



Office of  
Victim Services

**The Medical Provider  
Forensic Rape Examination (FRE)  
Direct Reimbursement Program**

Section 631(13) of the NYS Executive Law  
Presented by: The Office of Victim Services - Legal Unit

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## Training Information

- This version of the Forensic Rape Examination (FRE) Direct Reimbursement Program training module was last updated on August 10, 2020.
- Please contact the Office of Victim Services (OVS) for the latest version.



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## Recent Statutory Changes

- Ch. 55 of the Laws of 2020 included provisions to amend the Public Health and Executive laws.
  - “Safe Way Home”
    - Effective 3/22/20
  - FRE Direct Reimbursement Program and HIV PEP
    - Effective 6/15/20



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## “Safe Way Home”

- A hospital must:
  - inform the patient of available services by a rape crisis or victim assistance organization, if any, in the geographic area served by that hospital;
  - with consent from the patient, contact an organization to establish the coordination of non-medical services;
  - inform the patient that an organization will provide free transportation to a safe location within the geographic region at the conclusion of the sexual assault forensic exam.



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## “Safe Way Home” (cont.)

- Transportation service provided by the rape crisis or victim assistance organization must be offered to all sexual assault patients who have requested such transportation prior to discharge.
  - Hospitals may continue to offer and provide transportation home.
  - Regional agreements may be formed between the hospital and the organization for transportation at no cost to the hospital.
- All transportation services, whether provided by the hospital or an organization, must be provided at no cost to the patient.



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## History/Legislative Background Executive Law Section 631(13)

- **Medical Provider Forensic Rape Examination Direct Reimbursement Program**
  - Dates back to 2005 and is designed to ease payment for forensic rape exams and to provide quality exams by knowledgeable practitioners.
  - Designed to give the victim the ability to choose payment through this program or their own insurance coverage.



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## What is a “Forensic Rape Exam?”

- An examination performed by trained medical personnel for the purpose of gathering evidence of a sexual assault in a manner suitable for use in a court of law.



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## Statute Applies to:

- A New York State Accredited Hospital (any Article 28 facility with a DOH-issued operating certificate).
- A Sexual Assault Examiner certified by the Department of Health.
- A licensed healthcare provider performing a forensic rape exam within the scope of the discipline in which the provider is licensed.
  - Including those conducting exams within a Child Advocacy Center (CAC).



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## Application of the Statute

- Applies to forensic rape exams performed using the

- Sexual Offense Evidence Collection (SOEC) Kit,

AND/OR

- *National Protocol for Sexual Assault Medical Forensic Examiners.*



## Providers Shall:

- Advise the victim of payment options to either bill the victim's insurance or bill OVS directly for forensic rape exam related services.
- Bill OVS directly for such services, if the victim chooses to use the FRE Direct Reimbursement Program.
- Provide forensic rape exam services without charge to the victim.



## Applying for FRE Direct Reimbursement

- Claim forms are included in the SOEC Kit\* and available online at [www.ovs.ny.gov](http://www.ovs.ny.gov).
  - \*Current inventory of SOEC Kits may have an old version of the claim form. Please be sure to attach the most recent version of the claim form, available online, to all submissions.
- No later than one year from the date of the exam, the provider must submit the claim form with an itemized bill and any necessary supporting documentation.
  - **New York State facility in which the exam takes place files the claim; NOT the physician/examiner.**
- OVS requires the original claim form.
  - **Photocopies and faxes will be rejected.**



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## What is Considered an Itemized Bill?

- The itemized bill should be in the same form and substance as that billed to NYS Medicaid.
- It must include:
  - **Billable codes** for each exam related service performed,
  - the **charges** for each individual coded service (do not “lump” charges together, e.g., “pharmacy”),
  - the sum **total** of all charges billed, **and**
  - the **diagnosis** of “sexual assault” or “sexual abuse” or diagnosis code **Z04.41, Z04.42, Y04.8XXA, T74.21XA, T76.21XA, T74.22XA or T76.22XA.**



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## Supporting Documentation

- In addition to the FRE Direct Reimbursement claim form and itemized bill, a provider must also submit the following, if applicable;
  - Documentation indicating that an SOEC Kit was used.
  - Documentation indicating that HIV PEP Medication was provided.



