

Sexual Assault Forensic Medical Exams in Hospitals

Overview of New Coverage and Billing Procedures:

- Under the federal Violence Against Women Act (VAWA), states are required to develop a process to cover **the full out-of-pocket costs for sexual assault forensic medical exams**.
- Specifically, the state must coordinate with healthcare providers to ensure that victims are aware that medical forensic examinations are available free of cost, and that **a patient will not be required to participate in any way in the criminal justice system or cooperate with law enforcement as a condition of receiving these services**.
- MHA, working closely with the Massachusetts Attorney General's, the Executive Office of Health and Human Services, and the Executive Office of Public Safety and Security developed detailed guidance regarding the billing procedures for a sexual assault forensic medical exam **to ensure that a victim is not billed for any services provided within the emergency department**.

It is the expectation of the Massachusetts Attorney General and the Department of Public Health that hospitals adopt the following policies:

1. If the victim has insurance and is in agreement to have a claim submitted to their insurance, the hospital may submit the applicable costs of the forensic exam to the insurance carrier. However, if any portion of the costs is not covered by the victim's insurance (including the patient's co-payments and/or deductibles), that amount should only be submitted to the Victim Compensation and Assistance Division (VCAD) within the Attorney General's office;
3. If the victim indicates he/she does not want their insurance or the responsible party that is listed in the hospital billing system to be billed for any costs of the medical exam, the total amount of the exam (including the patient's co-payments and/or deductibles), should be submitted to the VCAD ; or
4. If a victim does not have insurance or if their existing coverage does not cover any or all costs of the medical exam, the total amount (including the patient's co-payments and/or deductibles), should be submitted to the VCAD.

Attached is a quick reference guide of the costs and procedures hospitals should follow in submitting costs to the Victim Compensation Fund for services related to a forensic medical exam. ***In particular, the state expects hospitals to adhere to the following principles:***

- The survivor should not be asked to nor should they be paying for costs that are covered under the scenarios above. The claims should either be: (1) directly submitted to the victim compensation fund for the forensic medical exam or (2) the provider should work with the survivor to help them with submitting an application to the victim compensation fund for all covered expenses;
- An eligible survivor's outstanding expense SHOULD NOT be sent to collections when an application is pending or being prepared; and
- Providers should develop an internal system to be able to identify and flag cases as a sexual assault so that any claims can be held to be processed through one of the scenarios outlined above.

The goal of the guidance is to develop a victim centric approach to ensure that survivors of sexual assaults are provided with the full support and assistance when they come to a hospital for a medical exam. Should you have any questions about this policy and expectations in Massachusetts, please contact Janice Peters (MHA's Manager of Healthcare Policy) at jpeters@malink.org or (781) 262-6023.

Coverage and Billing Procedures for Sexual Assault Exams in Massachusetts

Health care providers should not bill survivors of a sexual assault for services received within a hospital setting. The Massachusetts Hospital Association, Attorney General’s Office, Executive Office of Health and Human Services, and the Executive Office of Public Safety and Security developed the following guidance outlining costs that can be submitted directly to the Attorney General’s Victim Compensation and Assistance Division (VCAD).

If a Sexual Assault Forensic Exam is Administered (including administration Sexual Assault Evidence Collection Kit)

Overview: to ensure survivor centered care by eliminating the concern of medical expenses received in a hospital setting, the provider should inform the survivor about the availability of coverage for all expenses within the emergency department (ED). The expenses outlined below, including the applicable co-payment, co-insurance, and/or deductible, should never be billed to the survivor.

Forensic Medical Examination Defined:

All expenses that occur from the moment the survivor comes to an emergency department (ED) through their discharge from the ED or a transfer to an inpatient or other level of care. This includes:

- Physician fees that are part of or assigned to the facility and included in the overall facility fee
 - Please note that independent physician fees should be submitted separately
- Facility fees
- ED Room and Board, Nursing and ancillary staff costs, Non-SANE staff (hospital clinicians) who administer the Sexual Assault Evidence Collection Kit (SAECK) costs, Ancillary services (labs, tox screens, etc.), Imaging services, and Medications (e.g., starter pack of prophylactic medications including Truvada, Flagyl, HIV meds, etc.) provided during treatment and prior to discharge

Criteria for Hospital and Physician Organization Payments:

- The assault occurred in Massachusetts
- A SAECK was administered
- Invoice submitted directly to VCAD within 90 days from the date of service or receipt of an insurer’s Explanation of Benefits (EOB)

Compensation Requirements:

- Hospital directly submits an itemized bill (1500 form)
- MUST attach “Attachment B” that outlines: Incident Location, Name of Treating Facility, Date of Treatment, Patient information, SAECK Number, and location of the assault to accompany any invoices

Submit Claims to:

- Secured email: VCCorrespondence@state.ma.us; or
- Fax: 617-742-6262; or
- Mail: Office of the Attorney General, One Ashburton Place, 19th Floor, Boston, MA 02108 Attn: Victim Compensation & Assistance Division

Compensation Amount:

- The total forensic medical exam is reimbursed using the Division’s approved payment factor:
<http://www.mass.gov/eohhs/docs/eohhs/eohhs-regs/wc-2015-paf.pdf>

Expenses Not Covered under this Process:

- Ambulance services
- Inpatient medical/surgical/post-acute treatment
- Follow up outpatient and/or inpatient visits
- Expenses related to an assault that occurred in another state, please contact the VCAD for information on coverage from those states

Contact at VCAD for Questions:

Tel: (617) 963-2160
Email: VCCorrespondence@state.ma.us

MA Forensic Sexual Assault Exam Post Exam Expense Application (following utilization of the SAECK)

Overview: All services provided following the forensic medical examination should be submitted by the survivor to VCAD, including ambulance services, inpatient services, follow up clinic visits, outpatient prescriptions (e.g., 28 day additional medication regimen), mental health counseling.

Submission of the Expense Form: Application is in the resource packet made available to all survivors after the administration of a SAECK.

Criteria for payments:

- The assault occurred in Massachusetts
- SAECK was administered
- Provider Sexual Crime Report (“PSCR”) completed
- “MA Forensic Sexual Assault Exam Post Exam Expense Application” submitted to VCAD

If a Sexual Assault Forensic Exam is NOT Administered

A survivor of a sexual assault is not required to and may choose not to have a forensic examination but still have expenses covered by VCAD.

Criteria for Payment: The assault occurred in Massachusetts; No SAECK was administered as the treatment was sought beyond 5 days from the date of the crime OR survivor chooses not to have a kit administered. To obtain coverage, the survivor must report the crime to their local police within 5 days of the crime to seek coverage under this process, unless there is reasonable cause for delay.

Claims Submission Process: total expenses (including all co-payments, co-insurance, and deductibles) where a forensic exam is NOT administered should be included as part of the Standard Victim Compensation application submitted by the survivor:
<http://www.mass.gov/ago/docs/victim/victim-comp-app.pdf>

Covered Expenses under this Application:

- All Medical and Mental Health Expenses
- Dental Expenses
- Counseling Expense
- Loss of Earnings
- Loss of Support
- Replacement Bedding/Clothing (taken with the SAECK)
- Security Measures
- Ambulance Services