

**TRANSMITTAL SHEET FOR  
NOTICE OF INTENDED ACTION**

Control \_\_\_\_\_ Department or Agency Crime Victims' Compensation Commission  
Rule No. 262-x-4-.04

Rule Title: Compensation Awards - Amounts and Methods of Payment.  
\_\_\_\_\_ New  Amend \_\_\_\_\_ Repeal \_\_\_\_\_ Adopt by Reference

Would the absence of the proposed rule significantly  
Harm or endanger the public health, welfare, or safety? Yes

Is there a reasonable relationship between the  
state's police power and the protection of the  
public health, safety, or welfare? Yes

Is there another, less restrictive method of  
regulation available that could adequately protect  
the public? No

Does the propounded rule have the effect of directly  
or indirectly increasing the costs of any goods or  
services involved and, if so, to what degree? No

Is the increase in cost, if any, more harmful to the  
public than the harm that might result from the  
absence of the proposed rule? N/A

Are all facets of the rulemaking process designed  
solely for the purpose of, and so they have, as  
their primary effect, the protection of the public? Yes

.....  
Does the proposed rule have an economic impact? Yes

If the proposed rule has an economic impact, the proposed rule is  
required to be accompanied by a fiscal note prepared in accordance with  
subsection (f) of Section 41-22-23, Code of Alabama 1975.

.....  
Certification of Authorized Official

I certify that the attached proposed rule has been proposed in full  
compliance with the requirements of Chapter 22, Title 41, Code of Alabama  
1975, and that it conforms to all applicable filing requirements of the  
Administrative Procedures Division of the Legislative Reference Service.

Signature of certifying officer Cassie T. Jones Cassie T. Jones, Ed.D.

Date 3/13/2015

REC'D & FILED

MAR 13 2015

LEGISLATIVE REF SERVICE

ALABAMA CRIME VICTIMS' COMPENSATION COMMISSION

NOTICE OF INTENDED ACTION

RULE NO. & TITLE: 262-x-4-.04 Compensation Awards – Amounts and Methods of Payment.

INTENDED ACTION: Amend

SUBSTANCE OF PROPOSED ACTION: The Commission proposes to amend the rule to further provide for travel and lost wages.

TIME, PLACE, MANNER OF PRESENTING VIEWS: Interested persons may present their views in writing to the Alabama Crime Victims' Compensation Commission, 5845 Carmichael RD; Post Office Box 231267, Montgomery, Alabama 36123-1267, or oral comments at 334.290.4420.

FINAL DATE FOR COMMENT AND COMPLETION OF NOTICE: Written comments shall be received until the close of record at 5:00 p.m. on May 6, 2015. All comments should be addressed to the contact person listed below or oral comments at 334.290.4420.

CONTACT PERSON AT AGENCY: Kim Martin, General Counsel, Alabama Crime Victims' Compensation Commission, 5845 Carmichael RD; Post Office Box 231267, Montgomery, Alabama 36123-1267.



Cassie T. Jones, Ed.D.  
Executive Director

**ECONOMIC IMPACT STATEMENT  
FOR APA RULE  
(Section 41-22-23(f))**

Control No. \_\_\_\_\_ Department or Agency Crime Victims' Compensation Commission

Rule No: 262-X-4-.04

Rule Title: Compensation Awards - Amounts and Methods of Payment.

New  Amend  Repeal  Adopt by Reference

This rule has no economic impact.

This rule has an economic impact, as explained below:

1. NEED/EXPECTED BENEFIT OF RULE:

This rule will further provide for reimbursement of travel expenses and lost wages to victims of violent crime.

2. COSTS/BENEFITS OF RULE AND WHY RULE IS THE MOST EFFECTIVE, EFFICIENT, AND FEASIBLE MEANS FOR ALLOCATING RESOURCES AND ACHIEVING THE STATED PURPOSE:

It will allow eligible victims of violent crime to received additional compensation benefits.

3. EFFECT OF THIS RULE ON COMPETITION:

No effect.

4. EFFECT OF THIS RULE ON COST-OF-LIVING AND DOING BUSINESS IN THE GEOGRAPHICAL AREA WHERE THE RULE IS TO BE IMPLEMENTED:

No effect.

5. EFFECT OF THIS RULE ON EMPLOYMENT IN THE GEOGRAPHICAL AREA WHERE THE RULE IS TO BE IMPLEMENTED:

No effect on employment, it is only promulgated to assist victims of violent crime.

6. SOURCE OF REVENUE TO BE USED FOR IMPLEMENTING AND ENFORCING THIS RULE:

Court-ordered fines, fees and restitution. Federal grant money will also be used. No general fund money will be used in the implementation of this rule.

7. THE SHORT-TERM/LONG-TERM ECONOMIC IMPACT OF THIS RULE ON AFFECTED PERSONS, INCLUDING ANALYSIS OF PERSONS WHO WILL BEAR THE COSTS AND THOSE WHO WILL BENEFIT FROM THE RULE:

It will provide more compensation to eligible victims.

8. UNCERTAINTIES ASSOCIATED WITH THE ESTIMATED BENEFITS AND BURDENS OF THE RULE, INCLUDING QUALITATIVE/QUANTITATIVE BENEFITS AND BURDEN COMPARISON:

No uncertainties are foreseen or anticipated.

9. THE EFFECT OF THIS RULE ON THE ENVIRONMENT AND PUBLIC HEALTH:

It improves the public health by providing more compensation to eligible victims.

10. DETRIMENTAL EFFECT ON THE ENVIRONMENT AND PUBLIC HEALTH IF THE RULE IS NOT IMPLEMENTED:

**\*\*Additional pages may be used if needed.**

262-X-4-.04 Compensation Awards - Amounts and Methods of Payment.

- (1) Compensation payable to a victim or claimant sustaining economic loss due to injury or death may not exceed a total of fifteen thousand dollars (\$15,000.00). For incidents of criminally injurious conduct occurring on or after October 1, 2014, compensation payable to a victim or claimant sustaining economic loss due to injury or death may not exceed a total of twenty thousand dollars (\$20,000).
- (2) Compensation for lost wages may not exceed four hundred (\$400.00) dollars per week. For incidents of criminally injurious conduct occurring on or after October 1, 2014, compensation for lost wages may not exceed six hundred (\$600.00) dollars per week.
- (3) (a) The Commission may provide for the payment to a claimant in a lump sum or installments or the Commission may choose to make payments directly to the service provider. Compensation payable to service providers for medical treatment may be awarded at 100% of eligible expenses.
- (4) Future Economic Loss.
  - (a) The maximum award for future economic loss is \$5,000 per claim. For incidents of criminally injurious conduct occurring on or after October 1, 2014, the maximum award for future economic loss is \$20,000 per claim. Future economic loss may only be awarded in instances in which the victim's loss of future earning capacity is verifiable through his/her employment history. Future economic loss may be awarded in the following circumstances:
    - (1) The victim was employed at the time of his/her victimization and the employment is verifiable;
    - (2) The victim was not employed at the time of his/her victimization but worked at least sixty-five weeks in the 104 weeks preceding victimization and the employment is verifiable. When there is proof the victim suffered an injury or illness during the 104 week period that prevented him/her from working, future economic loss may be considered when it is verifiable that the only reason the victim did not work sixty-five weeks was due to the injury/illness.
  - (b) All awards for future economic loss shall be diminished or denied to the extent that the future economic loss is recouped from a collateral source.
  - (c) At the discretion of the Commission, future economic loss may be paid in a lump sum, but only upon a finding that the lump sum award will promote the best interest of the claimant.
  - (d) An award payable in installments for future economic loss may be made only for a period as to which the Commission can reasonably determine future economic loss. An award payable in installments for future economic loss may be modified by the Commission upon its finding that a material and substantial change of circumstances has occurred.
- (5) No more than five thousand dollars (\$5,000.00) may be paid for expenses related to funeral, cremation, or burial. For incidents of criminally injurious conduct occurring on or after October 1, 2014, no more than seven thousand dollars (\$7,000.00) may be paid for expenses related to funeral, cremation, or burial.

(6) Approved claims will be paid in the order of their approval by the Commission as funds become available.

(7) Payments may be made in lump sums or in installments.

(8) Lost wages shall be verified by obtaining written documentation from the employer or by submission of a W2 tax document. A tax transcript from the IRS is required if the person seeking reimbursement of his/her lost wages is self-employed or the employer indicated that taxes are not deducted from the person's wages. Proof must be provided that the person seeking reimbursement of his/her lost wages paid federal and state income taxes for the period of time applicable to the requested lost wages.

(9) The claimant may, with the Commission's approval, elect to be paid for lost wages, future economic losses, replacement services loss, etc., before the service providers are paid.

(10) Annual leave, sick leave, personal leave or holidays shall not be considered a collateral source and may be reimbursed by the Commission.

(11) Lost wages may be considered for the victim, claimant and immediate family members at a prorated amount. The victim's lost wages may be considered for work loss caused by the crime. If the victim was not employed but is now disabled as a result of the crime, the claimant or immediate family member may apply for his/her lost wages only if the claimant he/she took time off from work to care for the victim if the victim was a minor or a medical professional provides written confirmation that the care was recommended. If the victim died as a result of the crime, the claimant may apply for the victim's lost wages for up to 52 weeks. Anticipated work may be considered for compensation when accompanied by documentation certifying a definite start date. Lost wages may also be awarded for work loss due to receiving medical treatment as a result of the crime; mental health treatment as a result of the crime; attendance of grand jury proceedings for three days if not subpoenaed; attendance of grand jury proceedings for as many days as required by subpoena, attendance of the offender's preliminary hearing, arraignment, bond hearing, a hearing on any pretrial motion, trial, or any post judgment proceeding; and the offender's parole hearing. Proper documentation is required for consideration of all lost wages requests, including, when applicable: confirmation of court attendance; a parole notification letter; employer's confirmation of work loss; a self-employment affidavit; or a doctor's or mental health provider's written excuse.

(12) Lost wages are limited to \$400.00 per week for a maximum of 52 weeks. The maximum award for lost wages is \$15,000. For incidents of criminally injurious conduct occurring on or after October 1, 2014, lost wages are limited to \$600.00 per week for a maximum of 52 weeks. For incidents of criminally injurious conduct occurring on or after October 1, 2014, the maximum award for lost wages is \$20,000. Life insurance shall be considered a collateral source for all claims. In the event that life insurance does not fully compensate the victim for the eligible expenses he/she incurred as a result of the victimization, the remaining eligible expenses may be eligible for compensation.

(13) Collateral Source

a. Life insurance shall be considered a collateral source for compensation.

b. Charitable donations shall not be considered a collateral source for compensation, unless the donation is specifically designated for an expense. Examples of charitable donations designated for a specific expense include, but are not limited to the following: funeral/burial expenses; medical/dental expenses; and counseling.