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## Reimbursement Rate

- For claims received prior to 6/15/20, the reimbursement amount will be the amount of itemized charges, not exceeding the statutory cap of \$800.00.
- Effective 6/15/20\* the reimbursement amount will be the amount of itemized charges, to be reimbursed at the Medicaid rate and which cumulatively shall not exceed the following, tiered reimbursement amounts:

\*Applies to all FRE Direct Reimbursement claims received on or after 6/15/20, regardless of date of service.



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## NEW “Tiered” Reimbursement Rates

- **Tier 1 – \$800** for an exam of a sexual assault survivor without the use of a Sexual Offense Evidence Collection (SOEC) Kit
- **Tier 2 – \$1,200** for an exam of a sexual assault survivor with the use of an SOEC Kit
- **Tier 3 – \$1,500** for an exam of a sexual assault survivor who is eighteen years of age or older, with or without the use of an SOEC Kit, and with the provision of an initial 7-day supply of HIV PEP
- **Tier 4 – \$2,500** for an exam of a sexual assault survivor who is less than eighteen years of age, with or without the use of an SOEC Kit, and with the provision of the full regimen of HIV PEP



## Services Intended to be Covered by the FRE Direct Reimbursement Program

- **Forensic Examiner Services**
- **Facility Services** related to the forensic rape exam
- **Labs and Pharmaceuticals** related to the forensic rape exam



## Services Not Included

- Unrelated medical services (e.g. suturing, broken limbs, inpatient services).
- HIV PEP beyond the 7-day supply (for all victims prior to June 15, 2020, and for victims who are 18 years of age and older thereafter) and post exposure counseling services.
- NOTE: If the costs are not included on the bill submitted for FRE Direct Reimbursement, a victim must use their insurance to cover the costs of medical care beyond the forensic rape exam but can apply to OVS for reimbursement of their out of pocket expenses, e.g., copays and deductibles, through the regular compensation claim process.



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## A “Regular” OVS Claim Application Must be Filed by the Victim/Guardian for Follow-Up Medical Expenses and Other Benefits to be Considered by OVS

- Medical expenses; including HIV PEP beyond the 7-day supply for all victims prior to June 15, 2020, and for victims who are 18 years of age and older thereafter
- Loss of earnings (up to \$30,000)
- Counseling expenses
- Loss of essential personal property (\$500)
- Reasonable court-transportation expenses in connection with the prosecution
- Moving expenses (\$2,500)



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# Claim Form



## Claim Form – In General

- The claim form verifies a forensic rape exam was performed, indicates to whom reimbursement is to be paid and documents that the victim was advised of, and understands, their payment options under New York State law.



# Claim Form – Section One



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NEW YORK STATE OFFICE OF VICTIM SERVICES  
MEDICAL PROVIDER FORENSIC RAPE EXAMINATION  
DIRECT REIMBURSEMENT CLAIM FORM (6/20)



INSTRUCTIONS: This form is to be used when a NYS licensed healthcare provider is directly billing the New York State Office of Victim Services (OVS) for reimbursement of costs associated with providing a forensic exam for a victim of sexual assault.

(1) Fill in all blanks on this form.

(2) Attach: Itemized bill and supporting documentation indicating SOEC Kit was used and/or HIV PEP Meds were provided, if applicable.

(3) Mail the completed form and all attachments to:

NYS Office of Victim Services  
Attn: FRE Processing  
80 S. Swan Street, 2<sup>nd</sup> Floor  
Albany, New York 12210

All Sections ONE through THREE **must** be completed



## SECTION ONE. VICTIM INFORMATION (TO BE COMPLETED BY MEDICAL PROVIDER)

Date of Crime \_\_\_\_\_ Location of Crime (City) \_\_\_\_\_ (county) \_\_\_\_\_ (State) \_\_\_\_\_

Victim's Name \_\_\_\_\_

Date of Birth \_\_\_\_\_ Social Security Number \_\_\_\_\_



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## Date of Crime

- Can be a date certain, a month/year, a season/year or a date range. Cannot be “unknown.”
- Must be filled in and cannot be altered.
- Does not have to be the same date as the forensic rape exam.
- NOTE: OVS can reimburse only one forensic rape exam for each victim for each incident.



