

Chapter 137

Division 84

SEXUAL ASSAULT VICTIMS' EMERGENCY MEDICAL RESPONSE FUND

137-084-0001

Definitions

- (1) "Department" means the Oregon Department of Justice.
- (2) "Fund" means the Sexual Assault Victims' Emergency Medical Response Fund.
- (3) "Application Form" means the most current version of the Application for Payment Sexual Assault Victims' Emergency Medical Response Fund form issued by the Department of Justice.
- (4) "Eligible victim" means a person who has self-identified or been identified by another as a victim of a sexual assault that occurred in Oregon and who receives a medical examination by an eligible medical services provider within the time periods established in OAR 137-084-0010(4) and (5).
- (5) "Eligible Medical Services Provider" means a person who has the facilities and supplies necessary to provide the complete medical assessment as provided in these rules and who is currently licensed in one of the following categories: a SANE/SAE, a registered nurse acting under the direct supervision of a Doctor of Medicine or a Doctor of Osteopathy, a nurse practitioner, a Physician's Assistant, a Doctor of Medicine, or a Doctor of Osteopathy.
- (6) "Oregon State Police SAFE Kit" means the sexual assault forensic evidence collection kit, including protocol guidelines, approved by and distributed by the Oregon Department of State Police.
- (7) "Medical Examination" means a medical examination of a victim of sexual assault conducted within the accepted patient standard of care by an eligible medical services provider.
- (8) "Complete Medical Assessment" means use of an Oregon State Police SAFE Kit in conjunction with a medical examination of a victim of sexual assault conducted within the accepted patient standard of care by an eligible medical services provider.
- (9) "Partial Medical Assessment" means a medical examination of a victim of sexual assault conducted within the accepted patient standard of care by an eligible medical services provider.
- (10) "Sexually Transmitted Disease Prophylaxis" means administering prophylactic drugs to prevent sexually transmitted disease, or providing a prescription for such medication to be filled on-site, in conjunction with a complete medical assessment or a partial medical assessment.
- (11) "Emergency Contraception" means administering prophylactic drugs to prevent pregnancy, or providing a prescription for such medication to be filled on-site, in conjunction with a complete medical assessment or a partial medical assessment.
- (12) "SANE/SAE" (Sexual Assault Nurse Examiner/ Sexual Assault Examiner) means a nurse who has received certification as a SANE/SAE from the International Association of Forensic Nurses or from the Oregon Attorney General's Sexual Assault Task Force.

137-084-0005**Contributions to the Fund**

- (1) The sexual assault victim assistance fund may receive state general fund appropriations, gifts, grants, federal funds, or other public or private funds or donations.
- (2) Any contribution to the Fund should be given to the Department accompanied by notice in writing from the contributor stating the intention to have the contribution deposited into the Fund.
- (3) Any contributions to the Fund received by the Department shall be deposited in the Fund as soon as practicable.

137-084-0010**Claims Processing**

- (1) A victim of a sexual assault who wants the Fund to pay for a medical examination, collection of forensic evidence using the Oregon State Police SAFE Kit, or other services provided in conjunction with the sexual assault exam, must indicate to the medical service provider that they wish for the provider to submit a completed Application Form to the Department.
- (2) To obtain payment from the Fund, an eligible medical services provider must submit the Application Form to the Department within one year of the date the medical services are provided. At the Department's discretion, the Department may choose to pay claims that are received after one year of the date the medical services are provided.
- (3) All medical services invoices must include an itemized billing statement and must be submitted by the eligible medical services provider with the Application Form.
- (4) To be paid for by the Fund, a complete medical assessment using the Oregon State Police SAFE Kit must be completed within 84 hours (three and one-half days) of the sexual assault. The Kit must have been released to appropriate law enforcement personnel in a timely manner after its use for collection of information.
- (5) To be paid for by the Fund, a partial medical assessment must be completed within 168 hours (seven days) of the sexual assault of the victim.
- (6) Completed Application Forms submitted with medical services invoices will be processed for payment by the Fund within 60 days of submission.