(14) The maximum award for moving expenses is \$1,000.00. Written estimates for moving expenses and receipts shall be required. The Commission may award the \$1,000 maximum for moving expenses in cases in which the crime occurred in the victim's home, the victim has a reasonable fear for his/her life if he/she does not move from the home, or moving the victim's personal belongings is necessary.

(15) Travel Expenses.

(a) Airline tickets or mileage at the State of Alabama's current rate for state employees and the current State of Alabama per diem rate and lost wages may be provided for eligible travel expenses. Travel expenses for the victim, immediate family member(s), or person(s) of the victim's choosing, may be awarded to travel out of town to attend grand jury proceedings for three days if not subpoenaed, grand jury proceedings for as many days as required by subpoena, the offender's preliminary hearing, arraignment, bond hearing, a hearing on any pretrial motion, trial, or any post judgment proceeding. When the victim is deceased, travel may be awarded to immediate family members. Travel may be allowed for immediate family members to travel out of town to attend the offender's trial or any post judgment proceeding. When the prosecutor's office or any other entity pays for all or part of the victim's or immediate family member's travel expenses, that amount shall be deducted from the compensation award for travel expenses. Out of town travel may be allowed for medical and psychological treatment that is needed as a result of the victimization. Out of town travel required to procure needed services may be considered for the victim, claimant, and immediate family members. Out of town travel expenses may be awarded for emergency circumstances, as determined by the Commission.

(b) Travel expenses and lost wages for the victim, immediate family member(s), or person(s) of the victim's choosing, may be awarded for attendance of the offender's parole hearing. When the victim is deceased, travel expenses and lost wages may be awarded to immediate family members or victim representatives. Eligible travel expenses shall be reimbursed at the current State of Alabama per diem rate, and airline tickets or mileage at the State of Alabama's current rate for state employees.

These requests will only be considered as a supplemental to an original claim. (There must be a timely, approved compensation claim in order for parole travel expenses to be considered. The Commission will not consider parole travel expenses filed as an original claim.) Eligible parole travel expenses will be reimbursed at the current State of Alabama per diem rate, and airline tickets or mileage at the State of Alabama's current rate for state employees. 262-X-4-.04 (15)(b) shall be retroactive to the date of the Commission's inception.

(c) Travel expenses for immediate family members to travel out of town to attend the victim's funeral may be considered for reimbursement. Eligible funeral travel expenses may be reimbursed at the current State of Alabama per diem rate, and airline tickets or mileage at the State of Alabama's current rate for state employees.

(d) In order to qualify for reimbursement for out of town travel, the destination must be greater than ten miles from the home of the person requesting compensation.

(e) Rental Cars. When the person requesting compensation has rented an automobile for eligible travel expenses, the person may be reimbursed for mileage or a daily rental car fee of \$35. Under no circumstances shall the requesting person receive both.

(16) Property Reimbursement and Replacement. Eligible damaged property may be replaced or restored to its condition immediately prior to victimization. Stolen property shall not be eligible for

reimbursement. Compensation may be awarded for eligible property taken as evidence by law enforcement. In order for damaged property to be eligible for reimbursement it must be listed in the law enforcement incident/offense report.

- 1) The maximum award for property reimbursement and replacement is \$2,000 per claim.
- 2) The claimant shall provide estimates or receipts for the damaged property for which reimbursement is requested.
- 3) The maximum reimbursement for damaged clothing is \$500. This shall be considered as part of the \$2,000 maximum award for damaged property. Damaged clothing may be reimbursed as follows:
  - a) Pants, jeans or skirt - \$60 maximum per item;
  - b) Shorts or capri pants - \$40 maximum per item;
  - c) Dresses - \$80 maximum per item;
  - d) Shirts and tops - \$50 maximum per item;
  - e) Footwear - \$100 maximum per pair;
  - f) Jacket, coat or blazer - \$100 maximum per item;
  - g) Underwear - \$10 maximum per item;
  - h) Socks and hosiery - \$8 maximum per pair;
  - i) Sleepwear - \$30 maximum;
  - j) Bra- \$25
  - k) Purse - \$25
  - l) Wallet - \$15
  - m) Belt - \$30
- 4) Additional property eligible for reimbursement:
  - a) Security enhancement - alarm systems, fencing, security doors and burglar bars for real property owned by the claimant/victim; repair of rental property leased by the claimant/victim when the claimant/victim is financially responsible for repair(s) to the leased property;
  - b) Prescription eyeglasses and contact lenses. The maximum award for damaged prescription eyeglasses is \$350. A receipt/estimate must be provided for the eyeglasses. The maximum award for damaged prescription contact lenses is \$10.
  - c) Medically necessitated hairpieces used by the victim because he/she suffers from a condition such as alopecia, or he/she sustained hair loss due to an injury to the scalp or he/she received or is receiving medical treatment that resulted/results in hair loss. Documentation from a licensed health care provider substantiating the victim's hair loss is required;
  - d) Furniture, appliances and bedding damaged during the victimization. Damaged furniture, appliances and bedding may be reimbursed as follows:
    - 1) Sofa/couch - \$ 650 maximum;
    - 2) Loveseat/chair and a half - \$350 maximum;
    - 3) Upholstered chair/recliner - \$300 maximum;
    - 4) Coffee table - \$150 maximum;
    - 5) End table/side table - \$100 maximum;

- 6) Bed - \$500 maximum;
- 7) Dresser/armoire/chest of drawers - \$300 maximum;
- 8) Nightstand - \$100 maximum;
- 9) Mattress set - \$800 maximum;
- 10) Sheet Set - \$40 maximum;
- 11) Pillow - \$15 maximum;
- 12) Comforter/bedspread - \$65 maximum;
- 13) Blanket - \$30 maximum;
- 14) Dinette/dining set - \$300 maximum;
- 15) Lamp - \$40 maximum;
- 16) Refrigerator -\$500 maximum;
- 17) Microwave - \$100;
- 18) Eligible property in this category that is not specifically addressed shall be reimbursed at a reasonable rate as determined by the Commission.

5) The following property shall not be eligible for reimbursement:

- a) Guard dogs;
- b) Weapons of any type;
- c) Automobile repair or replacement costs;
- d) Cash and/or checks;
- e) Computers, telephones, Blackberries, I-pods and other similar devices;
- f) Jewelry;
- g) All-terrain vehicles and similar devices;
- h) Bicycles, scooters and similar devices;
- i) Toys;
- j) Hairpieces that were not obtained due to hair loss;
- k) Televisions, DVD players and discs, VCRs and tapes, stereos, CD players and discs, cameras, video-recorders, game systems and other similar devices.

(17) Exclusion from Payment. The following expenses shall not be eligible for compensation:

- a) Any expense related to the prosecution of the criminal case. (Examples: expert testimony and witnesses; DNA testing and analysis; evidence photographs and videos; blood samples and travel expenses for witnesses subpoenaed to testify.) However, compensation may be awarded for eligible property taken as evidence by law enforcement;
- b) All legal fees shall be excluded from payment except legal fees incurred to establish a legal guardian for the victim as defined by Alabama Administrative Code (ACVCC) 262-X-4-.04(22).

(18) Replacement services loss may not exceed four hundred (\$400.00) dollars per week. For incidents of criminally injurious conduct occurring on or after October 1, 2014, compensation for replacement services loss may not exceed six hundred (\$600.00) dollars per week. Replacement services loss is limited to a maximum of 52 weeks.

(19) Supplemental awards: The expenses submitted in the supplemental claim must be related to the original injury and must be supported by documentation.

(20) Checks issued by the ACVCC may contain the following language: "Cashing this check constitutes payment in full." This shall not be construed to apply to future compensation benefits for which the victim/claimant may be eligible. It shall be the responsibility of the victim/claimant to assert this defense in any type of collection proceeding against him/her. In the event that the service provider refuses the check, the compensation shall be paid directly to the victim/claimant.

(21) When a victim/claimant is approved for charity by a service provider, the charity approval shall be considered a collateral source and compensation shall not be paid to the service provider.

(22) When the claimant must seek legal guardianship of a minor and/or disabled victim in order to qualify for crime victims' compensation benefits, the Commission may consider reimbursement of legal fees incurred for obtaining guardianship. The maximum that may be awarded for legal fees is \$1,000. Legal fees incurred for any reason other than obtaining guardianship shall not be eligible for reimbursement. The Commission shall not reimburse legal fees in the instance the claimant is not granted guardianship of the victim.

(23) Bereavement Leave. Bereavement leave may only be granted to the victim's immediate family members. A victim's immediate family member may be granted compensation for a maximum of four weeks of lost wages without a doctor's excuse. A doctor's excuse must be provided for lost wages in excess of four weeks to be considered for reimbursement. Employer verification is required for all bereavement leave requests.

(24) Crime Scene Clean-Up. The Commission may provide compensation to an individual or to the service provider if the expense is outstanding, for the reasonable costs to clean the scene of the crime in an amount not to exceed \$2,500. The service provider must be certified, licensed, and in compliance with all applicable federal and state regulations. Crime scene clean-up expenses may only be awarded for the cleaning and removal of biohazards.

(25) Birth Certificates. Reimbursement may be provided for one certified copy of the claimant's and/or victim's birth certificate(s) obtained after the date of the criminally injurious conduct made the basis of the claim. The birth certificate(s) must have been obtained for the purpose of applying for crime victims' compensation benefits.

(26) Government-Issued Photo Identification. Reimbursement may be provided for one state-issued driver's license or one state-issued non-driver's ID obtained after the date of the criminally injurious conduct made the basis of the claim.

(27) Reimbursement may be provided for certified victims of human trafficking and all qualified victims of violent crime for the removal/cover-up of tattoos that were physically forced on them by the alleged offender in the incident made the basis of the compensation claim. The Commission shall decide reasonable reimbursement on a case-by-case basis. The provider must be licensed by the appropriate governmental body to perform the service rendered in order to qualify for payment/reimbursement.

(28) Lost Wages for Victims of Sexual Assault. A victim of sexual assault may be granted compensation for a maximum of two weeks of lost wages without a doctor's excuse. A doctor's excuse must be provided for lost wages in excess of two weeks to be considered for reimbursement. Employer verification is required for all lost wages requests.

(29) Payment to Non-Claimants. A claimant may assign compensation benefits to a person for allowable expense to the extent that the compensation benefits are for the cost of products, services, or accommodations necessitated by the criminally injurious conduct made the basis of the claim. The claimant must submit a completed Permission for Another Individual to Receive Payments on a Limited Basis form in order for payment to be issued to the person who incurred the expense.