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## Location of Crime

- Must be filled in and cannot be altered.
- Cannot be “unknown.”
- NOTE: The crime does not have to take place in New York State.



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## Social Security Number

- The Social Security Number (SSN) is used to identify duplicate billing and to link claims.
- If no SSN is available, the billing provider must indicate the reason why. For example:
  - *“Does not have,”*
  - *“Does not know,”* or
  - *“Not available”* or *“N/A”*



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# Claim Form – Section Two

## SECTION TWO. BILLING PROVIDER INFORMATION (TO BE COMPLETED BY MEDICAL PROVIDER)

Billing Provider Federal I.D. Number \_\_\_\_\_ Date of Exam \_\_\_\_\_

Billing Provider Name \_\_\_\_\_ Operator Certificate or Facility ID.# \_\_\_\_\_

Address \_\_\_\_\_ City \_\_\_\_\_ State \_\_\_\_\_ Zip \_\_\_\_\_

Billing Department Contact Person \_\_\_\_\_ Phone Number ( ) \_\_\_\_\_

Was a Sexual Offense Evidence Collection (SOEC) Kit Used?  No  Yes SOEC Kit Tracking # \_\_\_\_\_  
(Required once tracking is available)

Were HIV PEP Meds Provided?  No  Yes If yes:  7 Day Starter Pack  Full Regimen  
28 Day Pack  
Please select one option above and indicate on attached invoice.

The billing provider and other service providers, by law, shall not bill the victim for these services. Payment made to the providers by OVS under the Direct Reimbursement Program shall be considered by all providers as payment in full.



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# Billing Provider Information

- Must be completed or your claim will be rejected.
- Billing Provider Federal ID Number is your tax ID number.
- Operator Certificate ID is your DOH issued ID number.
- Make sure that the address you list is where you can receive correspondence.
- Billing Department Contact should be someone with knowledge of the program, not just the billing office.



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## NEW Information Request

- Section Two now contains a separate area requesting information about the services provided to the victim.
  - Was an SOEC Kit used?
    - Select Yes or No.
    - If so, include tracking information.
      - NOTE: Until Kit tracking is available, this field may be left blank or indicated as N/A.



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## NEW Information Request (Cont.)

- Were HIV PEP Meds provided to the victim?
  - Select Yes or No.
  - If so, select how many days were provided (7 or 28) and indicate the charge on the attached invoice.
    - NOTE: OVS reimbursement for HIV PEP will not exceed that of which is required under the law.



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# Claim Form – Section Three

## SECTION THREE. VICTIM INSURANCE WAIVER (TO BE COMPLETED BY VICTIM/LEGAL GUARDIAN)

- The law requires that the victim be advised orally and in writing that they may decline to provide insurance information.
- I have been fully advised of the options of payment for the forensic exam and the outcomes resulting from my forensic payment decision. I understand that I may use private insurance benefits, including Medicaid, Medicare, HMO or any other insurance program for payment of the forensic exam provided to me. I have also been advised that I will have to use my private insurance if I file a claim with OVS for other medical services outside of the forensic exam. (Initial your selection for Option #1, #2 or #3 below.)

\_\_\_\_\_ **Option # 1** – I choose not to use my private insurance benefits but request that the OVS be billed directly. I decline to provide such information regarding private health insurance benefits because I believe that the provision of such information would substantially interfere with my personal privacy or safety.

\_\_\_\_\_ **Option # 2** – I do not have private insurance benefits and request that OVS be billed directly.

\_\_\_\_\_ **Option # 3** – I choose to use my private insurance benefits for payment, or I choose to pay for my care directly.

Victim/Legal Guardian Name (Print or Type): \_\_\_\_\_

Victim/Legal Guardian Signature: \_\_\_\_\_ Date: \_\_\_\_\_

Examiner Name (Print or Type): \_\_\_\_\_ Examiner (Signature): \_\_\_\_\_

Profession: \_\_\_\_\_ License # \_\_\_\_\_ Date: \_\_\_\_\_

If you have questions, call the NYS Office of Victim Services at (800) 247-8035 or (518) 457-8727.



