**U.S. Department of Justice**

Office of Justice Programs

*Office for Victims of Crime*

*Washington, D.C. 20531*

**To:** **Victims of Crime Act State Administrators**

**From:** **Kathrina S. Peterson**    Kathrina Peterson    Digitally signed by Kathrina Peterson
Date: 2021.01.25 15:57:29 -05'00'

**Date:** **January 25, 2021**

**RE:** **Including State Payments for Sexual Assault Forensic Exams on Victim Compensation Certification Forms**

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**Background**

In the July 2019 Office of the Inspector General's "Review of the Office of Justice Programs' Efforts to Address Challenges in Administering the Crime Victims Fund Programs," the OIG asked that OJP provide additional clarification regarding the charging and certification of forensic exam payments.

Specifically, the OIG noted in Recommendation 6: "We recommend that OJP provide additional guidance on the charging and certification of forensic exam payments with respect to the CVF compensation program, particularly for States that have additional sources of funding available for this purpose."

**Purpose**

This memorandum serves to provide clarification regarding the charging and certification of forensic exam payments with respect the Crime Victims Fund (CVF) Compensation Program.

**Clarifications**

1. **May a state use VOCA Compensation grant funds to pay for sexual assault forensic exams?**

   Yes, to the extent that the state compensation program compensates for sexual assault forensic exams, a state crime victim compensation program "may use VOCA compensation grant funds to pay for eligible expenses allowed by state compensation statute, rule, or other established policy." *See* VOCA Compensation Guidelines (2001), sec. II.

2. **May a state include state payments for sexual assault forensic exams on its Victim Compensation Certification form?**

   Yes, with some limited exceptions, a state may include state payments for sexual assault forensic exams on its Victim Compensation Certification form. The VOCA Compensation Guidelines (2001), at sec. IV.B.2.(b)(ii)(8), describe the circumstances under which a state may include a state-funded payment for a sexual assault forensic exam (SAFE) on the state's Victim Compensation Certification (in Part I, Line A of the form):

   > A state may certify payments related to forensic sexual assault examinations (1) If such payments are made from funds administered by the compensation programs and are allowable under state statute, rule, or other established policy; and (2) to the extent that other funding sources such as state appropriations specifically earmarked for these exams are unavailable or insufficient.

   OVC generally understands the second condition of this provision to apply narrowly. That is, allowable payments for forensic sexual assault examinations "made from funds administered by the compensation programs" generally may be included on the state's certification. There may be circumstances where a state maintains "other funding sources" that are "specifically earmarked" for forensic sexual assault examinations. (Such "other funding source" typically would NOT be a state's victim fund or other general fund, even if such fund were generally available to pay for exams.) OVC notes that the provision was drafted in 2001, before the 2005 amendment to Violence Against Women Act incentivizing states to eliminate victims' out-of-pocket costs for exams. State payment regimes differ (and can be somewhat complex) depending on a variety of state-specific factors. Consequently, in cases where the provision creates potential issues for a state in implementing a payment regime that seeks to meet the VAWA requirements, the state should contact OVC to address these state-specific issues in advance. States have some flexibility under the Guidelines to reconcile overlapping payment regimes, and OVC typically does not wade into how a state compensation program fits in the state's regime for sexual assault forensic exam payments, provided the state approach seems reasonable and aimed at eliminating the out-of-pocket financial burden for victims.