(30) Impound Fees, Towing, and Storage Fees. The reasonable costs of motor vehicle impound fees, towing, and/or storage fees associated with the collection and security of crime scene evidence may be awarded to a claimant/victim. A vehicle must be street legal in order for the Commission to consider awarding compensation benefits for this category. The maximum award for this category shall not exceed \$1,000.

**Author:** Dr. Cassie T. Jones

**Statutory Authority:** ALA. CODE § 15-23-5(14) (1995)

**History:** March 13, 2015

CERTIFICATION OF EMERGENCY RULES  
FILED WITH LEGISLATIVE REFERENCE SERVICE  
JERRY L. BASSETT, DIRECTOR

Pursuant to Code of Alabama 1975, §§41-22-5(b) and 41-22-6(c)(2)a. and b.

I certify that the attached emergency (amendment, new rule, new chapter, repeal or adoption by reference) is a correct copy as promulgated and adopted on the 13th day of March, 2015.

AGENCY NAME: Alabama Crime Victims' Compensation Commission

RULE NO. AND TITLE: 262-x-4-.04, Compensation Awards - Amounts and Methods of Payment.

EFFECTIVE DATE OF RULE: March 13, 2015

EXPIRATION DATE (If less than 120 days): \_\_\_\_\_

NATURE OF EMERGENCY:

Adoption of this rule is necessary to further provide for reimbursement for travel expenses and lost wages to victims of violent crime.

STATUTORY AUTHORITY: § 15-23-5(14), Code of Alabama (1995)

SUBJECT OF RULE TO BE ADOPTED ON PERMANENT BASIS  YES  NO

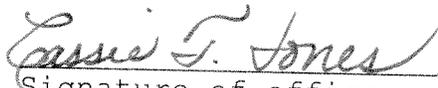
NAME, ADDRESS, AND TELEPHONE NUMBER OF PERSON TO CONTACT FOR COPY OF RULE:

Kim Martin  
P.O. Box 231267  
Montgomery, AL 36123-1267  
334.290.4420

REC'D & FILED

MAR 13 2015

LEGISLATIVE REF SERVICE

 Cassie T. Jones, Ed.D.  
Signature of officer authorized to promulgate and adopt rules and regulations or his or her deputy

FILING DATE  
(For APA Use Only)

262-X-4-.04 Compensation Awards - Amounts and Methods of Payment.

(1) Compensation payable to a victim or claimant sustaining economic loss due to injury or death may not exceed a total of fifteen thousand dollars (\$15,000.00). For incidents of criminally injurious conduct occurring on or after October 1, 2014, compensation payable to a victim or claimant sustaining economic loss due to injury or death may not exceed a total of twenty thousand dollars (\$20,000).

(2) Compensation for lost wages may not exceed four hundred (\$400.00) dollars per week. For incidents of criminally injurious conduct occurring on or after October 1, 2014, compensation for lost wages may not exceed six hundred (\$600.00) dollars per week.

(3) (a) The Commission may provide for the payment to a claimant in a lump sum or installments or the Commission may choose to make payments directly to the service provider. Compensation payable to service providers for medical treatment may be awarded at 100% of eligible expenses.

(4) Future Economic Loss.

(a) The maximum award for future economic loss is \$5,000 per claim. For incidents of criminally injurious conduct occurring on or after October 1, 2014, the maximum award for future economic loss is \$20,000 per claim. Future economic loss may only be awarded in instances in which the victim's loss of future earning capacity is verifiable through his/her employment history. Future economic loss may be awarded in the following circumstances:

(1) The victim was employed at the time of his/her victimization and the employment is verifiable;

(2) The victim was not employed at the time of his/her victimization but worked at least sixty-five weeks in the 104 weeks preceding victimization and the employment is verifiable. When there is proof the victim suffered an injury or illness during the 104 week period that prevented him/her from working, future economic loss may be considered when it is verifiable that the only reason the victim did not work sixty-five weeks was due to the injury/illness.

(b) All awards for future economic loss shall be diminished or denied to the extent that the future economic loss is recouped from a collateral source.

(c) At the discretion of the Commission, future economic loss may be paid in a lump sum, but only upon a finding that the lump sum award will promote the best interest of the claimant.

(d) An award payable in installments for future economic loss may be made only for a period as to which the Commission can reasonably determine future economic loss. An award payable in installments for future economic loss may be modified by the Commission upon its finding that a material and substantial change of circumstances has occurred.

(5) No more than five thousand dollars (\$5,000.00) may be paid for expenses related to funeral, cremation, or burial. For incidents of criminally injurious conduct occurring on or after October 1, 2014, no more than seven thousand dollars (\$7,000.00) may be paid for expenses related to funeral, cremation, or burial.

(6) Approved claims will be paid in the order of their approval by the Commission as funds become available.

(7) Payments may be made in lump sums or in installments.

(8) Lost wages shall be verified by obtaining written documentation from the employer or by submission of a W2 tax document. A tax transcript from the IRS is required if the person seeking reimbursement of his/her lost wages is self-employed or the employer indicated that taxes are not deducted from the person's wages. Proof must be provided that the person seeking reimbursement of his/her lost wages paid federal and state income taxes for the period of time applicable to the requested lost wages.

(9) The claimant may, with the Commission's approval, elect to be paid for lost wages, future economic losses, replacement services loss, etc., before the service providers are paid.

(10) Annual leave, sick leave, personal leave or holidays shall not be considered a collateral source and may be reimbursed by the Commission.

(11) Lost wages may be considered for the victim, claimant and immediate family members at a prorated amount. The victim's lost wages may be considered for work loss caused by the crime. If the victim was not employed but is now disabled as a result of the crime, the claimant or immediate family member may apply for his/her lost wages only if the claimant he/she took time off from work to care for the victim if the victim was a minor or a medical professional provides written confirmation that the care was recommended. If the victim died as a result of the crime, the claimant may apply for the victim's lost wages for up to 52 weeks. Anticipated work may be considered for compensation when accompanied by documentation certifying a definite start date. Lost wages may also be awarded for work loss due to receiving medical treatment as a result of the crime; mental health treatment as a result of the crime; attendance of grand jury proceedings for three days if not subpoenaed; attendance of grand jury proceedings for as many days as required by subpoena, attendance of the offender's preliminary hearing, arraignment, bond hearing, a hearing on any pretrial motion, trial, or any post judgment proceeding; and the offender's parole hearing. Proper documentation is required for consideration of all lost wages requests, including, when applicable: confirmation of court attendance; a parole notification letter; employer's confirmation of work loss; a self-employment affidavit; or a doctor's or mental health provider's written excuse.

(12) Lost wages are limited to \$400.00 per week for a maximum of 52 weeks. The maximum award for lost wages is \$15,000. For incidents of criminally injurious conduct occurring on or after October 1, 2014, lost wages are limited to \$600.00 per week for a maximum of 52 weeks. For incidents of criminally injurious conduct occurring on or after October 1, 2014, the maximum award for lost wages is \$20,000. Life insurance shall be considered a collateral source for all claims. In the event that life insurance does not fully compensate the victim for the eligible expenses he/she incurred as a result of the victimization, the remaining eligible expenses may be eligible for compensation.

(13) Collateral Source

a. Life insurance shall be considered a collateral source for compensation.

b. Charitable donations shall not be considered a collateral source for compensation, unless the donation is specifically designated for an expense. Examples of charitable donations designated for a specific expense include, but are not limited to the following: funeral/burial expenses; medical/dental expenses; and counseling.

(14) The maximum award for moving expenses is \$1,000.00. Written estimates for moving expenses and receipts shall be required. The Commission may award the \$1,000 maximum for moving expenses in cases in which the crime occurred in the victim's home, the victim has a reasonable fear for his/her life if he/she does not move from the home, or moving the victim's personal belongings is necessary.

(15) Travel Expenses.

(a) Airline tickets or mileage at the State of Alabama's current rate for state employees and the current State of Alabama per diem rate and lost wages may be provided for eligible travel expenses. Travel expenses for the victim, immediate family member(s), or person(s) of the victim's choosing, may be awarded to travel out of town to attend grand jury proceedings for three days if not subpoenaed, grand jury proceedings for as many days as required by subpoena, the offender's preliminary hearing, arraignment, bond hearing, a hearing on any pretrial motion, trial, or any post judgment proceeding. When the victim is deceased, travel may be awarded to immediate family members. Travel may be allowed for immediate family members to travel out of town to attend the offender's trial or any post judgment proceeding. When the prosecutor's office or any other entity pays for all or part of the victim's or immediate family member's travel expenses, that amount shall be deducted from the compensation award for travel expenses. Out of town travel may be allowed for medical and psychological treatment that is needed as a result of the victimization. Out of town travel required to procure needed services may be considered for the victim, claimant, and immediate family members. Out of town travel expenses may be awarded for emergency circumstances, as determined by the Commission.

(b) Travel expenses and lost wages for the victim, immediate family member(s), or person(s) of the victim's choosing, may be awarded for attendance of the offender's parole hearing. When the victim is deceased, travel expenses and lost wages may be awarded to immediate family members or victim representatives. Eligible travel expenses shall be reimbursed at the current State of Alabama per diem rate, and airline tickets or mileage at the State of Alabama's current rate for state employees.

These requests will only be considered as a supplemental to an original claim. (There must be a timely, approved compensation claim in order for parole travel expenses to be considered. The Commission will not consider parole travel expenses filed as an original claim.) Eligible parole travel expenses will be reimbursed at the current State of Alabama per diem rate, and airline tickets or mileage at the State of Alabama's current rate for state employees. 262-X-4-.04 (15)(b) shall be retroactive to the date of the Commission's inception.

(c) Travel expenses for immediate family members to travel out of town to attend the victim's funeral may be considered for reimbursement. Eligible funeral travel expenses may be reimbursed at the current State of Alabama per diem rate, and airline tickets or mileage at the State of Alabama's current rate for state employees.

(d) In order to qualify for reimbursement for out of town travel, the destination must be greater than ten miles from the home of the person requesting compensation.

(e) Rental Cars. When the person requesting compensation has rented an automobile for eligible travel expenses, the person may be reimbursed for mileage or a daily rental car fee of \$35. Under no circumstances shall the requesting person receive both.

(16) Property Reimbursement and Replacement. Eligible damaged property may be replaced or restored to its condition immediately prior to victimization. Stolen property shall not be eligible for

reimbursement. Compensation may be awarded for eligible property taken as evidence by law enforcement. In order for damaged property to be eligible for reimbursement it must be listed in the law enforcement incident/offense report.

