

PROCEDURES AND GUIDELINES

For

THE SAFE (Sexual Assault Forensic Exam) PAYMENT PROGRAM

A division of

THE VIRGINIA VICTIMS FUND
(Officially the Criminal Injuries Compensation Fund)



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CONTACTS AND INFORMATION:

Questions about the SAFE Payment Program and the Virginia Victims Fund may be submitted via any of the following methods. Claim status requests may be submitted via email only.

- (1) Telephone
(800) 552-4007 (toll-free)
(804) 823-6907 (fax)
- (2) Mailing Address
SAFE Payment Program
Post Office Box 26927
Richmond, VA 23261
- (3) Website
www.virginiavictimsfund.org
- (4) Email
safe@virginiavictimsfund.org

SAFE PAYMENT PROGRAM OVERVIEW:

Amendments to §19.2-165.1 of the Code of Virginia took effect July 1, 2008, allowing a victim of an alleged sexual assault to request a Physical Evidence Recovery Kit (PERK) examination without being required to participate in the criminal justice system or cooperate with law enforcement as well as ensuring payment of the examination by the Commonwealth of Virginia. In response to this amendment, payment of all victim sexual assault forensic exams was transferred from the Supreme Court of Virginia to the Criminal Injuries Compensation Fund (CICF). The SAFE (Sexual Assault Forensic Examination) Payment Program was established within CICF to process claims submitted for payment of these exams.

Amendments to § 19.2-368.3 and § 19.2-368.11:1 required CICF to develop a distinct policy for payment of sexual assault forensic exams. In accordance with all of the above-listed sections of the Code of Virginia, the following policies and procedures outline the requirements for payment of a sexual assault forensic examination.

In 2016, CICF began a rebranding initiative to help victims and allied professionals better understand, describe, identify, and locate our agency. CICF is now publicly known as the Virginia Victims Fund (VVF), though the agency is still officially and legally the Criminal Injuries Compensation Fund. VVF and CICF may be used interchangeably throughout this document.

DEFINITIONS:

As used throughout these guidelines and all SAFE Payment Program materials, the following words and phrases shall have the following meanings:

Acute shall mean the alleged sexual assault occurred within 120 hours prior to the forensic examination.

Anonymous PERK shall mean the circumstance in which a patient is choosing **not** to participate in the criminal justice system or cooperate with law-enforcement authorities in order to have a PERK completed.

CICF shall mean the Criminal Injuries Compensation Fund.

Claim shall mean an account within VVF's database that is initiated only upon receipt of the Request for Payment Form.

Completed claim shall mean all documents and information, outlined in policy, required to determine claim and expense eligibility.

DCLS shall mean the Commonwealth of Virginia's Division of Consolidated Laboratory Services.

DFS shall mean the Commonwealth of Virginia's Department of Forensic Sciences.

Expense shall mean a service rendered for which payment is being sought.

Facility with capacity shall mean the health care provider has staff trained and/or certified to complete a forensic examination and collect evidence in accordance with Virginia's Healthcare Response Guidelines and the Commonwealth of Virginia's Department of Forensic Sciences' policies and procedures.

Forensic Examiner shall mean the individual(s) conducting the forensic examination.

HIV shall mean human immunodeficiency virus.

Medical Forensic Examination shall mean an examination by a health care provider for the purpose of collecting and/or documenting physical evidence, including injuries, with or without the collection of a PERK. The forensic examination should adhere to Virginia's Healthcare Response Guidelines as applicable.

Medical screening examination shall mean an examination conducted by qualified medical personnel to screen for acute medical conditions and mental health needs to ensure the patient is medically stabilized prior to undergoing a forensic examination.¹

¹ Virginia Sexual and Domestic Violence Action Alliance & Virginia Chapter of the International Association of Forensic Nurses (2009). *Virginia's Healthcare Response to Sexual Assault: Guidelines for the Acute Care of Adult and Post-Pubertal Adolescent Sexual Assault Patients*. Retrieved May 16, 2011 from www.sexualanddomesticviolencevirginia.org

Non-Acute shall mean the alleged sexual assault occurred more than 120 hours prior to the forensic examination.

nPEP shall mean non-occupational post-exposure prophylaxis and refers to the medication prescribed for a specific time-limited course for the prevention of HIV.

