

## Forensic Examinations Following Sexual Assault or Domestic Violence

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### 1.0 BACKGROUND

The National Defense Authorization Act (NDAA) for Fiscal Year (FY) 2007, Public Law 109-364, directs the Secretary of Defense to establish a benefit for forensic examinations in Civilian Health Care (CHC) facilities following a sexual assault or domestic violence for eligible beneficiaries. All beneficiaries are covered if they are examined in a Military Treatment Facility (MTF). Prior to passage of this law, forensic examinations were not covered for beneficiaries in CHC facilities because TRICARE may cost-share only medically or psychologically necessary services or supplies. Forensic examinations were not considered medically or psychologically necessary because the purpose of the examination is primarily for preservation of evidence for use by the justice system. However, the forensic examination process serves a dual purpose: one, to address the medical needs of the victim; and two, to collect and preserve forensic evidence for use in any future criminal investigation and/or prosecution. Congress acknowledged this dual purpose by establishing this benefit to allow CHC facilities to receive reimbursement for these examinations. This benefit is consistent with the services that are authorized in medical MTFs for all beneficiaries who are victims of sexual assault or domestic violence.

### 2.0 DESCRIPTION

Forensic examinations are conducted following a sexual assault or domestic violence to provide medical care to the individual disclosing the sexual assault or domestic violence and to collect and preserve forensic evidence for use by the justice system. An evidence collection kit (also known as a Sexual Assault Forensic Examination (SAFE) kit or evidence recovery kit) is used during the examination to collect and preserve the forensic evidence.

### 3.0 POLICY

Effective October 17, 2006, forensic examinations, including evidence collection kits, are covered when provided in CHC facilities following a sexual assault or domestic violence. TRICARE pays for and will continue to pay for all emergency room services delivered to a victim.

### 4.0 POLICY CONSIDERATIONS

#### 4.1 Forensic examinations include:

##### 4.1.1 Evaluating and treating injuries;

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- 4.1.2** Conducting prompt examinations to include collection of forensic evidence;
- 4.1.3** Providing support, crisis intervention, and advocacy;
- 4.1.4** Providing prophylaxis against sexually transmitted diseases and HIV;
- 4.1.5** Assessing female patients for pregnancy risk and discussing treatment options, including reproductive health services; and
- 4.1.6** Providing follow-up care for medical and emotional needs.

**4.2** Evidence collection kits for collection of forensic evidence should/may reflect the requirements of the jurisdiction in which the examination takes place. Items in the kit may include but are not limited to:

- 4.2.1** Forms for documentation of what is observed;
- 4.2.2** Tubes for blood samples or DNA blood cards;
- 4.2.3** Urine sample container (for detecting drugs that may have been used to facilitate a sexual assault);
- 4.2.4** Cotton swabs for biological evidence collection;
- 4.2.5** Sterile water;
- 4.2.6** Sterile saline;
- 4.2.7** Glass slides;
- 4.2.8** Unwaxed dental floss;
- 4.2.9** Wooden stick for fingernail scrapings;
- 4.2.10** Envelopes or boxes for individual evidence samples, including the victim's clothing;
- 4.2.11** Labels for each item and paper bags for clothing collection;
- 4.2.12** Large sheet of paper for patient to undress over; and
- 4.2.13** New clothing to temporarily replace victim's clothing.

**4.3 Privacy and Confidentiality**

**4.3.1** Claims processors and contractors are responsible for ensuring compliance with the Privacy Act of 1974, Health Insurance and Portability and Accountability Act (HIPAA), and the Department of Defense (DoD) Health Information Privacy Regulation (6025.18-R) regarding use and disclosure of Protected Health Information (PHI) and Personally Identifiable Information (PII) for victims of sexual assault or domestic violence.

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**4.3.2** DoD Directive (DoDD) Number 6495.01 dated November 7, 2008, "Sexual Assault Prevention and Response (SAPR) Program," will apply as appropriate in regard to restricted and unrestricted reporting of sexual assaults.

**4.3.3** Claims processors and contractors shall not issue Explanations of Benefits (EOBs) to beneficiaries (parents/guardians of minors or incompetents) when claims involve services related to sexual assault or domestic violence. Refer to TRICARE Operations Manual (TOM), [Chapter 8, Section 8, paragraphs 5.1 and 6.0](#) for information regarding EOB issuance exceptions and beneficiary notification of claim action.

**4.3.4** Reimbursement shall be made according to TRICARE Reimbursement Manual (TRM), [Chapter 1, Section 36](#).

**5.0 EFFECTIVE DATE**

Forensic examinations and evidence collection kits for services provided in a CHC facility on or after October 17, 2006.

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