- 1) The maximum award for property reimbursement and replacement is \$2,000 per claim.
- 2) The claimant shall provide estimates or receipts for the damaged property for which reimbursement is requested.
- 3) The maximum reimbursement for damaged clothing is \$500. This shall be considered as part of the \$2,000 maximum award for damaged property. Damaged clothing may be reimbursed as follows:
  - a) Pants, jeans or skirt - \$60 maximum per item;
  - b) Shorts or capri pants - \$40 maximum per item;
  - c) Dresses - \$80 maximum per item;
  - d) Shirts and tops - \$50 maximum per item;
  - e) Footwear - \$100 maximum per pair;
  - f) Jacket, coat or blazer - \$100 maximum per item;
  - g) Underwear - \$10 maximum per item;
  - h) Socks and hosiery - \$8 maximum per pair;
  - i) Sleepwear - \$30 maximum;
  - j) Bra- \$25
  - k) Purse - \$25
  - l) Wallet - \$15
  - m) Belt - \$30
- 4) Additional property eligible for reimbursement:
  - a) Security enhancement - alarm systems, fencing, security doors and burglar bars for real property owned by the claimant/victim; repair of rental property leased by the claimant/victim when the claimant/victim is financially responsible for repair(s) to the leased property;
  - b) Prescription eyeglasses and contact lenses. The maximum award for damaged prescription eyeglasses is \$350. A receipt/estimate must be provided for the eyeglasses. The maximum award for damaged prescription contact lenses is \$10.
  - c) Medically necessitated hairpieces used by the victim because he/she suffers from a condition such as alopecia, or he/she sustained hair loss due to an injury to the scalp or he/she received or is receiving medical treatment that resulted/results in hair loss. Documentation from a licensed health care provider substantiating the victim's hair loss is required;
  - d) Furniture, appliances and bedding damaged during the victimization. Damaged furniture, appliances and bedding may be reimbursed as follows:
    - 1) Sofa/couch - \$ 650 maximum;
    - 2) Loveseat/chair and a half - \$350 maximum;
    - 3) Upholstered chair/recliner - \$300 maximum;
    - 4) Coffee table - \$150 maximum;
    - 5) End table/side table - \$100 maximum;

- 6) Bed - \$500 maximum;
- 7) Dresser/armoire/chest of drawers - \$300 maximum;
- 8) Nightstand - \$100 maximum;
- 9) Mattress set - \$800 maximum;
- 10) Sheet Set - \$40 maximum;
- 11) Pillow - \$15 maximum;
- 12) Comforter/bedspread - \$65 maximum;
- 13) Blanket - \$30 maximum;
- 14) Dinette/dining set - \$300 maximum;
- 15) Lamp - \$40 maximum;
- 16) Refrigerator - \$500 maximum;
- 17) Microwave - \$100;
- 18) Eligible property in this category that is not specifically addressed shall be reimbursed at a reasonable rate as determined by the Commission.

5) The following property shall not be eligible for reimbursement:

- a) Guard dogs;
- b) Weapons of any type;
- c) Automobile repair or replacement costs;
- d) Cash and/or checks;
- e) Computers, telephones, Blackberries, I-pods and other similar devices;
- f) Jewelry;
- g) All-terrain vehicles and similar devices;
- h) Bicycles, scooters and similar devices;
- i) Toys;
- j) Hairpieces that were not obtained due to hair loss;
- k) Televisions, DVD players and discs, VCRs and tapes, stereos, CD players and discs, cameras, video-recorders, game systems and other similar devices.

(17) Exclusion from Payment. The following expenses shall not be eligible for compensation:

- a) Any expense related to the prosecution of the criminal case. (Examples: expert testimony and witnesses; DNA testing and analysis; evidence photographs and videos; blood samples and travel expenses for witnesses subpoenaed to testify.) However, compensation may be awarded for eligible property taken as evidence by law enforcement;
- b) All legal fees shall be excluded from payment except legal fees incurred to establish a legal guardian for the victim as defined by Alabama Administrative Code (ACVCC) 262-X-4-.04(22).

(18) Replacement services loss may not exceed four hundred (\$400.00) dollars per week. For incidents of criminally injurious conduct occurring on or after October 1, 2014, compensation for replacement services loss may not exceed six hundred (\$600.00) dollars per week. Replacement services loss is limited to a maximum of 52 weeks.

(19) Supplemental awards: The expenses submitted in the supplemental claim must be related to the original injury and must be supported by documentation.

- (20) Checks issued by the ACVCC may contain the following language: "Cashing this check constitutes payment in full." This shall not be construed to apply to future compensation benefits for which the victim/claimant may be eligible. It shall be the responsibility of the victim/claimant to assert this defense in any type of collection proceeding against him/her. In the event that the service provider refuses the check, the compensation shall be paid directly to the victim/claimant.
- (21) When a victim/claimant is approved for charity by a service provider, the charity approval shall be considered a collateral source and compensation shall not be paid to the service provider.
- (22) When the claimant must seek legal guardianship of a minor and/or disabled victim in order to qualify for crime victims' compensation benefits, the Commission may consider reimbursement of legal fees incurred for obtaining guardianship. The maximum that may be awarded for legal fees is \$1,000. Legal fees incurred for any reason other than obtaining guardianship shall not be eligible for reimbursement. The Commission shall not reimburse legal fees in the instance the claimant is not granted guardianship of the victim.
- (23) Bereavement Leave. Bereavement leave may only be granted to the victim's immediate family members. A victim's immediate family member may be granted compensation for a maximum of four weeks of lost wages without a doctor's excuse. A doctor's excuse must be provided for lost wages in excess of four weeks to be considered for reimbursement. Employer verification is required for all bereavement leave requests.
- (24) Crime Scene Clean-Up. The Commission may provide compensation to an individual or to the service provider if the expense is outstanding, for the reasonable costs to clean the scene of the crime in an amount not to exceed \$2,500. The service provider must be certified, licensed, and in compliance with all applicable federal and state regulations. Crime scene clean-up expenses may only be awarded for the cleaning and removal of biohazards.
- (25) Birth Certificates. Reimbursement may be provided for one certified copy of the claimant's and/or victim's birth certificate(s) obtained after the date of the criminally injurious conduct made the basis of the claim. The birth certificate(s) must have been obtained for the purpose of applying for crime victims' compensation benefits.
- (26) Government-Issued Photo Identification. Reimbursement may be provided for one state-issued driver's license or one state-issued non-driver's ID obtained after the date of the criminally injurious conduct made the basis of the claim.
- (27) Reimbursement may be provided for certified victims of human trafficking and all qualified victims of violent crime for the removal/cover-up of tattoos that were physically forced on them by the alleged offender in the incident made the basis of the compensation claim. The Commission shall decide reasonable reimbursement on a case-by-case basis. The provider must be licensed by the appropriate governmental body to perform the service rendered in order to qualify for payment/reimbursement.
- (28) Lost Wages for Victims of Sexual Assault. A victim of sexual assault may be granted compensation for a maximum of two weeks of lost wages without a doctor's excuse. A doctor's excuse must be provided for lost wages in excess of two weeks to be considered for reimbursement. Employer verification is required for all lost wages requests.

(29) Payment to Non-Claimants. A claimant may assign compensation benefits to a person for allowable expense to the extent that the compensation benefits are for the cost of products, services, or accommodations necessitated by the criminally injurious conduct made the basis of the claim. The claimant must submit a completed Permission for Another Individual to Receive Payments on a Limited Basis form in order for payment to be issued to the person who incurred the expense.

(30) Impound Fees, Towing, and Storage Fees. The reasonable costs of motor vehicle impound fees, towing, and/or storage fees associated with the collection and security of crime scene evidence may be awarded to a claimant/victim. A vehicle must be street legal in order for the Commission to consider awarding compensation benefits for this category. The maximum award for this category shall not exceed \$1,000.

**Author:** Dr. Cassie T. Jones

**Statutory Authority:** ALA. CODE § 15-23-5(14) (1995)

**History:** March 13, 2015

CERTIFICATION OF EMERGENCY RULES  
FILED WITH LEGISLATIVE REFERENCE SERVICE  
JERRY L. BASSETT, DIRECTOR

Pursuant to Code of Alabama 1975, §§41-22-5(b) and 41-22-6(c) (2)a. and b.

I certify that the attached emergency amendment, new rule, new chapter, repeal or adoption by reference) is a correct copy as promulgated and adopted on the 13th day of March 2015.

AGENCY NAME: Alabama Crime Victims' Compensation Commission

RULE NO. AND TITLE: 262-x-11-.01, Sexual Assault Examination Payment Program.

EFFECTIVE DATE OF RULE: March 13, 2015

EXPIRATION DATE (If less than 120 days): \_\_\_\_\_

NATURE OF EMERGENCY:

Adoption of this rule is necessary to provide clarification regarding the requirements of a Sexual Assault Nurse Examiner (SANE); to further provide for payment when a SANE facility and hospital have both provided SANE services for the same incident; and to clarify that the Commission cannot pay for Jane Doe (unreported) sexual assault examinations for children.

STATUTORY AUTHORITY: § 15-23-5(14), Code of Alabama (1995)

SUBJECT OF RULE TO BE ADOPTED ON PERMANENT BASIS  YES  NO

NAME, ADDRESS, AND TELEPHONE NUMBER OF PERSON TO CONTACT FOR COPY OF RULE:

Kim Martin  
P.O. Box 231267  
Montgomery, AL 36123-1267  
334.290.4420

REC'D & FILED

MAR 13 2015

LEGISLATIVE REF SERVICE

Cassie T. Jones Cassie T. Jones, Ed.D.  
Signature of officer authorized to promulgate and adopt rules and regulations or his or her deputy

FILING DATE  
(For APA Use Only)

## 262-X-11-.01 Sexual Assault Examination Payment Program.

Program Description: This section provides for payment of the initial forensic examination which is performed on victims of sexual violence for the purpose of obtaining evidence to potentially pursue criminal charges against sexual assault offenders and for the prevention and treatment of venereal disease. Expenses incurred for processing sexual assault evidence collection kits are eligible. Child sexual assault examinations shall also be eligible for payment pursuant to this section.

### 1) AUTHORITY

Code of Alabama § 15-23-5 (24) (1995), which provides:

The commission shall have all the powers and privileges of a corporation and all of its business shall be transacted in the name of the commission. In addition to any other powers and duties specified elsewhere in this article, the commission shall have the power to: Provide for the cost of medical examinations for the purpose of gathering evidence and treatment for preventing venereal disease in sexual abuse crimes and offenses.

### 2) DEFINITIONS

- a) Sexual Assault Nurse Examiner: a registered nurse who has received specialized training ~~and~~ or certification that qualifies him/her to conduct sexual assault examinations for adult and child victims of sexual assault for the purpose of gathering and preserving evidence for potential use in a criminal prosecution. A Sexual Assault Nurse Examiner may also administer prophylaxis against venereal disease.
- b) Sexual Assault Examination: a physical examination performed by a registered nurse or physician in a hospital or medical clinic or a Sexual Assault Nurse Examiner in a SANE facility on adult and child victims of sexual assault for the purpose of gathering and preserving evidence for potential use in a criminal prosecution and the treatment and prevention of venereal disease.
- c) Sexual Assault Nurse Examiner Fee: Fee paid for the professional services of a Sexual Assault Nurse Examiner.
- d) SANE Facility: A community or hospital based program that provides for the collection and preservation of evidence in cases of sexual violence, as well as the treatment and prevention of venereal disease in a compassionate, victim-sensitive setting.