PERK shall mean the Commonwealth of Virginia's Department of Forensic Sciences' Physical Evidence Recovery Kit.

RPF shall mean Request for Payment Form.

SAFE shall mean Sexual Assault Forensic Exam.

Virginia's Healthcare Response Guidelines shall mean the [Virginia's Healthcare Response to Sexual Assault: Guidelines for the Acute Care of Adult and Post-Pubertal Adolescent Sexual Assault Patients](#). This document can be found online at www.sexualanddomesticviolencevirginia.org.

VVF shall mean the Virginia Victims Fund.

SAFE CLAIM ELIGIBILITY CRITERIA:

1. Crime occurred within the Commonwealth of Virginia.

- a. If the crime occurred in another state but the medical forensic examination was conducted in Virginia, the provider should contact that state for payment instructions.
- b. Medical forensic examinations conducted in another state for crimes occurring in Virginia are eligible for payment in accordance with these guidelines.

2. Evidence collection took place through completion of a PERK or through a medical forensic examination without a PERK.

- a. The request for payment must be for expenses related to the **collection of evidence through a medical forensic examination** from a patient that is a **victim of sexual assault**.
- b. Payment requests for medical forensic examinations conducted for other crime types, **including suspect PERKs**, should be submitted to the Supreme Court of Virginia. Please contact the Supreme Court of Virginia at (804) 786-6455 for further information or assistance.
- c. Requests for payment should not be submitted for **patients that decline the PERK or evidence collection, or if receiving medical care outside the time frame for evidence collection**. Payment of expenses that would otherwise be considered eligible are not payable if evidence collection is not taking place.
- d. PERK exams are acute medical forensic examinations that take place generally within 120 hours of the alleged assault, utilizing the Commonwealth of Virginia's Department of Forensic Sciences' (DFS) PERK in accordance with DFS collection guidelines.

NOTE: Patients 13 years of age and older shall not be required to participate in the criminal justice system or cooperate with law-enforcement authorities in order to have a PERK collected or paid for (noted on the RPF as an anonymous PERK); however, providers should adhere to all applicable mandatory reporting laws as well as mandatory reporting policies established by the respective healthcare facility.

- e. Non-acute medical forensic examinations and medical forensic examinations conducted without the use of a PERK **must have appropriate authorization**. Per § 19.2-165.1 (A), collection of evidence must take place as part of a criminal case, authorized by the attorney for the Commonwealth. Law-enforcement authorities may authorize a forensic examination on behalf of the attorney for the Commonwealth. **NOTE: *Child Protective Services (CPS) investigations alone are civil in nature and do not meet the requirements of § 19.2-165.1 (A).***
- f. Follow-up medical forensic examinations may be considered eligible for payment as long as the following conditions are met:
 - i. The initial examination was eligible for payment by the SAFE Payment Program.
 - ii. The purpose of the exam is to document the healing of injuries or to determine anatomical variances from possible injuries noted in the initial forensic examination.

- iii. The follow-up examination is **requested and authorized** by the Attorney for the Commonwealth or law-enforcement official.

An exception may be granted for follow-up forensic examinations necessary for anonymous PERK cases.

3. **The completed claim (see BILLING INSTRUCTIONS section) is submitted by the healthcare facility or provider within one (1) year from the date of the medical forensic examination.**
 - a. Patients shall not be held liable for expenses denied due to improper or untimely submission.
 - b. Patients should only receive bills from providers for expenses considered ineligible for payment by the SAFE Payment Program.
 - c. If a patient makes a payment, the patient may seek reimbursement within one (1) year of the date of medical forensic examination.

