



# **Coverage for Forensic Costs for Undocumented Immigrants - Medical Coverage and Services for Immigrants**

**February 12, 2017**

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This project was supported by Grant Number 2015-TA-AX-K043, awarded by the Office on Violence Against Women, U.S. Department of Justice. The opinions, findings, conclusions and recommendations expressed in this publication are those of the author(s) and do not necessarily reflect the views of the Department of Justice, Office on Violence Against Women.

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## Introduction

Recognizing the importance of having evidence to prosecute criminal actions against perpetrators of sexual assault and in light of the federal goal of encouraging states to bear the costs of forensic examinations that help the police locate and prosecute perpetrators of sexual assault, most states pay for forensic examinations necessary to prosecute the perpetrators of sexual assaults. In general, states require the victim to report the crime, sometimes within a specified period of time after the assault, and a majority of the states provide that the forensic examination must be for the purpose of gathering evidence for the prosecution of a crime. The immigration status of the victim is not relevant.

Generally, the victim who reports the sexual assault is not billed for the cost of the examination. Payment is made by the law enforcement agency, the county or the Victims' Compensation Board. In some states, the victim's insurance may be used for the examination. If the victim is billed for the examination, the state provides a mechanism for reimbursement.

In those jurisdictions with Sexual Assault Nurse Examiners, the victim can request that an examination be provided by a Sexual Assault Nurse Examiner at no cost to the victim, generally even if the victim does not report the crime.

In a fewer number of states, the victim does not need to report the crime to obtain an examination. The immigration status of the victim is not relevant in those states.

Victims must pay close attention to the requirements in the particular state in which they were assaulted, particularly the need to report the crime and the time period within which the crime must be reported, to avoid being billed for the forensic examination. A few states will pay the cost of an examination incurred by a resident who is assaulted in a different state when such state will not pay for the forensic examination.

There follows a summary of the federal law that encourages states to pay for forensic examinations and a chart that sets forth a state-by-state summary of the laws or procedures governing the provision of forensic examinations to victims of sexual assault.

## Relevant Federal Laws

The Violence Against Women Act of 2004 created a grant program known as STOP (Service, Training, Officers, and Prosecutors) where states receive grants to develop and strengthen law enforcement and prosecution strategies to combat violent crimes against women. In order to receive STOP grants the state or local government must incur the full out-of-pocket cost of forensic medical exams for victims of sexual assault ([see 42](#)

U.S.C. §3796gg-4). A state or local government is deemed to assume the full out-of-pocket costs if it (1) provides such exams to the victim free of charge, (2) arranges for the victim to obtain the exam free of charge, or (3) reimburses the victim for the costs of the exam if (i) the reimbursement covers the full cost of the exam, (ii) the victim is permitted at least one year to apply for reimbursement, (iii) the victim is reimbursed within 90 days after written notification of the expense, and (iv) the victim is provided with notice at the time of the exam regarding how to obtain reimbursement.

Jurisdiction	Eligibility (Income, Residency or Time Period Requirements)	Coverage (What services are covered? How are key terms defined?)	Application Process	Emergency Contraception Rules	Notice/Recordkeeping Requirements
Hawaii	<p>For the CVCC to provide compensation, Hawaii Administrative Rules require that the incident must be reported within 72 hours unless there is "good cause" for delay. Haw. A.D.C. 23-605-6 (2001). "Good cause" means a determination that the applicant was unable to file an application within 18 months after the date of the incident or report the incident to the police without undue delay due to a mental, physical or legal impairment. Good cause may not be established by ignorance of the law, incarceration, or negligent failure to ascertain the facts giving rise to a claim. Haw. A.D.C. 23-605-2 (2001).</p> <p>Nonresidents are not eligible for compensation unless the crime falls</p>	<p>The statute provides that the CVCC may order compensation for "hospital, medical, funeral, or burial expenses" directly to the person who has provided such services. Haw. Rev. Stat. 351-61 (1998). However, the statute also provides that the CVCC must deduct amounts or benefits received from any source, from public or private funds. Haw. Rev. Stat. 351-63 (1998). Therefore, the victim would not necessarily apply for compensation as long as the victim was not charged for out of pocket expenses in relation to the forensic medical examination.</p> <p>In November 2016, CVCC staff explained that their agency does not pay for forensic medical examinations but, rather, each county administers programs differently. Staff at the Sexual Abuse Treatment Centers (SATC) elaborated, explaining that Hawaii and Kaua'i counties pay for forensic medical examinations through VAWA funds provided to police departments. Although staff could not recall how Maui County operates (and did not reference Kalawao county), staff explained that in Honolulu, the city and</p>	<p>The application must be received within 18 months of the crime, as follows:</p> <p>Submit your application to the Commission within 18 months of the crime date. Applications will only be accepted after 18 months if there is a good cause letter from a physician or therapist.</p> <p>Submit the following:</p> <ul style="list-style-type: none"> <li>• The original signed <a href="#">Application Form</a>.</li> <li>• The original signed <a href="#">Authorization to Release Medical/Mental Health Treatment Information Form</a> for each treatment provider.</li> <li>• Proof to substantiate your claim (bills, receipts, insurance statements, and medical records).</li> <li>• If you are making a claim for lost wages, completely fill out and sign the <a href="#">Authorization to</a></li> </ul>	<p>The statute does not reference emergency contraception. However, staff of the SATC informed us in November 2016 that medical staff treating rape victims must inform the victim about emergency contraception and offer emergency contraception.</p>	N/A

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	<p>within Hawaii's jurisdiction. The statute applies to crime victims; the term "victim" includes:</p> <p>(1) A person who is injured or killed by any act or omission of any other person coming within the criminal jurisdiction of Hawaii;</p> <p>(2) Any resident of Hawaii who is injured or killed in another state by an act or omission of another person; and</p> <p>(3) A person who is a resident of Hawaii who is injured or killed by an act of terrorism that occurs outside of the U.S. Haw. Rev. Stat. 351-2 (2000).</p> <p>A resident includes individuals who intend to permanently reside in Hawaii, have a permanent abode in Hawaii, are students at any institution of learning and claimed as a dependent of a Hawaii resident, files a Hawaii income tax return, or is registered to vote in</p>	<p>county government provides grants to pay for forensic medical examinations. The examinations are performed in conjunction with a program of Kapi'olani Medical Center (which underwrites a portion of the costs). Staff further provided that victims should never be charged for forensic medical examinations, nor should they be charged for out of pocket expenses. Staff provided that VAWA funds or county and city funds paid for the examinations but if further treatment was needed in the future, insurance or public aid would be used.</p>	<p><a href="#">Release Employment Information Form</a> and submit it to your employer.</p> <ul style="list-style-type: none"> <li>• Submit proof to substantiate your claim for lost wages (pay stubs, Income Tax returns if self-employed, and a medical disability certificate) to the Commission.</li> </ul> <p>You can also download the complete application packet with all forms here: <a href="#">Complete Application Packet</a>.</p>		

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	<p>Hawaii. Haw. Rev. Stat. 351-2 (2000).</p> <p>The Administrative Rules explicitly incorporate a nondiscrimination statement, which reads: "It is the policy of the crime victim compensation commission that no person shall, on the grounds of race, color, religion, sex, national origin, age, handicap, sexual orientation, marital status or political affiliation be excluded from participation in or be subjected to discrimination when making a claim for compensation. Haw. A.D.C. 23-605-3 (2001).</p>				

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