- e) SANE Facility Fee: Fee paid for a SANE facility's cost of providing a sexual assault examination room which includes prorated (if the SANE facility is not the only program housed in the building) operating and overhead costs related to the SANE facility; administrative costs related to SANE facility; supplies for the sexual assault examination; equipment for the sexual assault examination; equipment maintenance; clothing for the victim; and any other expense directly related to providing a sexual assault examination and a sexual assault examination room. The SANE facility fee does not include any item contained in the *Sexual Assault Evidence Collection Kit* which is provided free of charge by the Alabama Department of Forensic Sciences.

### 3) COLLATERAL SOURCE

- a) Any expense associated with a sexual assault examination covered or paid by another a collateral source will not be reimbursed by the Commission.
- b) Code of Alabama § 15-23-3 (13) (1995) defines collateral source as follows:
  - (a) COLLATERAL SOURCE. Source of income, financial or other benefits or advantages for economic loss other than the compensation paid by the compensation commission which the claimant has received or is entitled to receive or is readily available to the claimant, from any one or more of the following:
    - a. The offender.
    - b. The government of the United States or any agency thereof, in the form of benefits, such as Social Security, Medicare and Medicaid, a state or any of its political subdivisions or an instrumentality of two or more states, unless the law providing for the benefits or advantages makes them excessive or secondary to benefits under this article.
    - c. Any temporary nonoccupational disability insurance.
    - d. Workers' compensation.
    - e. Wage continuation programs of any employer.
    - f. Proceeds of a contract of insurance payable to the claimant for loss which the victim sustained because of the criminally injurious conduct.
    - g. A contract providing prepaid hospital and other health care services or benefits for disability.

- c) Any collateral source available for the payment of a sexual assault examination must be utilized prior to submitting a sexual assault examination to the Commission's Sexual Assault Examination Payment Program.
  - i) A hospital, medical clinic, or SANE facility should not bill the victim of sexual violence for the sexual assault examination. Alabama Attorney General Troy King's *Protocol for the Examination and Treatment of Victims of Sexual Assault* states "victims should not be billed for sexual assault examinations." *Alabama Attorney General Troy King's Protocol for the Examination and Treatment of Victims of Sexual Assault*, page 20.

#### 4) ELIGIBILITY AND PAYMENT PROCEDURES

- a) Sexual assault examinations performed on or after July 27, 1995, may be considered for payment.
- b) Exams Performed in Hospitals and Medical Clinics
  - i) Sexual assault examinations performed by a registered nurse or physician in a hospital or medical clinic for the purpose of gathering evidence and treating and preventing venereal disease will be considered for payment.
    - (1) Hospitals and medical clinics must submit the current version of an UB form, itemized bill, and medical records.
  - ii) Sexual assault examinations performed in a hospital or medical clinic will be reviewed to determine the reasonableness and eligibility of the charges.
  - iii) If after the Commission's review of the charges, they are found to be charged at an excessive rate and/or not rendered for the purpose of gathering evidence and/or treating and preventing venereal disease, the charges will be denied for payment.
  - iv) If after the Commission's review of the charges, it is determined that they do not comply with the Alabama Attorney General's *Protocol for the Examination and Treatment of Victims of Sexual Assault*, the charges will be denied for payment.
  - v) If the charges are determined to be excessive, the hospital or medical clinic will be contacted to negotiate the submitted expenses.
  - vi) A facility fee shall not be paid when a sexual assault examination is performed at a hospital, medical clinic or any facility other than a SANE facility.
- c) Exams Performed by a Sexual Assault Nurse Examiner (SANE).
  - i) Each itemized bill or statement for a sexual assault examination will be considered for payment in the order that it is received.

- ii) Each itemized bill or statement will be reviewed for accuracy and any unsupported or ineligible charges will not be reimbursed.
  - iii) The Commission will provide reimbursement for “Jane Doe” sexual assault examinations performed on adult victims.
  - iv) The Commission will not reimburse for “Jane Doe” sexual assault examinations for minors children.
  - v) Each itemized bill or statement must identify the International Classification of Diseases (ICD-9) code.
  - vi) Each billed procedure, service or supply/medication must be itemized.
  - vii) Each billed procedure, service or supply/medication must include the appropriate Physicians’ Current Procedural Terminology (CPT) code.
  - viii) The itemization for each billed procedure, service or supply/medication must include the charge for each line item.
  - ix) The initial forensic examination will be considered for payment. Only services rendered and medications provided “for the purpose of gathering evidence and treatment for preventing venereal disease in sexual abuse crimes and offenses” will be considered pursuant to the Commission’s Sexual Assault Examination Payment Policy.
  - x) Each itemized bill or statement must include a copy of the completed Sexual Assault Information Form (AL102) that is included in the State of Alabama Collection Kit provided by the Alabama Department of Forensic Sciences or equivalent documentation. Alabama Department of Forensic Sciences provides collection kits free of charge and payment will not be provided for the kits.
  - xi) Signed, written confirmation from an employee of the SANE facility that the sexual assault was reported to the Department of Human Resources (DHR) or law enforcement must be provided in cases in which the victim is a minor. If confirmation is not received, the sexual assault examination will not be considered for payment.
- d) Referrals from Hospitals and Medical Clinics
- i) When a hospital or medical clinic refers a victim of sexual violence to a SANE facility, the SANE facility will be paid the Sexual Assault Nurse Examiner Fee.

- ii) When a hospital or medical clinic and a SANE facility perform a sexual assault examination for the same incident, the fee for any procedure that is performed at both facilities will be paid to the SANE facility. The fees for duplicate procedures performed by the hospital or medical clinic may be considered on an original compensation claim that must be filed by the claimant or victim.
- iii) The fees for any medications or procedures performed by the hospital or medical clinic and not duplicated by the SANE facility may be considered for payment through the Sexual Assault Examination Payment Program.
- iv) The Commission will not pay a hospital or medical clinic and a SANE facility a duplicate fee for the same incident through the Sexual Assault Examination Payment Program.

#### 5) COLLECTION OF EVIDENCE WITHIN 72 HOURS

- a) If it is determined that the sexual assault took place more than 72 hours prior to the sexual assault examination, the use of an evidence collection kit may not be necessary. *Alabama Attorney General' Alabama Protocol for the Examination and Treatment of Victims of Sexual Assault.*
- i) The reasonableness of the charges for sexual assault examinations performed after 72 hours will be determined on a case-by-case basis.
  - (1) The age, mental capacity, and the victim's ability to seek a sexual assault examination within 72 hours of the assault will be considered when making a determination regarding the reasonableness of a sexual assault exam performed more than 72 hours after the sexual assault.

#### 6) INELIGIBLE EXPENSES

- a) The following expenses are not eligible pursuant to the Commission's Sexual Assault Examination Payment Program:
  - i) treatment for injuries;
  - ii) medication for any purpose other than the treatment and prevention of venereal disease;
  - iii) hospital admissions.
- b) All sexual assault victims should be provided a crime victims' compensation application. Expenses that are ineligible pursuant to the Commission's Sexual Assault Examination Payment Program may be eligible for crime victims' compensation benefits.

#### 7) FALSE REPORTS

- i) The Commission will not compensate for a sexual assault examination if it is determined that a rape or sexual assault did not occur. Examples of false reports include, but are not limited to, consensual sexual contact and no sexual contact.

8) SEXUAL ASSAULT EXAMINATIONS CONDUCTED ON ALLEGED PERPETRATORS/OFFENDERS

(1) The Commission does not provide for the cost of sexual assault examinations performed on alleged perpetrators/offenders.

9) PAYMENT LIMITS FOR SEXUAL ASSAULT EXAMINATION PAYMENT PROGRAM

- a) Sexual Assault Nurse Examiner Fee: \$300
- b) SANE Facility Fee: \$150
  
- c) Medication Limitations
  - i) One gram azithromycin (Zithromax) or equivalent drug: \$39.50 each
  - ii) 500 mg ciprofloxin or equivalent drug: \$12 each
  - iii) 100 mg doxycycline or equivalent drug: \$1 each
  - iv) 500 mg metronidazole (Flagyl) or equivalent drug: \$5.50 each
  - v) Ofloxacin or equivalent drug: \$12 each
  - vi) 250 mg Ceftriaxone or equivalent drug: \$90.36 each
  - vii) Ceftriaxone drug administration fee: \$10
  - viii) Ovril or equivalent drug: \$4.50 each
  - ix) 12.5 mg promethazine (Phenergan) or equivalent drug: \$2.50 each
  - x) 10 mcg Recombivax or equivalent drug: \$40 each
  - xi) Zovia or equivalent drug: \$10 each
  
- d) Procedure Limitations
  - i) Suspected drug facilitated screening: \$95
  - ii) Colposcope exam: \$50
  - iii) UV light screening: \$20
  - iv) Pregnancy test: \$10
  - v) Venipuncture: \$10
  - vi) Microscopic sperm screening: \$32
  - vii) 14 Fr Foley hymenal exam: \$20
  - viii) Body forensic photography: \$20
  
- e) Medications and procedures not listed in this section will be examined on a case-by-case basis for eligibility.

**Author:** Dr. Cassie T. Jones

**Statutory Authority:** ALA. CODE § 15-23-5(14) (1995)

**History:** March 13, 2015

TRANSMITTAL SHEET FOR  
NOTICE OF INTENDED ACTION

Control \_\_\_\_\_ Department or Agency Crime Victims' Compensation Commission  
Rule No. 262-x-4-.07

Rule Title: Mental Health Benefits.

\_\_\_\_\_ New \_\_\_\_\_ x \_\_\_\_\_ Amend \_\_\_\_\_ Repeal \_\_\_\_\_ Adopt by Reference

Would the absence of the proposed rule significantly  
Harm or endanger the public health, welfare, or safety? Yes

Is there a reasonable relationship between the  
state's police power and the protection of the  
public health, safety, or welfare? Yes

Is there another, less restrictive method of  
regulation available that could adequately protect  
the public? No

Does the propounded rule have the effect of directly  
or indirectly increasing the costs of any goods or  
services involved and, if so, to what degree? No

Is the increase in cost, if any, more harmful to the  
public than the harm that might result from the  
absence of the proposed rule? No

Are all facets of the rulemaking process designed  
solely for the purpose of, and so they have, as  
their primary effect, the protection of the public? Yes

.....  
Does the proposed rule have an economic impact? Yes

If the proposed rule has an economic impact, the proposed rule is  
required to be accompanied by a fiscal note prepared in accordance with  
subsection (f) of Section 41-22-23, Code of Alabama 1975.