137-084-0020**Maximum Amounts Paid for Medical Services**

- (1) For dates of service beginning July 1, 2019, the Fund will pay eligible medical services providers the costs incurred for providing sexual assault medical services to victims of sexual assault up to the following maximum amounts:
 - (a) \$475.00 for a medical examination plus collection of forensic evidence using the Oregon State Police SAFE Kit;

(b) \$215.00 for a medical examination without collection of forensic evidence using the Oregon State Police SAFE Kit;

(c) \$70.00 for emergency contraception (including pregnancy test);

(d) \$125.00 for sexually transmitted disease prophylaxis;

(e) Up to five (5) days of HIV prophylaxis will be paid at 50% of the amount charged; up to a maximum amount listed in 137-084-0020 (h);

(f) \$95.00 for services provided by a Doctor of Medicine or a Doctor of Osteopathy;

(g) Payment for all other services provided in conjunction with the sexual assault exam will be calculated using the Oregon Workers Compensation Fee Schedule, up to a maximum amount listed in 137-084-0020(h); see section 137-084-0030 for examples of non-covered services;

(h) The combined maximum payment amount for services listed in 137-084-0020 (e) and (g) will not exceed \$2,000.00;

(i) Payment for laboratory and radiology services provided in conjunction with the sexual assault exam will be calculated using the Oregon Workers Compensation Fee Schedule up to a combined maximum amount of \$500.00.

~~(h)~~ Any services provided after the date of the sexual assault exam will not be paid by the SAVE Fund with the exception of 137-084-0020(k). Services after this date may be covered by the Crime Victims' Compensation Program.

~~(k)~~ Five (5) counseling sessions; counseling sessions expire 18 months from the date of the sexual assault exam:

(i) \$140.00 per hour for a Doctor of Medicine;

(ii) \$110.00 per hour for a PhD, PsyD, or PMHNP;

(iii) \$85.00 per hour for an LCSW, LPC, or LMFT;

(iv) \$55.00 per hour for a QMHP.

(2) An additional payment of \$95.00 will be made to eligible medical services providers who document that the medical examination, as part of either a partial or complete medical assessment, was conducted by a SANE/SAE as described in section 137-084-0001 of these rules.

(3) The payment amounts set out in this rule will be reviewed at least every four years by the Attorney General or the Attorney General's designee to determine whether they should be adjusted to meet current circumstances.

(4) An eligible medical services provider (including subcontractor or other designee) who submits a bill to the Fund under these rules may not bill the victim or the victim's insurance carrier for a medical examination, collection of forensic evidence using the Oregon State Police SAFE Kit, or other services provided in conjunction with the sexual assault exam, except to the extent the Department is unable to

pay the bill due to lack of funds or declines to pay the bill for reasons other than untimely or incomplete submission of the bill to the Fund under OAR 137-084-0030(2)(e).

137-084-0030

Payment Restrictions and Disqualifications

(1) The Fund will not pay for any service not specifically described in ORS 147.397 or OAR 137-084-0001 through 137-084-0030. Examples of services not covered by the Fund include, but are not limited to: DNA testing; prescriptions filled off-site of the location of a medical examination; follow-up services; [anesthesia services](#); and transportation. Nothing in this rule is intended to preclude an eligible medical services provider from submitting a claim against the victim, the victim's insurance carrier or any other source for payment for services not specifically described in ORS 147.395 through 147.397 or OAR 137-084-0001 through 137-084-0030.

(2) The Fund reserves the right not to pay for medical services described in ORS 147.395 through 147.397 or OAR 137-084-0001 through 137-084-0030 for any one of the following reasons:

(a) Services were not provided by an eligible medical services provider.

(b) Services were provided to someone other than an eligible victim.

(c) Services were provided after the date of the sexual assault exam.

