

§ 90.14

§ 90.14 Forensic medical examination payment requirement.

(a) For the purpose of this subpart B, a State, Indian tribal government or unit of local government shall not be entitled to funds under this Program unless the State, Indian tribal government, unit of local government, or another governmental entity incurs the full out-of-pocket costs of forensic medical examinations for victims of sexual assault. *Full out-of-pocket costs* means any expense that may be charged to a victim in connection with a forensic medical examination for the purpose of gathering evidence of a sexual assault (e.g., the full cost of the examination, an insurance deductible, or a fee established by the facility conducting the examination). Section 2005(a)(1). For individuals covered by insurance, *full out-of-pocket costs* means any costs that the insurer does not pay.

(b) A State, Indian tribal government, or unit of local government shall be deemed to incur the full out-of-pocket costs of forensic medical examinations for victims of sexual assault if that governmental entity or some other:

- (1) Provides such examinations to victims free of charge;
- (2) Arranges for victims to obtain such examinations free of charge; or
- (3) Reimburses victims for the cost of such examinations if:
 - (i) The reimbursement covers the full out-of-pocket costs of such examinations, without any deductible requirement and/or maximum limit on the amount of reimbursement;
 - (ii) The governmental entity permits victims to apply for reimbursement for not less than one year from the date of the examination;
 - (iii) The governmental entity provides reimbursement to the victim not later than ninety days after written notification of the victim's expense; and
 - (iv) The governmental entity provides information at the time of the examination to all victims, including victims with limited or no English proficiency, regarding how to obtain reimbursement. Section 2005(b).

(c) Coverage of the cost of additional procedures (e.g., testing for sexually

transmitted diseases) may be determined by the State or governmental entity responsible for paying the costs; however, formula grant funds cannot be used to pay for the cost of the forensic medical examination or any additional procedures.

§ 90.15 Filing costs for criminal charges.

(a) A State shall not be entitled to funds under this subpart B unless it:

(1) Certifies that its laws, policies, and practices do not require, in connection with the prosecution of any misdemeanor or felony domestic violence offense, that the victim bear the costs associated with the filing of criminal charges against the domestic violence offender, or the costs associated with the issuance or service of a warrant, protection order, and witness subpoena (arising from the incident that is the subject of the arrest or criminal prosecution); or

(2) Assures that its laws, policies and practices will be in compliance with the requirements of paragraph (a)(1) of this section by the date on which the next session of the State legislature ends, or by September 13, 1996, whichever is later.

(b) An Indian tribal government or unit of local government shall not be eligible for subgrants from the State unless it complies with the requirements of paragraph (a) of this section with respect to its laws, policies and practices.

(c) If a State does not come into compliance within the time allowed in paragraph (a)(2) of this section, the State will not receive its share of the grant money whether or not individual units of local government are in compliance.

§ 90.16 Availability and allocation of funds.

(a) Section 2002(b) provides for the allocation of the amounts appropriated for this Program as follows:

(1) *Allocation to Indian tribal governments.* Of the total amounts appropriated for this Program, 4% shall be available for grants directly to Indian tribal governments. This Program is addressed in subpart C of this part.

(2) *Allocation to States.* Of the total amounts appropriated for this Program in any fiscal year, after setting aside the portion allocated for discretionary grants to Indian tribal governments covered in paragraph (a) (1) of this section, and setting aside a portion for evaluation, training and technical assistance, a base amount shall be allocated for grants to eligible applicants in each State. After these allocations are made, the remaining funds will be allocated to each State on the basis of the State's relative share of total U.S. population (not including Indian tribal populations). For purposes of determining the distribution of the remaining funds, the most accurate and complete data compiled by the U.S. Bureau of the Census shall be used.

(3) *Allocation of funds within the State.* Funds granted to qualified States are to be further subgranted by the State to agencies, offices, and programs including, but not limited to State agencies and offices; public or private nonprofit organizations; units of local government; Indian tribal governments; nonprofit, nongovernmental victim services programs; and legal services programs for victims to carry out programs and projects specified in § 90.12.

(b) In distributing funds received under this part, States must:

(1) Give priority to areas of varying geographic size with the greatest showing of need. In assessing need, States must consider the range and availability of existing domestic violence and sexual assault programs in the population and geographic area to be served in relation to the availability of such programs in other such populations and geographic areas, including Indian reservations. Applications submitted by a State for program funding must include a proposal which delineates the method by which States will distribute funds within the State to assure compliance with this requirement on an annual or multi-year basis. Section 2002(e)(2)(A).

(2) Take into consideration the population of the geographic area to be served when determining subgrants. Section 2002(e)(2)(B). Applications submitted by a State for program funding must include a proposal which delineates the method by which States will

distribute funds within the State to assure compliance with this requirement on an annual or multi-year basis.

(3) Equitably distribute monies on a geographic basis, including non-urban and rural areas of various geographic sizes. Section 2002(e)(2)(C). Applications submitted by the State for program funding must include a proposal which delineates the method by which States will distribute funds within the State to assure compliance with this requirement on an annual or multi-year basis.

(4) In disbursing monies, States must ensure that the needs of previously underserved populations are identified and addressed in its funding plan. Section 2002(e)(2)(D). For the purposes of this Program, underserved populations include, but are not limited to, populations underserved because of geographic location (such as rural isolation), underserved racial or ethnic populations, including Indian populations, and populations underserved because of special needs such as language barriers or physical disabilities. Section 2003(7). Each State has flexibility to determine its basis for identifying underserved populations, which may include public hearings, needs assessments, task forces, and U.S. Bureau of Census data. Applications submitted by the State for program funding must include a proposal which delineates the method by which States will distribute funds within the State to assure compliance with this requirement on an annual or multi-year basis.

(c) States must certify that a minimum of 25% of each year's grant award (75% total) will be allocated, without duplication, to each of the following areas: prosecution, law enforcement, and victim services. Section 2002(c)(3). This requirement applies to States and does not apply to individual subrecipients. This requirement applies to Indian tribal governments to the extent they have law enforcement or prosecution.

§ 90.17 Matching requirements.

(a) The Federal share of a subgrant made under the State formula program may not be expended for more than 75% of the total costs of the individual