.....  
Certification of Authorized Official

I certify that the attached proposed rule has been proposed in full  
compliance with the requirements of Chapter 22, Title 41, Code of Alabama  
1975, and that it conforms to all applicable filing requirements of the  
Administrative Procedures Division of the Legislative Reference Service.

Signature of certifying officer Cassie T. Jones Cassie T. Jones, Ed.D.

Date 3/13/15

REC'D & FILED

MAR 13 2015

LEGISLATIVE REF SERVICE

ALABAMA CRIME VICTIMS' COMPENSATION COMMISSION

NOTICE OF INTENDED ACTION

RULE NO. & TITLE: 262-x-4-.07, Mental Health Benefits

INTENDED ACTION: Amend

SUBSTANCE OF PROPOSED ACTION: The Commission proposes to provide reimbursement/payment for interpreters for therapy services for claimants/victims with limited English proficiency.

TIME, PLACE, MANNER OF PRESENTING VIEWS: Interested persons may present their views in writing to the Alabama Crime Victims' Compensation Commission, 5845 Carmichael RD; Post Office Box 231267, Montgomery, Alabama 36123-1267, or oral comments at 334.290.4420.

FINAL DATE FOR COMMENT AND COMPLETION OF NOTICE: Written comments shall be received until the close of record at 5:00 p.m. on May 6, 2015. All comments should be addressed to the contact person listed below or oral comments at 334.290.4420.

CONTACT PERSON AT AGENCY: Kim Martin, General Counsel, Alabama Crime Victims' Compensation Commission, 5845 Carmichael RD; Post Office Box 231267, Montgomery, Alabama 36123-1267.



Cassie T. Jones, Ed.D.  
Executive Director

**ECONOMIC IMPACT STATEMENT  
FOR APA RULE  
(Section 41-22-23(f))**

Control No. \_\_\_\_\_ Department or Agency Crime Victims' Compensation  
Commission

Rule No: 262-X-4-.07

Rule Title: Mental Health Benefits.

\_\_\_\_\_ New  Amend \_\_\_\_\_ Repeal \_\_\_\_\_ Adopt by Reference

\_\_\_\_\_ This rule has no economic impact.

This rule has an economic impact, as explained below:

1. NEED/EXPECTED BENEFIT OF RULE:

This rule will provide reimbursement/payment for interpreters for therapy services for claimants/victims with limited English proficiency.

2. COSTS/BENEFITS OF RULE AND WHY RULE IS THE MOST EFFECTIVE, EFFICIENT, AND FEASIBLE MEANS FOR ALLOCATING RESOURCES AND ACHIEVING THE STATED PURPOSE:

It will allow eligible victims of violent crime to received additional compensation benefits.

3. EFFECT OF THIS RULE ON COMPETITION:

No effect.

4. EFFECT OF THIS RULE ON COST-OF-LIVING AND DOING BUSINESS IN THE GEOGRAPHICAL AREA WHERE THE RULE IS TO BE IMPLEMENTED:

No effect.

5. EFFECT OF THIS RULE ON EMPLOYMENT IN THE GEOGRAPHICAL AREA WHERE THE RULE IS TO BE IMPLEMENTED:

No effect on employment, it is only promulgated to assist victims of violent crime.

6. SOURCE OF REVENUE TO BE USED FOR IMPLEMENTING AND ENFORCING THIS RULE:

Court-ordered fines, fees and restitution. Federal grant money will also be used. No general fund money will be used in the implementation of this rule.

7. THE SHORT-TERM/LONG-TERM ECONOMIC IMPACT OF THIS RULE ON AFFECTED PERSONS, INCLUDING ANALYSIS OF PERSONS WHO WILL BEAR THE COSTS AND THOSE WHO WILL BENEFIT FROM THE RULE:

It will provide more compensation to eligible victims.

8. UNCERTAINTIES ASSOCIATED WITH THE ESTIMATED BENEFITS AND BURDENS OF THE RULE, INCLUDING QUALITATIVE/QUANTITATIVE BENEFITS AND BURDEN COMPARISON:

No uncertainties are foreseen or anticipated.

9. THE EFFECT OF THIS RULE ON THE ENVIRONMENT AND PUBLIC HEALTH:

It improves the public health by providing more compensation to eligible victims.

10. DETRIMENTAL EFFECT ON THE ENVIRONMENT AND PUBLIC HEALTH IF THE RULE IS NOT IMPLEMENTED:

**\*\*Additional pages may be used if needed.**

**262-x-4-.07 Mental Health Benefits.**

(1) Qualified Providers

~~To receive payments for counseling/psychotherapy, the mental health professional must be licensed by the State of Alabama. Psychiatrists, psychologists, licensed professional counselors, and licensed clinical social workers are required to have an active license by their respective professional licensing board.~~

The Commission may provide reimbursement/payment of therapy expenses if the therapy was provided by a psychiatrist, psychologist, professional counselor, or clinical social worker that is licensed by the appropriate governmental licensing body. The clinician must have an active license at the time the therapy was provided in order to qualify for reimbursement/payment of therapy expenses.

(2) Appropriate Treatment

- (a) ACVCC must receive a letter from the clinician certifying that the victim is engaged in necessary treatment therapy due to his/her victimization.
- (b) ~~The clinician shall be required to provide the Commission with quarterly~~ Quarterly updates from the clinician certifying that the treatment is necessary and the result of victimization must be submitted in order for payment to be considered.
- (c) The clinician must provide an itemized ~~list of~~ bill for treatment sessions.

(3) Eligibility for Payment. ~~Those eligible for counseling costs enumerated in the law are:~~ The claimant, victim, and/or the victim's immediate family members may be eligible for mental health benefits.

~~(a) VICTIM: A person who suffered serious bodily injury, psychological injury as the result of a direct, face to face threat of physical injury or death as a result of criminally injurious conduct.~~

~~(b) DEPENDENT: A natural person wholly or partially dependent upon the victim for care or support, and includes a child of the victim born after the death of the victim where the death occurred as a result of criminally injurious conduct.~~

~~(c) CLAIMANT: Any of the following persons applying for compensation under this chapter:~~

- ~~1. A victim;~~
- ~~2. a dependent of a deceased victim, if such victim died as a result of criminally injurious conduct; or~~
- ~~3. a person authorized by law to act on behalf of a victim or dependent of a deceased victim if such victim died as a result of criminally injurious conduct;~~
- ~~4. a victim's immediate family members as defined by the State of Alabama Family and Medical Leave Act requirements.~~

(4) Cost Containment

(a) Individual Therapy Rates:

\$80.00 per hour- Licensed Counselor/Social Worker;

\$100.00 per hour- Psychologists (Ph.D.);

\$125 per hour- Psychiatrists (M.D.).

(b) Group Therapy Rates: \$ 60.00 per hour.

(c) Counseling Reimbursement for therapy expenses shall not exceed \$6,250, or 50 sessions, unless exigent circumstances exist and the ~~amount of the expenses~~ maximum allotment for counseling therapy expenses will be expended before the victim/claimant has been adequately assisted on an outpatient basis. Exigent circumstances may include, but are not being limited to, homicide survivors, child victims, and victims diagnosed with Post Traumatic Stress Disorder (PTSD) in which the victim/claimant requires continuing therapy. ~~In no instance shall counseling expenses exceed \$8,000. If the Commission determines that an exigent circumstance exists, the maximum award for therapy is \$8,000.~~ Reasonable efforts should be made to inform victims/claimants that counseling therapy services are provided by community mental health centers on a sliding fee schedule scale. Inpatient treatment shall be considered a medical condition for purposes of compensation. ~~In instances in which~~ When the victim is a minor, the claimant shall be limited to 15 individual counseling therapy sessions, unless the victim is deceased. The 15 individual counseling therapy sessions limit shall not apply to homicide claims.

(d) Supplemental therapy bills may be submitted to ACVCC as accrued, for consideration of payment. ~~They will only be considered and paid every three (3) months.~~

(e) ~~In instances in which~~ When counseling therapy services have been provided by county mental health centers, ACVCC will only pay what the victim has been charged on a sliding fee scale.

(5) Criteria for Payment of Counseling Therapy Expenses. Eligibility for payment of counseling therapy expenses is based upon ~~the following factors~~ receipt of the following documentation:

- (a) a written statement from the therapist indicating that the therapy is directly related to the victimization;
- (b) an itemized bill from the therapist indicating the dates, times and charges for therapy; and
- (c) evidence that the therapist is licensed by the appropriate governmental licensing body.

~~(a) The reasonableness of the charges;~~

~~(b) The relationship between the therapy and the crime;~~

~~(c) The cooperation of the therapist in submitting the requested information which includes evidence that therapy is necessary as a result of the crime, a bill indicating dates, times and cost of therapy, evidence that the therapist is licensed or, if not, evidence that the therapist is supervised regularly by a psychologist or psychiatrist.~~

(6) Counseling Therapy via Videoconference. The Commission may reimburse for counseling therapy services rendered via videoconference when the counseling service therapy is compliant with all applicable laws and regulations.

(7) Interpreters for Victims/Claimants with Limited English Proficiency (LEP).

- (a) The Commission may provide reimbursement for reasonable fees incurred for the use of interpreters by LEP victims/claimants who seek therapy services as a direct result of the crime. The Commission will determine if the charges are reasonable on a case by case basis. The availability of interpreters in the LEP victim's/claimant's primary or home language will be considered in determining if the charges are reasonable.
- (b) In order to qualify for reimbursement, the interpreter must be:
  - (1) currently certified by any state, regional or national interpreting association, board or body as proficient in the LEP individual's primary or home language, or
  - (2) found to be qualified to interpret in the LEP individual's primary or home language by a municipal, county, state, or federal court.
  - (3) Unrelated by blood or marriage to the claimant and/or victim.

**Author:** Dr. Cassie T. Jones

**Statutory Authority:** ALA. CODE § 15-23-5(14) (1995)

**History:** March 13, 2015

CERTIFICATION OF EMERGENCY RULES  
FILED WITH LEGISLATIVE REFERENCE SERVICE  
JERRY L. BASSETT, DIRECTOR

Pursuant to Code of Alabama 1975, §§41-22-5(b) and 41-22-6(c)(2)a. and b.

I certify that the attached emergency (amendment) new rule, new chapter, repeal or adoption by reference) is a correct copy as promulgated and adopted on the 13th day of March 2015.

AGENCY NAME: Alabama Crime Victims' Compensation Commission

RULE NO. AND TITLE: 262-x-4-.07, Mental Health Benefits.