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## NEW Options

- The victim must choose from one of three options:
  - Option #1 – Choosing not to use private insurance benefits and requesting to bill OVS directly.
  - Option #2 – Does not have private insurance benefits and requesting to bill OVS directly.
  - Option #3 – Choosing to use private insurance benefits, or pay for their care directly.\*

\* Option #3 has been included at the request of facilities seeking to document that the FRE Program was offered, but the victim chose to not use the program to pay for their exam. Do not send an FRE claim to OVS if the victim has selected Option #3.



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## Signature Issues

- Victim/Legal Guardian and examiner signatures are required.
  - **We cannot accept verbal consent.**
- Must submit original signatures.
  - **Photocopies will be rejected.**
- Must be signed and dated at the time of services or after services rendered (cannot be before services are rendered).



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## Signature Issues (Cont'd)

- Victim/Legal Guardian signature is an insurance waiver – triggers payment through the FRE Direct Reimbursement Program.
- Child in Foster Care – Guardian is Commissioner of Local Service Agency and he/she must sign the FRE Direct Reimbursement claim form.



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## Examiner Information

- The examiner that performed the exam must include their **six digit license number and profession** in the designated fields.
- Every claim will be subject to license number validation – the name of the examiner must match the license number and the license number must be valid at the time of service. Inconsistencies or inaccuracies will be cause for rejecting an FRE claim.
  - Helpful tip: Write neatly. If we cannot read it, we cannot enter it.



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## FRE FAQs



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## Changes to the FRE Direct Reimbursement Program Take Effect on June 15, 2020. How Will My Claim be Processed?

- The changes to the FRE Direct Reimbursement Program will apply to claims **received** by OVS on, or after, June 15, 2020.
- Claims received after that date on the older or “legacy” claim forms will be returned to the provider to obtain the new information necessary after June 15, 2020.



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## I submitted my claim prior to June 15, 2020. How will my claim be processed?

- Claims received prior to June 15, 2020 will be processed under the Program rules in effect up to that date.
- If your claim was received prior to June 15, 2020, but was returned to you, the resubmission of the claim will be processed under the Program rules in effect at the time the claim was initially received.
  - E.g., Claim received 4/1/20, returned to provider 6/1/20, and provider resubmits 8/1/20 – claim will be processed under the Program rules in effect prior to 6/15/20.



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## Is a Sexual Offense Evidence Collection (SOEC) Kit Required for Reimbursement?

- No. There is no requirement that a victim consent to any portion of an SOEC Kit to be eligible for exam reimbursement under the FRE Direct Reimbursement Program.



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## Does a Victim Have to File the “Regular” Application with OVS to Ensure Payment for the FRE?

- No.
- However, sexual assault victims should be advised that the FRE Program does not automatically make them eligible for any other compensation benefits available from OVS, but they may be eligible to recover reimbursement for loss of personal property, loss of earnings or support and expenses associated with counseling, in addition to medical care, if a regular compensation claim application is filed.



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## Is Follow-Up HIV Post-Exposure Prophylaxis (PEP) Covered Under the FRE Direct Reimbursement Program?

- Effective 6/15/2020, HIV PEP will be covered as follows:
  - Victims under the age of 18 should be provided the full regimen of HIV PEP. The costs for the full regimen are intended to be reimbursed by the FRE Direct Reimbursement Program under Tier 4 indicated above.
  - Victims 18 years of age and older should be provided the initial 7-day supply of HIV PEP. The costs for the initial 7-day supply are intended to be reimbursed by the FRE Direct Reimbursement Program under Tier 3 indicated above.
  - For reimbursement of the expenses associated with HIV PEP beyond the initial 7-day supply, an eligible victim must file a regular compensation claim application with OVS.



## Is it Necessary to File a Police Report to Qualify for FRE Direct Reimbursement?

- No. There is no requirement that a victim involve law enforcement to be eligible for exam reimbursement under the FRE Direct Reimbursement Program.
- NOTE: For sexual assault victims, OVS will accept the medical documentation of the sexual assault forensic examination in lieu of a police report if the victim files a regular compensation claim with OVS and does not report to police.