EXPENSE ELIGIBILITY CRITERIA:

1. To be eligible for payment, expenses *incurred as part of the collection of forensic medical evidence as listed below* must be:

- a. Completed at the time of the eligible forensic examination**, except for expenses related to administering HIV PEP medication as outlined below.
- b. Performed based on each patient's individual need and preference.**
- c. Rendered by licensed health care practitioners.**
- d. Include justification when required.** If a required explanation is not included, the expense will be denied.

2. Eligible Expenses

- a. Forensic examiner service fees shall include all of the following, as patient need and preference dictates:
 - i. History and documentation of the alleged sexual assault.
 - ii. Head-to-toe physical examination.
 - iii. Anogenital examination, with or without the use of a colposcope and/or anoscope.
 - iv. Written and/or photographic documentation of evidence and injuries.
 - v. Collection of specimens for laboratory testing.
 - vi. Completion of the Commonwealth of Virginia's Department of Forensic Sciences' PERK for acute forensic examinations.
 - vii. Administration of prophylactic medication for the prevention of pregnancy and sexually transmitted diseases.
 - viii. All space, medical equipment, and supplies required to complete above-listed services.
- b. Physician fees for the service of conducting a medical screening examination.
- c. Ambulance fees for the patient to be transported by ambulance to a medical facility for the forensic examination.
- d. Laboratory fees
 - i. Testing for sexually transmitted infections:
 - 1. Culture or nucleic acid amplification test for Chlamydia and Gonorrhea.
 - 2. Blood testing for syphilis, Hepatitis B and HIV
 - 3. Wet mount, KOH test or urogenital cultures for trichomoniasis and/or bacterial vaginosis.
 - 4. Blood testing for Hepatitis C or Hepatitis Panel.
 - 5. Cultures for HSV (Herpes simplex virus) or HPV (human papillomavirus).

- ii. Qualitative pregnancy testing by blood or urine.
- iii. The following tests may be considered eligible as long as performed for a specific forensic purpose:
 - 1. Urine or blood testing for alcohol or drugs.
 - 2. Quantitative pregnancy testing.
 - 3. Other laboratory testing deemed forensically necessary (justification must be included on the RPF).
- e. Medications
 - i. Pregnancy prophylaxis (emergency contraception).
 - ii. Prophylactic medication to prevent sexually transmitted infections.²
 - 1. Antimicrobial medication for the prevention of Chlamydia, gonorrhea and trichomoniasis.
 - 2. Post-exposure hepatitis B vaccine, without HBIG (*Hepatitis B immune globulin*).
 - iii. One dose sedative, antidepressant or tranquilizer.
 - iv. Antiemetic.
- f. Other expenses for services necessary to conduct the forensic examination may be considered, however a detailed explanation **must be included**.
- g. HIV nPEP and related services
 - i. Initial (baseline) and follow-up laboratory testing to administer prophylactic medication for the prevention of HIV.
 - 1. HIV test.
 - 2. Complete blood count (CBC).
 - 3. Serum chemistry.
 - ii. Full-course of HIV PEP medication as prescribed by the health care provider(s).
 - iii. Anti-nausea medication as prescribed by the health care provider(s), up to a 28-day supply.
 - iv. Follow-up physical examination by a primary care physician, obstetrician/gynecologist, or other health care provider for the purpose of monitoring overall health while taking the HIV nPEP medication.
 - v. The recommended time frame for follow-up care is generally within 1 week after starting the medication and at the completion of the medication as prescribed.

² Centers for Disease Control and Prevention (2015). *Sexual Assault and Abuse and STDs, 2015*. Retrieved 10/16/2017 from <https://www.cdc.gov/std/tg2015/sexual-assault.htm>.

3. Ineligible expenses

- a. Except as outlined above, the following expenses are not eligible for payment by the SAFE Payment Program. Certain expenses that are considered crime-related may be eligible for compensation by patient application to VVF.
 - i. Treatment of injuries or existing medical conditions.
 - ii. Follow-up appointments that are not forensic in nature.
 - iii. Follow-up laboratory testing or medication.
 - iv. Duplicative services.
 - v. Medications filled subsequent to the forensic exam.
 - vi. Air transport.
 - vii. Counseling.
 - viii. Lost wages due to physical or emotional injury.