EFFECTIVE DATE OF RULE: March 13, 2015

EXPIRATION DATE (If less than 120 days): \_\_\_\_\_

NATURE OF EMERGENCY:

Adoption of this rule is necessary to provide reimbursement/payment for interpreters for therapy services for claimants/victims with limited English proficiency.

STATUTORY AUTHORITY: § 15-23-5(14), Code of Alabama (1995)

SUBJECT OF RULE TO BE ADOPTED ON PERMANENT BASIS  YES  NO

NAME, ADDRESS, AND TELEPHONE NUMBER OF PERSON TO CONTACT FOR COPY OF RULE:

Kim Martin  
P.O. Box 231267  
Montgomery, AL 36123-1267  
334.290.4420

REC'D & FILED

MAR 13 2015

LEGISLATIVE REF SERVICE

Cassie T. Jones Cassie T. Jones, Ed.D.  
Signature of officer authorized to promulgate and adopt rules and regulations or his or her deputy

FILING DATE  
(For APA Use Only)

262-x-4-.07 Mental Health Benefits.

(1) Qualified Providers

To receive payments for counseling/psychotherapy, the mental health professional must be licensed by the State of Alabama. Psychiatrists, psychologists, licensed professional counselors, and licensed clinical social workers are required to have an active license by their respective professional licensing board.

The Commission may provide reimbursement/payment of therapy expenses if the therapy was provided by a psychiatrist, psychologist, professional counselor, or clinical social worker that is licensed by the appropriate governmental licensing body. The clinician must have an active license at the time the therapy was provided in order to qualify for reimbursement/payment of therapy expenses.

(2) Appropriate Treatment

- (a) ACVCC must receive a letter from the clinician certifying that the victim is engaged in necessary treatment therapy due to his/her victimization.
- (b) ~~The clinician shall be required to provide the Commission with quarterly~~ Quarterly updates from the clinician certifying that the treatment is necessary and the result of victimization must be submitted in order for payment to be considered.
- (c) The clinician must provide an itemized ~~list of~~ bill for treatment sessions.

(3) Eligibility for Payment. ~~Those eligible for counseling costs enumerated in the law are:~~ The claimant, victim, and/or the victim's immediate family members may be eligible for mental health benefits.

~~(a) VICTIM: A person who suffered serious bodily injury, psychological injury as the result of a direct, face to face threat of physical injury or death as a result of criminally injurious conduct.~~

~~(b) DEPENDENT: A natural person wholly or partially dependent upon the victim for care or support, and includes a child of the victim born after the death of the victim where the death occurred as a result of criminally injurious conduct.~~

~~(c) CLAIMANT: Any of the following persons applying for compensation under this chapter:~~

- ~~1. A victim;~~
- ~~2. a dependent of a deceased victim, if such victim died as a result of criminally injurious conduct; or~~
- ~~3. a person authorized by law to act on behalf of a victim or dependent of a deceased victim if such victim died as a result of criminally injurious conduct;~~
- ~~4. a victim's immediate family members as defined by the State of Alabama Family and Medical Leave Act requirements.~~

(4) Cost Containment

(a) Individual Therapy Rates:

\$80.00 per hour- Licensed Counselor/Social Worker;  
\$100.00 per hour- Psychologists (Ph.D.);  
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(b) Group Therapy Rates: \$ 60.00 per hour.

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(d) Supplemental therapy bills may be submitted to ACVCC as accrued, for consideration of payment. ~~They will only be considered and paid every three (3) months.~~

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- (b) an itemized bill from the therapist indicating the dates, times and charges for therapy; and
- (c) evidence that the therapist is licensed by the appropriate governmental licensing body.

~~(a) The reasonableness of the charges;~~

~~(b) The relationship between the therapy and the crime;~~

~~(c) The cooperation of the therapist in submitting the requested information which includes evidence that therapy is necessary as a result of the crime, a bill indicating dates, times and cost of therapy, evidence that the therapist is licensed or, if not, evidence that the therapist is supervised regularly by a psychologist or psychiatrist.~~

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- (b) In order to qualify for reimbursement, the interpreter must be:
  - (1) currently certified by any state, regional or national interpreting association, board or body as proficient in the LEP individual's primary or home language, or
  - (2) found to be qualified to interpret in the LEP individual's primary or home language by a municipal, county, state, or federal court.
  - (3) Unrelated by blood or marriage to the claimant and/or victim.

**Author:** Dr. Cassie T. Jones

**Statutory Authority:** ALA. CODE § 15-23-5(14) (1995)

**History:** March 13, 2015

**TRANSMITTAL SHEET FOR  
NOTICE OF INTENDED ACTION**

Control \_\_\_\_\_ Department or Agency Crime Victims' Compensation Commission  
Rule No. 262-x-11-.01

Rule Title: Sexual Assault Examination Payment Program.

\_\_\_\_\_ New \_\_\_\_\_ x Amend \_\_\_\_\_ Repeal \_\_\_\_\_ Adopt by Reference

Would the absence of the proposed rule significantly  
Harm or endanger the public health, welfare, or safety? Yes

Is there a reasonable relationship between the  
state's police power and the protection of the  
public health, safety, or welfare? Yes

Is there another, less restrictive method of  
regulation available that could adequately protect  
the public? No

Does the propounded rule have the effect of directly  
or indirectly increasing the costs of any goods or  
services involved and, if so, to what degree? No

Is the increase in cost, if any, more harmful to the  
public than the harm that might result from the  
absence of the proposed rule? No

Are all facets of the rulemaking process designed  
solely for the purpose of, and so they have, as  
their primary effect, the protection of the public? Yes

.....  
Does the proposed rule have an economic impact? Yes

If the proposed rule has an economic impact, the proposed rule is  
required to be accompanied by a fiscal note prepared in accordance with  
subsection (f) of Section 41-22-23, Code of Alabama 1975.

.....  
Certification of Authorized Official

I certify that the attached proposed rule has been proposed in full  
compliance with the requirements of Chapter 22, Title 41, Code of Alabama  
1975, and that it conforms to all applicable filing requirements of the  
Administrative Procedures Division of the Legislative Reference Service.

Signature of certifying officer Cassie T. Jones Cassie T. Jones, Ed.D.

Date 3/13/15

REC'D & FILED

MAR 13 2015

LEGISLATIVE REF SERVICE

ALABAMA CRIME VICTIMS' COMPENSATION COMMISSION

NOTICE OF INTENDED ACTION

RULE NO. & TITLE: 262-X-11-.01, Sexual Assault Payment Program.

INTENDED ACTION: Amend

SUBSTANCE OF PROPOSED ACTION: The Commission proposes to amend the current rule to provide clarification regarding the requirements of a Sexual Assault Nurse Examiner (SANE); to further provide for payment when a SANE facility and hospital have both provided SANE services for the same incident; and to clarify that the Commission cannot pay for Jane Doe (unreported) sexual assault examinations for children.

TIME, PLACE, MANNER OF PRESENTING VIEWS: Interested persons may present their views in writing to the Alabama Crime Victims' Compensation Commission, 5845 Carmichael RD; Post Office Box 231267, Montgomery, Alabama 36123-1267, or oral comments at 334.290.4420.

FINAL DATE FOR COMMENT AND COMPLETION OF NOTICE: Written comments shall be received until the close of record at 5:00 p.m. on May 6, 2015. All comments should be addressed to the contact person listed below or oral comments at 334.290.4420.

CONTACT PERSON AT AGENCY: Kim Martin, General Counsel, Alabama Crime Victims' Compensation Commission, 5845 Carmichael Rd; Post Office Box 231267, Montgomery, Alabama 36123-1267.



Cassie T. Jones, Ed.D.  
Executive Director

**ECONOMIC IMPACT STATEMENT  
FOR APA RULE  
(Section 41-22-23(f))**

Control No. \_\_\_\_\_ Department or Agency Crime Victims' Compensation Commission

Rule No: 262-X-11-.01

Rule Title: Sexual Assault Examination Payment Program.

\_\_\_\_\_ New  Amend \_\_\_\_\_ Repeal \_\_\_\_\_ Adopt by Reference

\_\_\_\_\_ This rule has no economic impact.

This rule has an economic impact, as explained below:

1. NEED/EXPECTED BENEFIT OF RULE:

This rule will further provide for payment of sexual assault examinations and provide clarification regarding eligibility for services.

2. COSTS/BENEFITS OF RULE AND WHY RULE IS THE MOST EFFECTIVE, EFFICIENT, AND FEASIBLE MEANS FOR ALLOCATING RESOURCES AND ACHIEVING THE STATED PURPOSE:

It will further provide for qualified providers to receive payment for sexual assault exams.

3. EFFECT OF THIS RULE ON COMPETITION:

No effect.

4. EFFECT OF THIS RULE ON COST-OF-LIVING AND DOING BUSINESS IN THE GEOGRAPHICAL AREA WHERE THE RULE IS TO BE IMPLEMENTED:

No effect.

5. EFFECT OF THIS RULE ON EMPLOYMENT IN THE GEOGRAPHICAL AREA WHERE THE RULE IS TO BE IMPLEMENTED:

No effect on employment, it is only promulgated to assist victims of violent crime.

6. SOURCE OF REVENUE TO BE USED FOR IMPLEMENTING AND ENFORCING THIS RULE:

Court-ordered fines, fees and restitution. Federal grant money will also be used. No general fund money will be used in the implementation of this rule.

7. THE SHORT-TERM/LONG-TERM ECONOMIC IMPACT OF THIS RULE ON AFFECTED PERSONS, INCLUDING ANALYSIS OF PERSONS WHO WILL BEAR THE COSTS AND THOSE WHO WILL BENEFIT FROM THE RULE:

It will further provide for qualified providers to receive payment for sexual assault exams.

8. UNCERTAINTIES ASSOCIATED WITH THE ESTIMATED BENEFITS AND BURDENS OF THE RULE, INCLUDING QUALITATIVE/QUANTITATIVE BENEFITS AND BURDEN COMPARISON:

No uncertainties are foreseen or anticipated.

9. THE EFFECT OF THIS RULE ON THE ENVIRONMENT AND PUBLIC HEALTH:

It will further provide for qualified providers to receive payment for sexual assault exams.

10. DETRIMENTAL EFFECT ON THE ENVIRONMENT AND PUBLIC HEALTH IF THE RULE IS NOT IMPLEMENTED:

**\*\*Additional pages may be used if needed.**

## 262-X-11-.01 Sexual Assault Examination Payment Program.

Program Description: This section provides for payment of the initial forensic examination which is performed on victims of sexual violence for the purpose of obtaining evidence to potentially pursue criminal charges against sexual assault offenders and for the prevention and treatment of venereal disease. Expenses incurred for processing sexual assault evidence collection kits are eligible. Child sexual assault examinations shall also be eligible for payment pursuant to this section.