## Does a Victim Have to Have a Forensic Rape Exam Performed Right Away? What is the Timeframe?

- Generally, a forensic rape exam must be done within 96 hours according to DOH medical protocols to ensure that certain types of evidence can be recovered and preserved.
- OVS will cover exams conducted beyond 96 hours if victim is minor child OR for any victim if good cause is shown for delay.



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## Can the FRE Direct Reimbursement Program Pay for the Cost of a Forensic Rape Examination of a Minor?

- Yes. The FRE Direct Reimbursement Program will pay for the cost of a sexual assault forensic examination regardless of age.

## Can a Minor Child Sign an FRE Direct Reimbursement Claim Form?

- A minor child may sign the FRE Direct Reimbursement claim form, but only if it is **reasonable to conclude that the child understands what he or she is signing and why.**



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## Does a Victim Have to Use Insurance to Pay for the Forensic Rape Exam?

- No. Victims do not have to use private insurance, Medicaid, Medicare, HMO or any other insurance program to pay for their forensic rape exam.



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## Private Physician Conducts a Forensic Rape Exam in their Office without a Kit. Can they Still be Reimbursed?

- Yes, so long as the examination was conducted in accordance with Public Health Law §2805(i) and the *National Protocol for Sexual Assault Medical Forensic Examinations* and the bill includes a diagnosis code indicating sexual assault/sexual abuse.
- NOTE: This applies to both acute and chronic cases.



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## Provider Performs a Forensic Rape Exam in a Hospital with Privileges, or on an On-Call Basis. How do they get Paid for their Services?

- OVS reimburses the hospital/facility in which the exam takes place by way of an unallocated (“global”) payment.
  - **New York State facility in which the exam takes place files the claim; NOT the physician/examiner.**
- The facility is responsible for allocating expenses proportionately among service providers.



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## Can the Provider Balance Bill the Victim for Forensic Rape Exam Services After FRE Direct Reimbursement?

- No. A provider must accept the OVS reimbursement as payment in full for all services listed on the bill submitted with the provider’s FRE Direct Reimbursement claim form.
- Providers should work with other service providers, such as the ER physician, to ensure that no further billing of the victim occurs for forensic rape exam related services.



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## The Provider's FRE Direct Reimbursement Claim was Denied by OVS. Can they Bill the Victim or their Insurance?

- No. Once the victim chooses billing to OVS the provider can not bill the victim, or their insurance, regardless of the outcome of the provider's FRE Direct Reimbursement claim with OVS.



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## The Victim's Insurance did not Cover 100% of the FRE Related Charges. Can the Provider Charge OVS?

- No. Once health insurance is assigned, the FRE Direct Reimbursement Program is no longer an option.
- Important Note: Ch. 57 of the Laws of 2018 amended the Public Health, Executive and Insurance laws.
  - In the event a sexual assault survivor uses private health insurance benefits, they shall not be subject to annual deductibles, coinsurance, or balance billing by the provider.
    - Effective immediately (signed on 4/12/18) and applies to all policies issued/renewed/ modified/alterd or amended on or after 01-01-19.



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## Sexual Offense Evidence Collection/Storage

- Ch. 57 of the Laws of 2018 included provisions to amend the Public Health, Executive and Insurance laws.
    - Extended the length of time sexual offense evidence collection kits are preserved. Previous legislation provided for a 30 day minimum retention period. These changes extended that 30 day retention period to 20 years.
- Effective immediately (signed on 4/12/18).



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## Sexual Offense Evidence Collection/Storage (cont.)

- Important time frames regarding storage:
  - Hospital responsible for storage until 4/1/21. Must notify victim of transfer to long term storage facility 10-30 days prior to transfer.
  - After 4/1/21 hospital must transfer evidence to long term storage within 10 days of collection.
  - Victim must be notified that the evidence will be discarded at least 90 days prior to the end of the 20-year storage period.



