

MINIMIZING FINANCIAL IMPACT ON SURVIVORS

PAYMENT FOR MEDICAL/FORENSIC EXAMS

Kentucky has designated a fund to pay for basic sexual assault medical/forensic exams. This fund is called the Sexual Assault Victim Assistance Fund (SAVA). In addition, the Crime Victims Compensation Fund may also provide additional financial assistance to victims of sex crimes. However, the victim should be aware that these funds are limited to specific types of financial assistance. An explanation of each fund is provided below.

SAVA FUND PAYS FOR BASIC EXAMS

The Sexual Assault Victim Assistance (SAVA) Fund pays for basic medical/forensic sexual assault exams performed on both children and adults, so long as law enforcement is notified at the time of the exam. For information see KRS 346 and KRS 216B.400(8). This Fund is administered by the Crime Victims Compensation Board (CVCB). Payment is also available when the exam occurred in another state, so long as the crime occurred in Kentucky. SAVA Fund payments are made directly to health care providers and exam facilities. The payment rate is determined by regulations promulgated by the CVCB (adults) and the Division of Medicaid Services (children). Basic treatment includes an assessment for genital and/or non-genital injuries, and forensic evidence collection, as well as medical screening and prophylactic treatment for HIV and other sexually transmitted infections.

While Kentucky law prohibits health care providers from billing victims for the basic exam, victims can sometimes be billed for additional medical services provided above and beyond the basic exam. For information see 502 KAR 12.411 Sec. 2(6). Examples include, but are not limited to: x-rays, CAT scans, hospital admissions, other tests, or consultations. To ensure informed consent, professionals must accurately inform victims about possible charges before any consent for treatment is given. This also reinforces that the victim is in control of what level of examination is performed, i.e., primarily for health care purposes or for both medical and forensic purposes. Though some professionals believe that evidence should be collected in all cases, it is critical that the victim be empowered to make this decision.

RESTITUTION, CIVIL REMEDIES, AND OTHER RESOURCES

RESTITUTION means requiring a criminal defendant to repay the victim for related expenses such as counseling, medical expenses, lost wages, relocation expenses, and/or property damages, as a condition of the sentence. Pursuant to KRS 532.032, restitution "shall be ordered" in all successful prosecutions where there is a named victim. Unfortunately, restitution is often ignored in sex crime cases.

CIVIL LEGAL REMEDIES can also be helpful. Options may include personal injury suits based on wrongful conduct and/or third-party negligence; sexual harassment litigation; assistance related to housing, benefits, or employment; and others.

IT HAPPENED TO ALEXA FOUNDATION assists rape victims and their families with travel expenses during the litigation process. For more information, visit <http://ithappenedtoalexa.org> or call 1-877-77-ALEXA (25392).

REIMBURSEMENT OF ADDITIONAL EXPENSES: CRIME VICTIMS COMPENSATION FUND

The Crime Victims Compensation Fund is an additional fund established to minimize the financial impact of criminal acts on "innocent victims." For information see KRS 346. Victims may apply for **direct reimbursement** of expenses related to the violence, including "additional services" discussed previously.

Before compensation is awarded, the CVCB must:

- ◇ Conduct an independent investigation, with which the victim must cooperate;
- ◇ Determine that one was an "innocent victim of a criminal act," or survivor of victim who was killed;
- ◇ Determine that the crime resulted in personal physical or psychological injury to the victim;
- ◇ Determine the crime was reported to a law enforcement agency within 48 hours or that a delayed report was justified; and
- ◇ Determine that the victim cooperated with law enforcement agencies.

Because of the extensive investigation, reimbursement through this fund can be a very slow and uncertain process. Victims should be realistically informed about this and encouraged to take steps to avoid credit damage while waiting for CVCB determinations. Victims should also be informed of the right to appeal CVCB denials.

When a claim is successful, this Fund may provide reimbursement for a wide variety of expenses, including:

- ◇ An emergency award not to exceed \$500;
- ◇ Medical expenses or other services, including mental health counseling necessary as a result of the injury upon which the claim is based;
- ◇ Loss of earning or support;
- ◇ Replacement of glasses or corrective lenses;
- ◇ The total amount per award is limited to \$25,000.

In order to comply with the Crime Victims Bill of Rights, law enforcement officials and prosecutors should inform victims about the Crime Victims Compensation Fund. Forms are generally available from law enforcement officials, hospitals, Rape Crisis Centers, and prosecutors' offices or online at www.cvcb.ky.gov. Rape Crisis Center personnel can assist with the claim filing. For additional information, contact KASAP or the Crime Victims Compensation Board at (800) 469-2120.