BILLING INSTRUCTIONS:

1. **The following information is required and must be received within one (1) year from the date of service in order to receive payment:**
 - a. **The completed SAFE Payment Program Request for Payment Form (RPF).**
 - b. **The itemized, detailed bill** containing the provider's name, address, and tax identification number. Health Insurance Claim Forms (HICF) alone may not be considered if the form does not list each expense in detail.
 - c. **The summary or Explanation of Benefits (EOB) from the insurance provider** (when applicable, see Collateral Resources section) that shows insurance decision, decision code descriptions, and remaining patient responsibility.
 - d. **Prescription expenses** must show the date filled, patient name, medication name, prescribing physician, and amount owed/paid by the patient.
 - e. **Supplemental documentation** may be requested or required to aid in the determination of claim or expense eligibility (to include, but not limited to, medical records, forensic documentation, etc.)
2. Collateral Resources
 - a. Federally-funded insurances (FFI)
 - i. All federally-funded insurances, such as Medicaid, Medicare, Tricare, Veterans' Administration, etc., **must be billed first**. The remaining out-of-pocket patient responsibility may be submitted for consideration.
 - b. Private health insurance
 - i. The SAFE Payment Program **does not require** the billing of private health insurances; however, if a patient elects to use available collateral resources, as indicated on the Request for Payment Form, that insurance must be billed first. The remaining out-of-pocket patient responsibility may be submitted for consideration.
3. Collections
 - a. §19.2-368.5:2 of the Code of Virginia prohibits providers from placing a patient in collections once a claim has been submitted to the SAFE Payment Program until a payment decision has been rendered.
4. Payments
 - a. In accordance with §19.2-368.3 of the Code of Virginia, healthcare providers must establish negotiated rates for payment of claims administered through VVF and payments issued by the SAFE Payment Program are subject to the on-file agreement.
 - b. Payment is issued by the Virginia Department of the Treasury and should be received by the provider within 30 days from the date of expense approval.
5. Completed claim submission
 - a. Please submit all required documentation to the SAFE Payment Program via one of the following methods:

- i. Mail to: Post Office Box 26927, Richmond, VA 23261
- ii. Fax: (804) 823-6907
- iii. Email: safe@virginiavictimsfund.org

6. Claim status requests

- a. Please send all requests for claim status to safe@virginiavictimsfund.org.

PREPAID PERK SHIPPING LABELS:

In accordance with § 19.2-11.6 of the Code of Virginia, anonymous PERKs shall be stored at the Division of Consolidated Laboratory Services. The SAFE Payment Program will pay for the cost to ship anonymous PERKs to the DCLS.

Requests for prepaid shipping labels should be submitted via email to safe@virginiavictimsfund.org and include the following information:

1. Return mailing address
2. PERK ID number
3. Weight of complete package (PERK and outer shipping box)
4. Email address to receive tracking information
5. Date the package will be shipped

Labels can be printed on Avery 8126 or 5126 (2 labels per page) or on plain paper and attached with tape to the outer box.

Requests for labels will be responded to first thing in the morning, Monday through Friday, no later than 10:00 a.m. Exceptions include office closings for holidays, inclement weather, or other unforeseeable circumstances. Requests received after 10:00 a.m. will be responded to on the following business day.

Detailed PERK shipping instructions can be found on DCLS's website at:

<http://www.dgs.state.va.us/DivisionofConsolidatedLaboratoryServices/PERK/tabid/1138/Default.aspx>.

RECONSIDERATION OF EXPENSE ELIGIBILITY:

If an expense is denied, a denial letter will be sent to the provider notating the reason. The expense may be reconsidered upon receipt of new information that contradicts the information on which the denial was based on as long as it is submitted during the 1-year filing period. There is no appeal process for SAFE claims.

