

PROCEDURES AND GUIDELINES
For
THE SAFE (Sexual Assault Forensic Exam) PAYMENT PROGRAM

A division of
THE VIRGINIA VICTIMS FUND



Post Office Box 26927
Richmond, Virginia 23261
(800) 552-4007

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CONTACTS AND INFORMATION:

Requests for additional information about the SAFE Payment Program and the Criminal Injuries Compensation Fund, as well as completed claims, 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)
(877) 377-5164 (fax)
- (2) Mailing Address
SAFE Payment Program
Post Office Box 26927
Richmond, VA 23261
- (3) Website
www.cicf.state.va.us
- (4) Email
forensicpayments@cicf.virginia.gov

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.

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 72 to 96 hours prior to the forensic examination.

CICF shall mean the Criminal Injuries Compensation Fund.

Claim shall mean an account within CICF'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 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 examination shall refer to the process by which forensic evidence is collected, to include all services directly related to the collection of forensic evidence, with or without the use of a PERK, as well as the initial testing of and administration of prophylactic medication for the prevention of pregnancy and sexually transmitted diseases. The forensic examination should adhere to Virginia's Healthcare Response Guidelines as applicable.

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

HIV shall mean *human immunodeficiency virus*.

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

Non-Acute shall mean the alleged sexual assault occurred more than 96 hours prior to the forensic examination.

PEP shall mean *post-exposure prophylaxis*.

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

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

Restricted Report 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.

RPF shall mean Request for Payment Form.

SAFE shall mean Sexual Assault Forensic Exam.

Unrestricted Report shall mean the circumstance in which a patient is choosing to actively participate in the criminal justice system and is cooperating with law-enforcement authorities at the time of the 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.

SAFE CLAIM ELIGIBILITY REQUIREMENTS:

- I. Collection of Evidence
 - a. The claim submitted must be for expenses pertaining to the **collection of forensic evidence** from a patient that is a **victim of sexual assault**.
 - i. Payment of forensic examinations conducted for other purposes, **including suspect PERKs**, generally require authorization by the investigating jurisdiction who will submit the request to the Supreme Court of Virginia, in accordance with their payment policies and guidelines. Please contact the Supreme Court of Virginia at (804) 786-6455 for further information or assistance.
 - b. Claims submitted for **patients that decline the PERK or evidence collection are not eligible** for payment through the SAFE Payment Program and will be denied.
- II. PERK exams
 - a. An acute forensic examination must take place within 72 to 96 hours of the alleged assault, utilizing the Commonwealth of Virginia's Department of Forensic Sciences' (DFS) PERK in accordance with DFS and Virginia's Healthcare Response 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 a restricted report or unreported crime); however, providers should adhere to all applicable mandatory reporting laws as well as mandatory reporting policies established by the respective healthcare facility.*
- III. Appropriate authorization for forensic exams not utilizing a PERK
 - a. Non-acute forensic examinations and 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).*
- IV. Follow-up Exams
 - a. Follow-up 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.
 1. An exception may be granted for follow-up forensic examinations necessary for restricted reporting or unreported cases.
- V. Location of Crime
 - a. The alleged sexual assault must have occurred **within the Commonwealth of Virginia**.
 - b. For crimes that occur outside of the Commonwealth, within a military establishment in the Commonwealth against a member of the military, or within a jail or correctional institution, the provider should contact the entity requesting the examination for payment instructions.
- VI. Filing Period
 - a. **The completed claim must be submitted by the healthcare facility or provider within one (1) year** from the date of the forensic examination. Patients shall not be held liable for expenses denied due to improper or untimely submission.
 - i. Patients should only receive bills from providers for expenses considered ineligible for payment by the SAFE Payment Program. However, if a patient does receive a bill for the forensic examination, the patient may seek reimbursement within one (1) year of the date of forensic medical examination.

EXPENSE ELIGIBILITY REQUIREMENTS:

- I. **To be eligible for payment, the expenses *related to the collections 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. **Clearly identified on the Request for Payment Form.** Expenses not identified on the RPF will be denied for payment, which could result in improper patient billing.
 - e. **Include justification when required.** If a required explanation is not included, the expense will be denied.
- II. **Eligible Expenses**
 - a. **Forensic Examiner Services**
 - i. Forensic examiner fees shall include all of the following, as patient need and preference dictates:
 1. History and documentation of the alleged sexual assault.
 2. Head-to-toe physical examination.
 3. Anogenital examination, with or without the use of a colposcope and/or anoscope.
 4. Written and/or photographic documentation of evidence and injuries.
 5. Collection of specimens for laboratory testing.
 6. Completion of the Commonwealth of Virginia's Department of Forensic Sciences' PERK for acute forensic examinations.
 7. Administration of prophylactic medication for the prevention of pregnancy and sexually transmitted diseases.
 8. All space, medical equipment, and supplies required to complete above-listed services.
 - b. Fees for the services of a physician to conduct a medical screening examination.
 - c. Fees for the patient to be transported by ambulance to a facility with the capacity to conduct the forensic examination.
 - d. **Laboratory**
 - i. Testing for sexually transmitted diseases:
 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.
 - 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. Blood testing for Hepatitis C or Hepatitis Panel.
 2. Urine or blood testing for alcohol or drugs.
 3. Cultures for HSV (Herpes simplex virus) or HPV (human papillomavirus).
 4. Quantitative pregnancy testing.
 5. Other laboratory testing deemed forensically necessary (justification must be included on the RPF).
 - e. **Medications**
 - i. Pregnancy prophylaxis (emergency contraception).
 - ii. Sexually transmitted disease prophylaxis.²

² Centers for Disease Control and Prevention (2010). *Sexually Transmitted Diseases Treatment Guidelines, 2010*. Retrieved May 16, 2011 from www.cdc.gov/std/treatment/2010/sexual-assault.htm.

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 PEP 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 PEP medication.
- III. Ineligible expenses
- a. Except as outlined above, the following expenses are not eligible for payment by the SAFE Payment Program; however, certain expenses that are considered crime-related may be eligible for compensation by patient application to CICF.
 - 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 off-site.
 - vi. Air transport.
 - vii. Counseling.
 - viii. Lost wages due to physical or emotional injury.

BILLING INSTRUCTIONS FOR HEALTHCARE FACILITY/PROVIDER:

- I. Required Documentation of a Completed Claim
 - a. The two-page SAFE Payment Program Request for Payment Form (RPF) completed according to the instructions on page 12.
 - b. The itemized, detailed bill, which must contain the provider's name, address, and tax identification number. Health Insurance Claim Forms (HICF) by themselves may not be considered.
 - c. The summary or Explanation of Benefits (EOB) from the insurance provider (when applicable) that shows insurance decision, decision code descriptions, and remaining patient responsibility. *Prescription expenses must show the date filled, patient name, medication name, prescribing physician, and amount owed/paid by the patient.*
 - d. 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.)
- II. Collateral Resources
 - a. Federally-funded insurances (FFI)
 - i. If a patient is covered by FFI, such as Medicaid, Medicare, Tricare, Veterans' Administration, etc., that insurance **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.
- III. Collections
 - a. §19.2-368.5:2 of the Code of Virginia prohibits providers from placing a patient in collections once a completed claim has been submitted to the SAFE Payment Program until a payment decision has been rendered.
- IV. 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 CICF. All payments issued by the SAFE Payment Program are subject to the on-file agreement and should be received by the provider within 30 days from the date of expense approval.
- V. 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: (877) 377-5164
 - iii. Email: forensicpayments@cicf.virginia.gov
- VI. Claim status requests
 - a. Please send all requests for claim status to forensicpayments@cicf.virginia.gov.

INSTRUCTIONS FOR COMPLETING THE REQUEST FOR PAYMENT FORM (RPF):

- I. The RPF must be completed in its entirety even if the patient is not reporting the crime to law enforcement. A claim is not generated within our system and **payment will not be issued without this form.**
- II. Section 1 – Forensic Examiner Verification
 - a. This section shall be signed by the individual conducting the forensic examination to verify that this claim is being submitted in accordance with SAFE Payment Program policies and guidelines.
 - b. Exam type must be selected and all requested information completed or the claim will be denied. If a PERK is being sent to DCLS because the investigating agency refuses to accept and store the PERK, please notate the reason for the refusal.
- III. Section 2 – Patient Information
 - a. Patient labels may replace writing in the patient's name, date of birth, last four digits of the Social Security number, and sex.
 - b. The patient's address is not required. If the patient wishes, please include an address and the patient will be notified regarding payment of the forensic exam, any remaining balance that he or she may be responsible for as well as information about compensation of additional crime-related expenses.
 - c. The name of the patient's parent or legal guardian present at the time of exam (for minors only) should be included in the event that individual contacts the SAFE Payment Program regarding payment of the exam.
 - d. Billing Method
 - i. If the patient is covered by a federally-funded insurance, **that insurance must be billed first** and the first box should be checked.
 - ii. If the patient elects to have his or her private insurance billed then the second box should be checked and that insurance should be billed prior to submitting the claim to the SAFE Payment Program.
 - iii. If the patient is not covered by a federally-funded insurance and wishes for the SAFE Payment Program to cover all eligible expenses, then the third box should be checked.
- IV. Section 3 – Incident/Exam Information
 - a. The date and time of crime must be included. If the exact date or time is unknown, please estimate based on the information provided by the patient.
 - b. The city or county in which the crime took place must be included. If the exact jurisdiction is unknown, then list the jurisdiction that the crime is/was reported to. If the crime occurred out of state, within a military establishment in the Commonwealth against a member of the military, or within a jail or correctional facility, the claim will be denied. Payment can be sought from the entity requesting the examination.
 - c. Please indicate the investigating agency if it differs from the investigating agency of the jurisdiction in which the crime occurred.
 - d. For PERK exams only, please indicate if the crime is unreported (blind) or if the report to law enforcement is restricted.
 - e. Date and time of exam should be included as well as the patient's medical record or account number.
- V. Section 4 – Expenses
 - a. Any expenses that appear on the bill that are not indicated in this section will not be eligible for payment. Please select all applicable expenses to protect the patient from being inadvertently billed for a service that may be eligible. This section may be omitted if exact equivalent documentation is provided, to include forensic justification for additional labs and/or services.
 - b. Part 1 – General expenses
 - i. Forensic Examiner Services