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# Supplemental Information



## Supplemental Information Document

- For additional guidance please see our “Supplemental Information” document. This document is available on our website for viewing/printing.
  - <https://ovs.ny.gov/forensic-rape-examination-fre-direct-reimbursement-program>



# ICD-10 Diagnosis Codes

## Itemized Bill Should be in the Same Form and Substance as that Billed to NYS Medicaid:

The itemized bill must include a billable code and charge for each line item (e.g., it is not acceptable for “pharmaceuticals” to be listed as one item), the sum total of all charges, and a valid sexual assault or sexual abuse diagnosis code.

## Itemized Medical Bill Must Include At least One of the Following Diagnosis Codes:

<u>ICD 10 CODE</u>	<u>DESCRIPTION</u>
Z04.41	Encounter for Examination and Observation Following Alleged Adult Rape
Z04.42	Encounter for Examination and Observation Following Alleged Child Rape
T74.21XA	Adult Sexual Abuse, Confirmed, Initial Encounter
T76.21XA	Adult Sexual Abuse, Suspected, Initial Encounter
T74.22XA	Child Sexual Abuse, Confirmed, Initial Encounter
T76.22XA	Child Sexual Abuse, Suspected, Initial Encounter
Y04.8XXA	Assault by Other Bodily Force, Initial Encounter



# Physical Exam CPT Codes

## Itemized Medical Bill Must Include One of the Following “Visit” Codes:

<u>CPT CODE</u>	<u>DESCRIPTION</u>
99202 - 99205	Office/Outpatient Visit, New
99212 - 99215	Office/Outpatient Visit, Est
99242 - 99245	Office Consultation
99281 - 99285	Emergency Dept Visit
99291	Critical Care, First Hour



# Examiner Information

## **FRE Claim Form Must Be Signed by a New York State Licensed Healthcare Provider:**

Any New York State accredited hospital or licensed physician, nurse practitioner, registered nurse or physician assistant practicing within the State of New York whose performance of a sexual assault forensic examination is within the scope of practice of the discipline in which they hold a license or any other sexual assault examiner certified by the Department of Health to conduct a sexual assault forensic examination.

## **Provider Must Indicate Their Designated Profession on the Claim Form. These Professions Include:**

MD – Doctor of Medicine

DO – Doctor of Osteopathic Medicine

PA – Physician Assistant

RN – Registered Nurse

NP – Nurse Practitioner



# Translation of Victim Insurance Waiver

- “Section Three - Victim Insurance Waiver” has been translated into seven (7) additional languages to assist those victims with limited English proficiency.
  - Spanish
  - Russian
  - Haitian Creole
  - Korean
  - Bengali
  - Simplified Chinese
  - Traditional Chinese



## Benefits

- For Victims:
  - Privacy – for crime victim
  - Safety – abusive spouse, relative, partner
  - Less paperwork – no financial affidavit, no claim application, no evidentiary inquiry
- For Providers:
  - Less paperwork
  - Less delay
  - Direct Payment



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## Housekeeping

- Bar code on the FRE Direct Reimbursement claim form is static and downloadable. **Please do not cover it or staple over it.**
- The claim form itself may be copied; BUT **signature fields must have original signatures.**
- Use **appropriate billable codes.**
- Use **appropriate diagnosis codes** to identify the exam as a sexual assault forensic exam.
- Include all codes and charges related to the forensic rape exam and **eliminate any charges not directly related to the forensic rape exam.**



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# Program Statistics

Fiscal Year 2018 - 2019

Received **6,181** FRE Direct Reimbursement claims

Paid **5,681** claims

Fiscal Year 2019 - 2020

Received **6,210** FRE Direct Reimbursement claims

Paid **5,615** claims



## Who do I Contact for More Information About the Program or the Claim Form?

- [www.ovs.ny.gov](http://www.ovs.ny.gov)
- 1-800-247-8035
- New York State Office of Victim Services  
Attn: FRE Processing  
Alfred E. Smith State Office Building  
80 South Swan St., 2<sup>nd</sup> Floor  
Albany, New York 12210
- Shelby Foster  
Associate Attorney
- [Shelby.Foster@ovs.ny.gov](mailto:Shelby.Foster@ovs.ny.gov)
- (518) 457-8068