### 1) AUTHORITY

Code of Alabama § 15-23-5 (24) (1995), which provides:

The commission shall have all the powers and privileges of a corporation and all of its business shall be transacted in the name of the commission. In addition to any other powers and duties specified elsewhere in this article, the commission shall have the power to: Provide for the cost of medical examinations for the purpose of gathering evidence and treatment for preventing venereal disease in sexual abuse crimes and offenses.

### 2) DEFINITIONS

- a) Sexual Assault Nurse Examiner: a registered nurse who has received specialized training ~~and~~ or certification that qualifies him/her to conduct sexual assault examinations for adult and child victims of sexual assault for the purpose of gathering and preserving evidence for potential use in a criminal prosecution. A Sexual Assault Nurse Examiner may also administer prophylaxis against venereal disease.
- b) Sexual Assault Examination: a physical examination performed by a registered nurse or physician in a hospital or medical clinic or a Sexual Assault Nurse Examiner in a SANE facility on adult and child victims of sexual assault for the purpose of gathering and preserving evidence for potential use in a criminal prosecution and the treatment and prevention of venereal disease.
- c) Sexual Assault Nurse Examiner Fee: Fee paid for the professional services of a Sexual Assault Nurse Examiner.
- d) SANE Facility: A community or hospital based program that provides for the collection and preservation of evidence in cases of sexual violence, as well as the treatment and prevention of venereal disease in a compassionate, victim-sensitive setting.

- e) SANE Facility Fee: Fee paid for a SANE facility's cost of providing a sexual assault examination room which includes prorated (if the SANE facility is not the only program housed in the building) operating and overhead costs related to the SANE facility; administrative costs related to SANE facility; supplies for the sexual assault examination; equipment for the sexual assault examination; equipment maintenance; clothing for the victim; and any other expense directly related to providing a sexual assault examination and a sexual assault examination room. The SANE facility fee does not include any item contained in the *Sexual Assault Evidence Collection Kit* which is provided free of charge by the Alabama Department of Forensic Sciences.

### 3) COLLATERAL SOURCE

- a) Any expense associated with a sexual assault examination covered or paid by another collateral source will not be reimbursed by the Commission.

- b) Code of Alabama § 15-23-3 (13) (1995) defines collateral source as follows:

(a) COLLATERAL SOURCE. Source of income, financial or other benefits or advantages for economic loss other than the compensation paid by the compensation commission which the claimant has received or is entitled to receive or is readily available to the claimant, from any one or more of the following:

- a. The offender.
- b. The government of the United States or any agency thereof, in the form of benefits, such as Social Security, Medicare and Medicaid, a state or any of its political subdivisions or an instrumentality of two or more states, unless the law providing for the benefits or advantages makes them excessive or secondary to benefits under this article.
- c. Any temporary nonoccupational disability insurance.
- d. Workers' compensation.
- e. Wage continuation programs of any employer.
- f. Proceeds of a contract of insurance payable to the claimant for loss which the victim sustained because of the criminally injurious conduct.
- g. A contract providing prepaid hospital and other health care services or benefits for disability.

- c) Any collateral source available for the payment of a sexual assault examination must be utilized prior to submitting a sexual assault examination to the Commission's Sexual Assault Examination Payment Program.
  - i) A hospital, medical clinic, or SANE facility should not bill the victim of sexual violence for the sexual assault examination. Alabama Attorney General Troy King's *Protocol for the Examination and Treatment of Victims of Sexual Assault* states "victims should not be billed for sexual assault examinations." *Alabama Attorney General Troy King's Protocol for the Examination and Treatment of Victims of Sexual Assault*, page 20.

#### 4) ELIGIBILITY AND PAYMENT PROCEDURES

- a) Sexual assault examinations performed on or after July 27, 1995, may be considered for payment.
- b) Exams Performed in Hospitals and Medical Clinics
  - i) Sexual assault examinations performed by a registered nurse or physician in a hospital or medical clinic for the purpose of gathering evidence and treating and preventing venereal disease will be considered for payment.
    - (1) Hospitals and medical clinics must submit the current version of an UB form, itemized bill, and medical records.
  - ii) Sexual assault examinations performed in a hospital or medical clinic will be reviewed to determine the reasonableness and eligibility of the charges.
  - iii) If after the Commission's review of the charges, they are found to be charged at an excessive rate and/or not rendered for the purpose of gathering evidence and/or treating and preventing venereal disease, the charges will be denied for payment.
  - iv) If after the Commission's review of the charges, it is determined that they do not comply with the Alabama Attorney General's *Protocol for the Examination and Treatment of Victims of Sexual Assault*, the charges will be denied for payment.
  - v) If the charges are determined to be excessive, the hospital or medical clinic will be contacted to negotiate the submitted expenses.
  - vi) A facility fee shall not be paid when a sexual assault examination is performed at a hospital, medical clinic or any facility other than a SANE facility.
- c) Exams Performed by a Sexual Assault Nurse Examiner (SANE).
  - i) Each itemized bill or statement for a sexual assault examination will be considered for payment in the order that it is received.

- ii) Each itemized bill or statement will be reviewed for accuracy and any unsupported or ineligible charges will not be reimbursed.
  - iii) The Commission will provide reimbursement for “Jane Doe” sexual assault examinations performed on adult victims.
  - iv) The Commission will not reimburse for “Jane Doe” sexual assault examinations for ~~minors~~ children.
  - v) Each itemized bill or statement must identify the International Classification of Diseases (ICD-9) code.
  - vi) Each billed procedure, service or supply/medication must be itemized.
  - vii) Each billed procedure, service or supply/medication must include the appropriate Physicians’ Current Procedural Terminology (CPT) code.
  - viii) The itemization for each billed procedure, service or supply/medication must include the charge for each line item.
  - ix) The initial forensic examination will be considered for payment. Only services rendered and medications provided “for the purpose of gathering evidence and treatment for preventing venereal disease in sexual abuse crimes and offenses” will be considered pursuant to the Commission’s Sexual Assault Examination Payment Policy.
  - x) Each itemized bill or statement must include a copy of the completed Sexual Assault Information Form (AL102) that is included in the State of Alabama Collection Kit provided by the Alabama Department of Forensic Sciences or equivalent documentation. Alabama Department of Forensic Sciences provides collection kits free of charge and payment will not be provided for the kits.
  - xi) Signed, written confirmation from an employee of the SANE facility that the sexual assault was reported to the Department of Human Resources (DHR) or law enforcement must be provided in cases in which the victim is a minor. If confirmation is not received, the sexual assault examination will not be considered for payment.
- d) Referrals from Hospitals and Medical Clinics
- i) When a hospital or medical clinic refers a victim of sexual violence to a SANE facility, the SANE facility will be paid the *Sexual Assault Nurse Examiner Fee*.

- ii) When a hospital or medical clinic and a SANE facility perform a sexual assault examination for the same incident, the fee for any procedure that is performed at both facilities will be paid to the SANE facility. The fees for duplicate procedures performed by the hospital or medical clinic may be considered on an original compensation claim that must be filed by the claimant or victim.
- iii) The fees for any medications or procedures performed by the hospital or medical clinic and not duplicated by the SANE facility may be considered for payment through the Sexual Assault Examination Payment Program.
- iv) The Commission will not pay a hospital or medical clinic and a SANE facility a duplicate fee for the same incident through the Sexual Assault Examination Payment Program.

#### 5) COLLECTION OF EVIDENCE WITHIN 72 HOURS

- a) If it is determined that the sexual assault took place more than 72 hours prior to the sexual assault examination, the use of an evidence collection kit may not be necessary. *Alabama Attorney General' Alabama Protocol for the Examination and Treatment of Victims of Sexual Assault.*
- i) The reasonableness of the charges for sexual assault examinations performed after 72 hours will be determined on a case-by-case basis.
  - (1) The age, mental capacity, and the victim's ability to seek a sexual assault examination within 72 hours of the assault will be considered when making a determination regarding the reasonableness of a sexual assault exam performed more than 72 hours after the sexual assault.

#### 6) INELIGIBLE EXPENSES

- a) The following expenses are not eligible pursuant to the Commission's Sexual Assault Examination Payment Program:
  - i) treatment for injuries;
  - ii) medication for any purpose other than the treatment and prevention of venereal disease;
  - iii) hospital admissions.
- b) All sexual assault victims should be provided a crime victims' compensation application. Expenses that are ineligible pursuant to the Commission's Sexual Assault Examination Payment Program may be eligible for crime victims' compensation benefits.

#### 7) FALSE REPORTS

- i) The Commission will not compensate for a sexual assault examination if it is determined that a rape or sexual assault did not occur. Examples of false reports include, but are not limited to, consensual sexual contact and no sexual contact.

8) SEXUAL ASSAULT EXAMINATIONS CONDUCTED ON ALLEGED PERPETRATORS/OFFENDERS

(1) The Commission does not provide for the cost of sexual assault examinations performed on alleged perpetrators/offenders.

9) PAYMENT LIMITS FOR SEXUAL ASSAULT EXAMINATION PAYMENT PROGRAM

- a) Sexual Assault Nurse Examiner Fee: \$300
- b) SANE Facility Fee: \$150
  
- c) Medication Limitations
  - i) One gram azithromycin (Zithromax) or equivalent drug: \$39.50 each
  - ii) 500 mg ciprofloxin or equivalent drug: \$12 each
  - iii) 100 mg doxycycline or equivalent drug: \$1 each
  - iv) 500 mg metronidazole (Flagyl) or equivalent drug: \$5.50 each
  - v) Ofloxacin or equivalent drug: \$12 each
  - vi) 250 mg Ceftriaxone or equivalent drug: \$90.36 each
  - vii) Ceftriaxone drug administration fee: \$10
  - viii)Ovral or equivalent drug: \$4.50 each
  - ix) 12.5 mg promethazine (Phenergan) or equivalent drug: \$2.50 each
  - x) 10 mcg Recombivax or equivalent drug: \$40 each
  - xi) Zovia or equivalent drug: \$10 each
  
- d) Procedure Limitations
  - i) Suspected drug facilitated screening: \$95
  - ii) Colposcope exam \$50
  - iii) UV light screening \$20
  - iv) Pregnancy test \$10
  - v) Venipuncture \$10
  - vi) Microscopic sperm screening \$32
  - vii) 14 Fr Foley hymenal exam \$20
  - viii)Body forensic photography \$20
  
- e) Medications and procedures not listed in this section will be examined on a case-by-case basis for eligibility.

**Author:** Dr. Cassie T. Jones

**Statutory Authority:** ALA. CODE § 15-23-5(14) (1995)

**History:** March 13, 2015