(d) Services were not provided in accordance with the requirements in ORS 147.395 through 147.397 or OAR 137-084-0001 through 137-084-0030, including the timeliness requirements for complete medical assessments (within 84 hours (three and one-half days) of the sexual assault) and partial medical assessments (within 168 hours (seven days) of the sexual assault).

(e) Services provided were duplicate services for the same incident. [Examples of duplicate services not covered by the Fund include, but are not limited to: multiple sexual assault exams for the same incident of sexual assault; and duplicate charges from a transferring hospital that does not conduct the sexual assault exam.](#)

(f) Failure of the eligible medical services provider to submit a completed Application Form, submission of incomplete invoice(s) for medical services or submission of the Application Form or invoice(s) for medical services more than one year after the date services were provided. At the Department's discretion, the Department may choose to pay claims that are received after one year of the date the medical services are provided.

(g) Insufficient funds in the Fund to cover the services provided. ~~The Fund will pay in full for services provided and billed to the Fund until the money in the Fund is exhausted.~~

(3) If the Attorney General or the Attorney General's designee determines that the Fund will not pay for one or more of the services described in ORS 147.395 through 147.397 or OAR 137-084-0020(1) and (2) for reasons other than those set out in 137-084-0030(2)(e) above, the Attorney General or the Attorney General's designee will provide notice to the medical services provider(s) affected. After receiving such notice, a medical services provider may bill the victim, the victim's insurance carrier or any other source for those medical services provided but not paid for by the Fund.

137-084-0500

Sexual Assault Examiner (SAE) and Nurse Examiner (SANE) Certification Commission

(1) The Attorney General establishes a Sexual Assault Examiner (SAE) and Nurse Examiner (SANE) Certification Commission. The Commission is established to help ensure that registered nurses, physicians and physician assistants who provide sexual assault medical forensic examinations in Oregon and receive compensation through the Sexual Assault Victims' Emergency Medical Response Fund established by Oregon Laws 2003 c. 789 have the necessary training and qualifications to do so in accordance with the best standards of care, after consultation with the Attorney General's Sexual Assault Task Force.

(2) Commission members shall be appointed by the Attorney General and shall serve a period of two years from time of appointment. Terms may be renewed upon approval by the Attorney General.

(3) The Commission shall consist of nine (9) members, one each from the following groups:

(a) One (1) Oregon Certified Sexual Assault Examiner or Nurse Examiner;

(b) One (1) Oregon Certified Sexual Assault Nurse Examiner representing the Oregon Nurses Association (ONA);

(c) One (1) Representative from the Oregon State Board of Nursing (OSBN);

(d) One (1) Emergency Room Physician representing the Oregon Chapter of Emergency Physicians (OCEP);

(e) One (1) Licensed Independent Practitioner (LIP) (at large);

(f) One (1) Advocate;

(g) One (1) At-large position;

(h) One (1) Member of Law Enforcement or Prosecution; and

(i) One (1) Representative from the Forensic Services Division.

(4) A majority of a quorum of the Commission may take action and make recommendations to the Attorney General. A quorum shall be established by a simple majority of Commission members.

(5) The Attorney General delegates to the Commission the following powers and duties:

(a) Make recommendations to the Attorney General for rules deemed necessary to implement the Sexual Assault Nurse Examiners Program, including standards for certification and renewal of certification by the Commission;

(b) Evaluate and act upon applications for certification;

(c) Identify, update, and publicize best practices related to sexual assault examinations;

(d) Perform random SANE/SAE chart reviews of certified SANE/SAEs in Oregon to assure standards of practice as defined by the Oregon Sexual Assault Task Force are being upheld and set forth recommendations to SANEs who demonstrate substandard practices;

(e) In accordance to nursing practice in Oregon if there is found to be any attempt to falsify documentation or demonstration of practicing outside of the scope of practice, a majority quorum of the Commission may take action to suspend or remove SANE certification; and

(f) If a SANE/SAE has a suspended or revoked state RN, NP, or PA license to practice, the Commission has the ability to suspend or revoke the SANE/SAE certification.