



Department of Health

ANDREW M. CUOMO
Governor

HOWARD A. ZUCKER, M.D., J.D.
Commissioner

SALLY DRESLIN, M.S., R.N.
Executive Deputy Commissioner

June 9, 2020

Dear Chief Executive Officer:

The purpose of this letter is to notify you of a change in Public Health Law section 2805-i and Executive Law section 631 impacting hospital requirements for the treatment of survivors of sexual assault.

HIV Post-Exposure Prophylaxis (PEP) and Follow-Up Care

Effective June 15, 2020, hospitals providing treatment to survivors of sexual assault will be required to:

- Offer and make available a seven-day starter pack of HIV PEP to survivors of sexual assault who are 18 years of age or older.
- Offer and make available the full 28-day supply of HIV PEP to survivors of sexual assault who are less than 18 years of age.

Previously, hospitals were required to provide a seven-day starter pack of HIV PEP to all survivors of sexual assault. The recent amendments to Public Health Law are intended to improve minors' access to the full regimen of HIV PEP when they have experienced sexual assault. Minors will no longer need to involve a parent or guardian to receive the remaining 21-day supply of HIV PEP. Minors who receive the full course regimen should be scheduled for a follow-up appointment within 24 hours to evaluate initial drug tolerability, reinforce the need for adherence to the regimen, and arrange for follow-up care.

Clinical decisions about significant exposure to HIV and recommendations for medication and follow-up care must be made in accordance with the New York State Department of Health (NYSDOH) AIDS Institute Clinical Guidelines on "PEP to Prevent HIV Infection." The guidelines can be found here: <https://www.hivguidelines.org/guideline/hiv-pep/?mycollection=pep-prep>.

For questions regarding medical guidance, please contact Charles Gonzalez, MD Medical Director, NYS DOH AIDS Institute at 212-417-4620.

A Safe Way Home for Sexual Assault Patients

The FY 2020-21 enacted budget amended Public Health Law section 2805-i, to set forth additional requirements regarding the treatment of sexual assault patients in hospitals across New York State, including safe transportation options after discharge.

Specifically, when a sexual assault patient arrives for treatment, the hospital must continue to inform the patient of available services by a rape crisis or victim assistance organization, if any, providing victim assistance in the geographic area served by that hospital. With consent from the patient, the hospital must contact the organization to establish the coordination of non-medical services. Additionally, hospitals must inform the patient that the organization will provide free transportation to a safe location within the geographic region at the conclusion of the sexual assault forensic exam.

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 hospital discharge. Hospitals may continue to offer and provide transportation home for sexual assault patients. Regional agreements may be formed between the hospital and the rape crisis or victim assistance organization for transportation at no cost to the hospital. All transportation services, whether provided by the hospital or the rape crisis or victim assistance organization, must be provided at no cost to the patient.

Please contact Ann-Margret Foley, Sexual Violence Prevention Program Director, NYSDOH Center for Community Health, at 518-474-0535 or Ann-Margret.Foley@health.ny.gov if you have any questions related to sexual violence.

Hospital Reimbursement for HIV PEP and Sexual Assault Forensic Exams

Effective June 15, 2020, and applying only to claims filed with the Office of Victim Services (OVS) on or after that date, hospitals providing treatment to survivors of sexual assault will be reimbursed by the OVS Forensic Rape Examination (FRE) Direct Reimbursement Program at the Medicaid rate, not to exceed the following:

- \$800 for an exam where no sexual offense evidence collection (SOEC) kit is used.
- \$1,200 for an exam where a SOEC kit is used.
- \$1,500 for an exam of a sexual assault survivor who is 18 years of age or older, with or without the use of a SOEC kit, and with the provision of the HIV PEP seven-day starter pack.
- \$2,500 for an exam of a sexual assault survivor who is less than 18 years of age, with or without the use of a SOEC kit, and with the provision of the full regimen of HIV PEP.

Every survivor of sexual assault must be informed of the payment assistance available to them for HIV PEP and the sexual assault forensic exam. These provisions protect the privacy and safety of sexual assault survivors, while reimbursing providers when the patient does not have access to health insurance or chooses not to use health insurance to pay for the exam. It is the responsibility of the provider to distribute the FRE Direct Reimbursement Program claim form to every sexual assault survivor and to discuss the billing options available to them through this program. When a victim opts for this method of billing, the hospital or licensed health care provider must seek reimbursement from OVS and accept this reimbursement fee as payment in full. No additional billing for HIV PEP or the sexual assault forensic exam is permissible.

The sexual assault forensic exam includes provider services, hospital or health care facility services, and necessary laboratory tests and pharmaceuticals. Injuries, such as lacerations and fractures, may result in extensive emergency medical treatment beyond the sexual assault forensic exam.

The services not covered by the FRE Direct Reimbursement Program may be billed directly to the patient or their health insurance. A sexual assault survivor must be informed that they may file a compensation application with the OVS and, if eligible, be reimbursed for any non-covered medical expenses related to the sexual assault. Other crime-related expenses that may be reimbursed by OVS include mental health counseling, relocation, and loss of earnings.

The OVS FRE Direct Reimbursement Program claim form and compensation application are both contained in the SOEC kit and on the OVS web site at www.ovs.ny.gov.

Please contact Associate Attorney Shelby Foster, Office of Victim Services, at 518-457-8068 or Shelby.Foster@ovs.ny.gov if you have any questions or to request training related to the OVS FRE Direct Reimbursement Program.

Please note that Executive Law section 631 also added a requirement for the Department to compile a report summarizing the costs of the sexual assault examination program and collect information on whether the new FRE Direct Reimbursement Program rates are sufficient. The first report will be due in September 2021. Specific information about the data needed for this report will be provided, but hospitals should anticipate having a system in place to record these costs for submission to the Department as required.

Thank you for your prompt attention to this very important issue and your continued commitment to high quality care for sexual assault survivors.

Sincerely,

Elizabeth Cronin, Esq.
Director, Office of Victim Services

Jennifer Treacy
Acting Deputy Director,
Office of Primary Care and Health Systems Management
New York State Department of Health

Brad Hutton, MPH
Deputy Commissioner for Public Health
New York State Department of Health

Resources:

Clinical Guidelines for Post-Exposure Prophylaxis following sexual assault may be found at www.hivguidelines.org.

The NYSDOH AIDS Institute Provider Directory is available at <https://providerdirectory.aidsinstituteny.org/> for finding providers that offer HIV care, PrEP services, PEP services, and more.

More information on the treatment of sexual assault patients in the hospital emergency department can be found here <https://www.health.ny.gov/professionals/safe/>