PAYMENT FOR OTHER CRIME-RELATED EXPENSES:

If a patient incurs costs for ineligible expenses, including treatment for injuries, subsequent medical care, counseling, time missed from work, moving expenses, etc., he or she may wish to file an application with the Virginia Victims Fund (VVF). In order to be eligible for VVF, the patient must report the crime to law enforcement and cooperate with prosecution efforts. Claim forms can be found at virginiavictimsfund.org or at local victim-serving programs. Please note that payment of a forensic exam does not guarantee payment of additional crime-related costs submitted to VVF as the process and eligibility requirements differ.

If a patient does not wish to file a crime victim compensation claim through VVF or if the patient is ineligible for crime victim compensation (not reporting the crime to law enforcement, for instance), the patient and/or the patient's health insurance will be responsible for all expenses beyond the forensic exam.

RECOVERY OF FUNDS PAID FOR FORENSIC EXAMS:

§19.2-165.1 of the Code of Virginia allows for the recovery of funds paid for forensic exams. “Upon conviction of the defendant in any case requiring the payment of medical fees authorized by this section, the court shall order that the defendant reimburse the Commonwealth for payment of such fees.”³ The amount paid for the examination is to be added to the assessment of court costs and fees in accordance with §17.1-275.5 of the Code of Virginia.

³ Code of Virginia §19.2-165.1. (2008). *Payment of medical fees in certain criminal cases; reimbursement*. Retrieved May 25, 2011 from <http://leg1.state.va.us/000/cod/19.2-165.1.HTM>.

FREQUENTLY ASKED QUESTIONS:

1. Question: Law enforcement has investigated the alleged sexual assault prior to the patient presenting at the medical facility and determined that either no crime occurred or that completion of a PERK is not required. Will a PERK be paid for if done anyway?

Answer: §19.2-165.1 directs that the Commonwealth must pay for a PERK exam if requested by a patient. We encourage law enforcement and forensic examiners to work together with the patient to explain all options to ensure successful outcomes of criminal cases while minimizing further impact of the crime on the patient.

2. Question: It is part of our facility's protocol to perform certain procedures for sexual assault patients that are not listed as eligible in policy. Will these expenses be paid?

Answer: SAFE Payment Program policy dictates what expenses will be paid, not a facility's standard treatment protocol. An explanation of the forensic purpose of an expense for a particular patient may accompany the claim for consideration, but does not guarantee payment.

3. Question: A patient presented to our facility that was a victim of sexual assault. She was insistent that she did not want a PERK collected or to report the crime to law enforcement; however, I took photos and documented injuries just in case. Will this exam be paid for?

Answer: No. The patient must request that a forensic exam take place and a PERK must be used in order for the examination to be eligible for reimbursement.

4. Question: Forensic examiners are on-call at our facility. If a forensic examiner is called out, but a patient declines evidence collection, are we reimbursed for our time?

Answer: No. The SAFE Payment Program only pays for time involved with the collection of evidence.

5. Question: Law enforcement or a prosecutor contacted me to discuss a case or to review forensic documentation/evidence to aid in their investigation. Can I be compensated for my time through the SAFE Payment Program?

Answer: No. The Supreme Court of Virginia allows for compensation of experts in certain circumstances. You may contact the Supreme Court of Virginia at (804) 786-6455 for more information.

6. Question: A child's primary care physician or Child Protective Services worker requested the forensic exam. Will the exam be paid for by the SAFE Payment Program?

Answer: No, unless authorization for the exam was obtained by an attorney for the Commonwealth or law-enforcement official in accordance with §19.2-165.1.

7. Question: Our facility needed to perform a forensic examination under anesthesia because a child victim was unable to tolerate the exam. Will expenses for the anesthesiologist, medications, etc., be covered?

Answer: Certain expenses may be considered for payment as long as a detailed explanation of each expense and the purpose of the expense are included in the completed claim.