1. Examiner fee should be selected even if the exam is performed by a physician and shall include any and all services and equipment necessary to conduct the exam, which may be itemized on the bill.
 - ii. Physician Fee
 1. Please indicate if a physician conducted a medical screening exam and if the physician bills separately. If this box is not checked, any bill for physician services will be denied, which may result in improper patient billing.
 - iii. Ambulance Fee
 1. Please indicate if the patient was transferred by ambulance from a facility that was unable to perform the PERK.
 - iv. Please indicate if the PERK was sent to DCLS and payment is being sought for shipping costs. Make sure to include the receipt with the completed claim.
- c. Part 2 – Laboratory
 - i. Indicate which labs were conducted and include the forensic reason for the lab when required.
- d. Part 3 – Additional labs and expenses
 - i. Expenses listed in this section are eligible only if conducted for a specific forensic purpose. Please do not include the service if conducted for treatment-related purposes.
- e. Part 4 – Medications
 - i. Indicate which medications were provided to the patient, specifying if the particular medication is not included in this list.

A NOTE ABOUT STORAGE OF THE PERK:

Executive Order 92 was issued in 2009 by the Governor of Virginia to give additional options for the storage of PERKs. Citing current challenges for preservation and storage of evidence, Executive Order 92 allows for the PERK to be sent to the Division of Consolidated Laboratory Services (DCLS) for limited and temporary storage when the patient “is not yet prepared to release identifying information to law enforcement.”³ Should a provider choose to send a PERK to DCLS, please note the following:

- I. As the payer of costs for the completion of the PERKs, the SAFE Payment Program prefers the investigating agency (or agency that would investigate if the patient chose to report and cooperate at the time of the exam) to take custody of and store the PERK. If the investigating agency refuses, please indicate the reason on the RPF.
- II. Storage by DCLS is limited and temporary.
 - a. DCLS will not accept any evidence that is not contained within the PERK itself, nor will they accept chain of custody blood and urine specimens.
 - b. DCLS will dispose of the evidence 120 days from date of receipt unless contacted by a law-enforcement official or attorney for the Commonwealth.
- III. Chain of custody must be maintained when shipping the PERK to DCLS. See DCLS's website for shipping instructions at <http://www.dgs.virginia.gov/DivisionofConsolidatedLaboratoryServices/PERK/tabid/1138/Default.aspx>.
- IV. Actual costs for shipping the PERK to DCLS can be reimbursed by the SAFE Payment Program.
 - a. If the investigating agency is **unwilling take custody of the PERK for storage because the patient declined to release personal information**, the SAFE Payment Program will reimburse the provider for actual costs to deliver the PERK to DCLS by certified mail or other method that maintains chain of custody. The provider will need to submit a copy of the receipt with the completed claim and note the reason on the Request for Payment Form.

³ Commonwealth of Virginia: Office of the Governor. *Executive Order Number Ninety-Two (2009): Directing the Division of Consolidated Laboratory Services of the Department of General Services to accept and store physical evidence recovery kits received from health care providers.*

RECONSIDERATION OF CLAIM ELIGIBILITY:

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

PAYMENT FOR OTHER SERVICES/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 Criminal Injuries Compensation Fund (CICF). In order to be eligible for CICF, the patient must report the crime to law enforcement and cooperate with prosecution efforts. Claim forms can be found at www.cicf.state.va.us 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 CICF as the process and eligibility requirements differ.

If a patient does not wish to file a crime victim compensation claim through CICF 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."⁴ 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.

⁴ 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: Yes, **as long as** 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.