

## ADMINISTRATIVE RULES

### Fiscal Estimate & Economic Impact Analysis

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1. Type of Estimate and Analysis

☒ Original   ☐ Updated   ☐ Corrected

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2. Administrative Rule Chapter, Title and Number

Wis. Admin. Code chapter Jus 11, Sexual Assault Forensic Examination Compensation

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3. Subject

Establishing guidelines and a maximum amount for payments made to health care providers under Subchapter II of Chapter 949, Stats., governing payments for examination costs from the SAFE Fund to health care providers that perform Sexual Assault Forensic Examinations.

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4. Fund Sources Affected

☒ GPR   ☐ FED   ☐ PRO   ☐ PRS   ☐ SEG   ☐ SEG-S

5. Chapter 20, Stats. Appropriations Affected

Wis. Stat. § 20.455(5)(d)

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6. Fiscal Effect of Implementing the Rule

<input type="checkbox"/> No Fiscal Effect	<input type="checkbox"/> Increase Existing Revenues	<input type="checkbox"/> Increase Costs
<input checked="" type="checkbox"/> Indeterminate	<input type="checkbox"/> Decrease Existing Revenues	<input type="checkbox"/> Could Absorb Within Agency's Budget
		<input type="checkbox"/> Decrease Cost

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7. The Rule Will Impact the Following (Check All That Apply)

<input type="checkbox"/> State's Economy	<input type="checkbox"/> Specific Businesses/Sectors
<input type="checkbox"/> Local Government Units	<input type="checkbox"/> Public Utility Rate Payers
	<input type="checkbox"/> Small Businesses (if checked, complete Attachment A)

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8. Would Implementation and Compliance Costs Be Greater Than \$20 million?

☐ Yes   ☒ No

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9. Policy Problem Addressed by the Rule

The rule addresses the need for administrative procedures and limitations on reimbursements to health care providers that perform sexual assault forensic examinations under Subchapter II of Chapter 949, Stats.

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10. Summary of the businesses, business sectors, associations representing business, local governmental units, and individuals that may be affected by the proposed rule that were contacted for comments.

Because the rule will affect health care providers that perform sexual assault forensic examinations, the Wisconsin Hospital Association was contacted for comment. A press release was issued to allow all members of the public to comment, but no comments were submitted.

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11. Identify the local governmental units that participated in the development of this EIA.

None.

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12. Summary of Rule's Economic and Fiscal Impact on Specific Businesses, Business Sectors, Public Utility Rate Payers, Local Governmental Units and the State's Economy as a Whole (Include Implementation and Compliance Costs Expected to be Incurred)

The rule will have a negligible effect on the economy as a whole because the size of payments from the SAFE Fund is not large enough to impact the economy of the entire state. The rule governs payments to health care providers from the SAFE fund for the costs of performing sexual assault forensic exams. In fiscal year 2014, the DOJ paid \$686,878 from the SAFE Fund to health care providers for examination costs. The amount of payments was \$433,567 in fiscal year 2013 and \$321,506 in fiscal year 2012.

The rule will only have an economic effect on health care providers that perform sexual assault forensic examinations, but such effect should be negligible on the health care sector as a whole. The rule's \$1200 per examination limit may provide less compensation than currently provided to some providers. The average claim before implementation of the rule has been less than \$1000 and therefore many providers will not be affected. Those providers that have been billing in excess

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of that amount will receive less under the new rule, but the DOJ believes that \$1200 is fair compensation for a forensic examination. The rule contains an exception to the \$1200 limitation for examinations in which the \$1200 limitation would not be fair.

There should be minimal implementation costs for the rule. The rule is consistent with the DOJ's current procedures for processing claims for reimbursement and therefore health care providers should face minimal costs in complying with the rule. Providers are merely required to submit an itemized bill to the DOJ, which is something they regularly do when billing insurance companies or patients.

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#### 13. Benefits of Implementing the Rule and Alternative(s) to Implementing the Rule

The benefits of implementing the rule are (1) providing clear guidance to victims of sexual assault and health care providers as to what services are eligible for awards from the SAFE Fund; (2) providing a clear procedure for health care providers to follow when seeking reimbursement from the SAFE Fund, which should make compliance easier, and (3) setting a reasonable limit on the costs of each examination, which should allow the SAFE Fund to pay for more examinations.

The alternative would be for the DOJ make payments on a case-by-case basis with no limitations.

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#### 14. Long Range Implications of Implementing the Rule

The rule should control the expenditures from the SAFE Fund by limiting costs to \$1200 per exam.

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#### 15. Compare With Approaches Being Used by Federal Government

n/a

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#### 16. Compare With Approaches Being Used by Neighboring States (Illinois, Iowa, Michigan and Minnesota)

##### A. Illinois

Illinois provides a list of minimum requirements for hospitals providing emergency and forensic services to sexual assault survivors, Ill. Code 410 § 70/5, and for follow-up health care provided to sexual assault survivors, Ill. Code 410 § 70/5.5.

With respect to reimbursement rates, as of July 1, 2012, Illinois "reduce[d] any rate of reimbursement for services or other payments in accordance with Section 5-5e of the Illinois Public Aid Code," Illinois's reimbursement rate for Medicaid. Ill. Code 410 § 70/7.

##### B. Iowa

Iowa will pay an examiner's fee for collection of patient's medical history, physical examination, collection of laboratory specimens, return visits to test for sexually transmitted diseases, and treatment for prevention of sexually transmitted diseases. Iowa Admin. Code. r. 61-9.83(1). Iowa also pays a fee for the examination facility, including emergency room, clinic room or office room fee and pelvic tray and medically required supplies. *Id.* In addition, Iowa pays for laboratory collection and processing of specimens for criminal evidence, sexually transmitted diseases, and pregnancy testing. *Id.*

With respect to reimbursement rates, Iowa pays only charges determined by the department to be reasonable and fair. Iowa Admin. Code r. 61-9.82(2). Health care providers must submit an itemized bill listing the fee for each service. 61-9.82(2). Iowa limits payment to \$300 for the examination facility, \$200 for the examiner fee, and also pays the reasonable cost of laboratory collecting and processing for criminal evidence, sexually transmitted diseases, and pregnancy testing. *Id.* Any amounts in excess of the limits require additional documentation. *Id.*

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##### C. Michigan

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For each forensic examination, Michigan law requires the collection of a medical history, a general medical examination including use of laboratory services and dispensing prescribed pharmaceutical items, and a detailed examination of the bodily area where the assault occurred. Mich. Comp. Laws § 18.355a(1).

Michigan limits reimbursement for examination costs to \$600 total, including a limit of \$400 for facilities, \$125 for laboratory services, and \$75 for pharmaceuticals. Mich. Comp. Laws § 18.355a(7).

#### D. Minnesota

Minnesota law provides that the costs incurred by a health care provider in “the examination of a victim of criminal sexual conduct when the examination is performed for the purpose of gathering evidence shall be paid by the county in which the criminal sexual conduct occurred.” Minn. Stat. § 609.35(a). It provides that “[t]hese costs include, but are not limited to, full cost of the rape kit examination, associated tests relating to the complainant’s sexually transmitted disease status, and pregnancy status.” *Id.* Thus, there is no state-wide rule in Minnesota and examination costs are handled on a county-by-county basis.

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