victim must cooperate with law enforcement

What if no physical medical evidence of a sexual assault is found?

- If a sexual offense evidence collection (SOEC) kit or Drug Facilitated Sexual Assault kit is used a diagnosis of sexual assault is presumed
- If no kit is used, the bill must have a diagnostic code or other indication of sexual assault
- For an adult victim (18 years old or older) bill must have at least one lab coded service in addition to visit code provided and billed whether SOEC Kit used or not (See OVS Website at www.ovs.ny.gov for instructions and acceptable codes)

Can a minor child sign a Direct Reimbursement Claim Form?

- The Claim Form verifies a forensic exam was performed, indicates to whom reimbursement is to be paid and documents that the victim was advised of, and understands, payment options under the law
- A minor child may sign the form, but only if it is **reasonable to conclude that the child understands what he or she is signing**

Is follow-up or post-exposure HIV prophylaxis after the 7-day dose pack reimbursable under this program?

- No
- Only costs for the initial 7-day supply of HIV prophylaxis are included under the Direct Reimbursement Program
- A regular OVS application may be filed by the Victim/Guardian to cover additional expenses not covered under direct reimbursement

Can hospital/examiner bill victim for remaining balance due for FORENSIC services after direct reimbursement ?

- No
- Provider must accept the OVS's reimbursement rate as payment in full for all services submitted in provider's forensic exam direct reimbursement claim

Additional Billing Issues

- Once victim chooses billing to OVS, provider can not bill victim or insurance regardless of outcome of provider's FRE claim with OVS
- Provider should work with other service providers, such as ER physician, to ensure no further billing of victim for forensic services occurs

Can the FRE program pay for the cost of a forensic examination of a minor child?

- Yes
- The Direct Reimbursement Program will pay for the cost of a forensic sexual assault examination regardless of age

Is victim required to follow through with prosecution in order to secure payment for exam?

- No
- A sexual assault survivor will not be required by the Office of Victim Services to pursue prosecution

Does a victim have to have a forensic exam performed right away? What is the timeframe?

- Generally, exam must be done within 96 hours according to DOH medical protocols to ensure that certain types of evidence can be recovered and preserved
- OVS will cover exams conducted beyond 96 hours if victim is **minor child** OR for any victim if **good cause** is shown for delay

Private physician conducts FRE exam in her office w/o a kit. Can physician still be reimbursed?

- Yes, so long as the examination was conducted in accordance with Public Health Law §2805(i) and the Department of Health's sexual assault forensic examination protocols and includes a diagnosis code indicting sexual assault/abuse
- This applies to both acute and chronic cases

Provider performs exam in a hospital w/ privileges or on-call basis, how does provider get paid for services?

- The OVS reimburses the **hospital/facility** in which the exam was conducted. The reimbursed rate is an unallocated (“global”) payment
- The facility is responsible for allocating expenses **proportionately** among service providers

Victim's Insurance did not cover 100% of FORENSIC SERVICES charges, can provider charge OVS for the balance?

- No. Once private health care insurance is assigned, the direct reimbursement program is no longer available for forensic services

For Victims

- Privacy – for crime victim
- Safety – abusive spouse, relative, partner
- Less paperwork – no financial affidavit, no claim application, no evidentiary inquiry

For health care providers

- Less paperwork
- Less delay
- Direct Payment

Housekeeping

- CPT codes are published in book – you do not need expensive software- **Use Current Codes!*
- Bar code on claim form is static and downloadable. The form itself may be copied BUT;
- **Signature fields must have original signatures**
- Use appropriate CPT “99” code for ER, ED, Office Visit or Consultation (should be “comprehensive or detailed – not simple), plus V71.5, E960.1, 995.83 or 995.53 diagnostic codes to identify the exam as a sexual assault forensic exam. **INCLUDE ALL CODES AND CHARGES RELATED TO THE FORENSIC EXAM AND ELIMINATE ANY NOT DIRECTLY RELATED**

Program

Fiscal 2011/12

\$4,276,915 was paid out under the
FRE direct reimbursement
program
on 5,497 claims

Who do I contact for more information about the program or the forms?

- www.ovs.ny.gov
- 1-800-247-8035 (TTY: 1-888-289-9747)
- New York State Office of Victim Services
Attn: FRE Processing
Alfred E. Smith State Office Building
80 South Swan St., 2nd Floor
Albany, New York 12210