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**MEMORANDUM**

**To:** Acute Care Hospital, Chief Executive Officers

**From:** Marylou Sudders, Secretary, Executive Office of Health and Human Services  
Daniel Bennett, Secretary, Executive Office of Public Safety and Security  
Maura Healey, Attorney General

**Subject:** Coverage for Forensic Medical Examinations in Cases of Sexual Assault

**Date:** March 7, 2016

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The purpose of this Memorandum is to clarify the process for submitting hospital claims to the Massachusetts Attorney General's Victim Compensation and Assistance Division related to forensic medical examinations in cases of sexual assault.

**Background**

The federal Violence Against Women Act (VAWA - P.L. 103-322), was enacted with the intent to change attitudes toward domestic violence, foster awareness of domestic violence, improve services and provisions for victims, and revise the manner in which the criminal justice system responds to domestic violence and sex crimes. In February 2013, Congress reauthorized VAWA and also included several new provisions. An important new element of the reauthorized VAWA law is the requirement that states provide coverage for the out-of-pocket costs for sexual assault forensic medical exams. The goal is to ensure that victims of sexual violence who come to a hospital should not have to worry about any out-of-pocket expenses when receiving a forensic medical examination following a sexual assault (See 42 U.S.C. 3796gg-4). This provision takes effect on March 7, 2016.

Under the new VAWA provisions states must either provide these examinations directly to victims, or work with health care providers to coordinate appropriate coverage for a forensic medical examination. A state must also 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.

In Massachusetts, the Executive Office of Public Safety and Security (EOPSS) serves as the state administering agency for VAWA, and is responsible for coordinating with various state agencies and provider organizations to ensure statewide compliance with the VAWA requirements. A working group including EOPSS, the Office of the Attorney General (AGO), the Executive Office of Health and Human Services (EOHHS), the Massachusetts Hospital Association (MHA), and other providers, have developed a process to implement the requirements of 42 U.S.C. 3796gg-4.

As set forth below, the Victim Compensation and Assistance Division of the Attorney General's Office has developed a process that will provide coverage for forensic medical examinations so that no victim is responsible for any out-of-pocket costs. This Memorandum is intended to inform all Massachusetts hospitals of this development and to outline the definitions, operational requirements, and other steps necessary to follow the new process.

### **Definition of Forensic Examination**

Federal law requires that states provide coverage for "out-of-pocket cost of forensic medical exams" for victims of sexual assault. For purposes of implementing this requirement in the Commonwealth, EOPSS, the AGO, and EOHHS have developed a process that will provide coverage for the costs related to the services provided in a hospital setting for a sexual assault victim by medical personnel, which includes but is not limited to the examination by personnel trained to gather evidence of a sexual assault in a manner suitable for use during criminal investigations.

In particular, the working group has determined that the specific costs related to a forensic medical exam may include the facility and professional fees incurred during the exam and treatment provided in a hospital setting, as outlined below:

- 1) Physician Fee
  - a. Applicable physician fees that cover evaluation, treatment, and medical clearance of the patient
- 2) Facility Fee
  - a) Room and Board;
  - b) Nursing and other ancillary staff charges ;
  - c) Forensic examination and/or forensic evidence collection by staff who are not DPH Sexual Assault Nurse Examiner (SANE) contracted staff;
  - d) Ancillary fees/services, including labs and toxicology reports as determined to be medically necessary during the forensic medical examination;
  - e) Imaging (such as CT scan, MRI, X-ray, or ultrasound) that is determined to be medically necessary for the evaluation and treatment of the patient; and
  - f) Medications provided during the forensic medical examination and prior to discharge (including STI medications and HIV PEP starter pack, as determined to be medically necessary).

Additional costs such as ambulance transportation, care and treatment in the hospital inpatient setting (such as the ICU, surgical cases, and long term medical care), follow-up visits to an infectious disease clinic and/or critical care provided outside the initial examination in a hospital setting, are not considered part of the forensic examination. However, when such services are incurred by a victim as an out-of-pocket expense, the victim may be entitled to seek direct reimbursement for any non-covered services by the Victim Compensation and Assistance Division following separate reimbursement criteria. Hospitals should assist patients by referring them to the appropriate resources that can assist with applying for this reimbursement if needed.

The procedure for submitting claims for any qualified forensic exams for payment from the Victim Compensation and Assistance Division is included in Attachment A of this Memorandum.

### **Additional Information**

To further assist hospitals with the process for submitting claims for the forensic examination services as outlined above, the working group has scheduled a Webinar that will be hosted by the Massachusetts Hospital Association on Friday, March 25, 2016 from 1:00 to 2:00pm. To register, please email Anuj Goel, Vice President of Legal and Regulatory Affairs at agoel@mhalink.org.

Should you have any questions about the federal VAWA requirements, please contact Erin Heaney, Grant Administrator, Violence Against Women Act Grant program at (617) 725-3331 or erin.heaney@state.ma.us.

For questions about the billing/reimbursement criteria through the Victim Compensation and Assistance Division, please contact: Ann Meola, Director of the Victim Compensation and Assistance Division, at (617) 963-2930 or anna.marie.meola@state.ma.us.

On behalf of the Executive Office of Health and Human Services, the Executive Office of Public Safety and Security, and the Office of the Attorney General (AGO), we appreciate the assistance of all stakeholders who have continued to work with the Commonwealth to help all victims of sexual violence.

## ATTACHMENT A

### **Coverage for Forensic Medical Examination Costs through the Attorney General's Victim Compensation and Assistance Division**

The following information outlines the policy and process for submitting a claim to the Massachusetts Attorney General's Victim Compensation and Assistance Division for the coverage of a qualified forensic medical examination. Hospitals should adopt internal procedures to implement these policies for patients whose services are qualified to be covered by the state's definition of a forensic medical examination. For questions about the billing/reimbursement criteria through the Victim Compensation and Assistance Division, please contact: Ann Meola, Director of the Victim Compensation and Assistance Division, at (617) 963-2930 or [anna.marie.meola@state.ma.us](mailto:anna.marie.meola@state.ma.us).

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, as defined above, to the insurance carrier. 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 shall not be billed to the victim but should be submitted to the Victim Compensation and Assistance Division following the process outlined below. If the victim was billed or had paid their patient obligation amount, but it was later disclosed that the reason for the visit was related to a forensic medical examination, the hospital should refund the amount paid within 90 days of identifying the reason for the visit and submit the claim to the Victim Compensation and Assistance Division;
2. If the victim indicates he/she does not want their insurance carrier or the responsible party that is listed in the hospital billing system to be billed for any of the qualified forensic medical examination costs, as defined above, for safety or other personal reasons, the total amount of the exam (including the patient's co-payments and/or deductibles), should also be submitted to the Victim Compensation and Assistance Division following the process outlined below; or
3. If a victim does not have insurance or if their existing coverage does not cover the total cost of a forensic medical examination, the total amount of the exam (including the patient's co-payments and/or deductibles), should also be submitted to the Victim Compensation and Assistance Division following the process outlined below.

The process for submitting claims to the Attorney General's Victim Compensation and Assistance Division is the following:

1. An itemized bill shall be generated demonstrating the services provided as outlined in the Definition of Forensic Exam section above.
2. Along with the itemized bill, the hospital shall also include a copy of the Forensic Sexual Assault Medical Examination Contact Form (see Attachment B) which can be

included as part of your secured email submission with the claim, and if so requested by the Attorney General's Victim Compensation and Assistance Division any appropriate information demonstrating that the patient was not billed for any amount (including the patient co-payment and/or deductible).

3. The itemized bill and any applicable supporting documentation should be submitted within ninety days (90) from the date of the service or from the receipt of an EOB from an insurance (if the victim agrees to seek an initial coverage from their insurer) directly to the Attorney General's secure email: [VCCorrespondence@state.ma.us](mailto:VCCorrespondence@state.ma.us)
4. Reimbursement for the itemized bill shall be based on the hospital's current PAF factor used to pay hospital rates under the Victim Compensation and Assistance Division as required under G.L. c. 258C, §3(b)(2)(A) and 940 CMR 14.06(4)(g), these rates are available at <http://www.mass.gov/eohhs/docs/eohhs/eohhs-regs/wc-2015-paf.pdf>
5. Payments made to a hospital by the Victim Compensation and Assistance Division should be considered by the provider as payment in full for all services following the Definition of Forensic Exam, that includes the cost of the patient co-payment and/or deductible as well as the cost of medications provided the day of the exam.
6. Upon approval of the payment of the expense to the provider, the Victim Compensation and Assistance Division will send a letter to the facility contact on file with the Commonwealth of Massachusetts Vendor Web system, indicating that the Victim Compensation and Assistance Division has directed the Office of the State Treasurer to issue payment to the provider.



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**ATTACHMENT B**

**Forensic Sexual Assault Medical Examination Contact Form**

**SECTION 1. VICTIM INFORMATION**

Name: \_\_\_\_\_

Address: \_\_\_\_\_

Date of Birth: \_\_\_\_\_ Date of incident: \_\_\_\_\_

Kit #: \_\_\_\_\_ Date that the Kit was administered: \_\_\_\_\_

Town/City/State where this assault occurred: \_\_\_\_\_

*(Note: If assault occurred in another state, the Attorney General's Victim Compensation and Assistance Division cannot provide payment. Please contact the Division for information concerning the state compensation program that can assist with these expenses.)*

**SECTION 2. PROVIDER INFORMATION**

Name of Treating Hospital: \_\_\_\_\_

Name of hospital contact submitting claim: \_\_\_\_\_

Email: \_\_\_\_\_ Tel: \_\_\_\_\_

By submitting this information, the hospital affirms that this request for payment of a forensic medical examination are for services that were provided to the patient and are eligible for payment as described in the Protocol and Billing Procedures as described in the Memorandum related to Coverage for Forensic Medical Examinations in Cases of Sexual Assault. Hospital further accepts responsibility for the accuracy in the services provided and the requested coverage for the forensic medical examination costs.