
SAMFE Payment Strategies:

A Report on Legislative Arrangements for SAMFE
Payments Prepared for South Dakota

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EXECUTIVE SUMMARY

South Dakota is facing significant challenges in its current approach to Sexual Assault Medical Forensic Exam (SAMFE) payments. These include inconsistent billing practices across counties, potential inequity in patient care, and confusion about financial responsibilities. Some patients reportedly receive unexpected bills or are discouraged from obtaining SAMFEs due to county budget concerns. These issues stem from unclear legislation and decentralized payment responsibility.

To address these challenges, South Dakota needs to make decisions on three key areas. This report analyzes SAMFE payment strategies across the United States to inform these decisions:

1. What healthcare services should be covered?
 - States vary in coverage from basic exam-related costs to comprehensive hospital services.
 - 52% of states cover only basic exam costs, while 46% offer additional coverage.
 - South Dakota currently aligns with the majority, covering basic exam-related costs, but faces questions about expanding coverage, particularly for sexually transmitted infection (STI) treatment.
2. What entity within the state should be responsible for payment?
 - Four main models exist across states: county/local office (11 states), separate victims' board/division (22 states), specific programs (8 states), or existing state departments (10 states).
 - South Dakota currently uses the county/local office model, which is associated with more limited coverage in other states and creates complications for unreported assaults.
3. Should there be a standardized payment cap?
 - 22 states have legislated payment caps, ranging from \$215 to \$2500 per SAMFE.
 - 28 states, including South Dakota, do not specify caps in legislation.
 - Some states use tiered systems based on services provided.

Clarifying these three areas in legislation could improve consistency in SAMFE provision, reduce potential trauma for survivors, and address current public health concerns. The report provides detailed analysis to support informed decision-making on these critical issues.



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IMPORTANCE OF PAYMENT

Sexual Assault Medical Forensic Exams (SAMFEs) are crucial procedures conducted after a sexual assault. These exams serve multiple purposes: providing necessary medical care, offering trauma-informed support to begin the healing process, and collecting potential evidence for legal proceedings if the patient chooses to report to law enforcement (Campbell, 2008; Campbell, Patterson, & Bybee, 2012; Ranjbar & Speer, 2013).

Recognizing the importance of SAMFEs, the federal government has mandated that these exams should be provided at no cost to the patient. States must ensure free access to SAMFEs, regardless of whether the patient files charges, to maintain eligibility for the STOP (Services Training Officers & Prosecutors) Violence Against Women Formula Grant Program (Zweig, Newmark, Raja & Denver, 2014). A recent Government Accountability Office (GAO) report confirms that all U.S. states and territories have implemented laws or policies to provide SAMFEs free of charge (GAO, 2024). However, the federal government does not specify how states should meet this requirement.



APPROACHES TO SAMFE REIMBURSEMENT

In terms of the federal government (see [29 CFR §90.2](#)), a forensic medical exam “means an examination provided to a victim of sexual assault by medical personnel to gather evidence of a sexual assault in a manner suitable for use in a court of law.” The law further provides what this exam must include at a minimum: (1) forensic medical history; (2) head-to-toe examination; (3) documentation of biological and physical findings; and (4) evidence collection. Full out-of-pocket costs associated with meeting these requirements, including any supplies needed, are required to be included in the cost covered by the responsible entity (see [29 CFR §90.13](#)). States are discouraged from billing private insurance and are not allowed to do so if they receive STOP funds. The statute leaves it up to the responsible entity if they include anything additional, particularly naming STIs as an example.

CRIMINAL JUSTICE-ORIENTED VS. HEALTHCARE-CENTERED APPROACHES

Given that the federal government provides minimum requirements, there are two general approaches to defining what should be included within a SAMFE (see Table 1). The first is to take the minimum required approach. This can be referred to as a criminal justice-oriented approach, which primarily focuses on collecting and preserving evidence related to the assault. Other states and responsible entities may take a more expansive approach which has been referred to as a healthcare-centered approach. This approach aims to provide comprehensive, holistic care to the sexual assault survivor without requiring the patient to cover these costs out-of-pocket.

Table 1. Comparison of Two SAMFE Definitions and Implication for State Funding

Criminal Justice-Oriented	Healthcare-Centered Approach
<p>The medical services are intended to treat minor injuries and concerns around possible pregnancy or sexually transmitted infections (STIs). More serious injuries are referred for additional services, if not treated before the exam. The forensic evidence collection services are intended to build the criminal case through documentation of injuries and other indicators of force or coercion, such as drugging, and to establish sexual contact and the identity of the offender through biological evidence.</p> <p><i>From Zweig, Newmark, Raja & Denver (2014)</i></p>	<p>Five components: acute medical care (attention to acute physical trauma, history, and physical exam); rape crisis counseling (at presentation, referral for follow-up); STI management (testing, prophylaxis); emergency contraception (counseling, provision); and HIV management (testing, prophylaxis).</p> <p><i>From Patel et al., 2013</i></p>

These two perspectives lead to significantly different interpretations of what a SAMFE should entail, with the healthcare-centered approach typically encompassing a broader range of services and treatments than the criminal justice-focused definition. As will be discussed below, a small majority of states hold close to the criminal justice-oriented approach with almost half of the states offering additional coverage.



SOUTH DAKOTA’S PAYMENT APPROACH

South Dakota has two codified laws that detail SAMFE payment (see Table 2). The first ([22-22-26](#)) indicates who is responsible for paying for the exam (the county where the assault occurred) and defines what can be charged which closely aligns with federal minimum requirements. The second highlights what a convicted defendant can be charged in terms of restitution ([22-22-26.1](#)). This list is much longer and is closer to the healthcare-centered approach. Under [22-22-26.2](#), SD indicates that costs charged to the county must be the lower of two rates – the actual cost or the rate set by the secretary of the Department of Social Services which would be based on Medicaid payment methodologies.

Table 2. South Dakota’s Payment Legislation

22-22-26. County to pay for forensic medical examinations.	22-22-26.1. Cost of forensic medical examination--Convicted defendant to reimburse county.
<p>The county where an alleged rape or sexual offense occurred shall pay the cost of any forensic medical examination performed by a physician, hospital, or clinic on the victim of the alleged rape or sexual offense. For purposes of the provisions of §§ 22-22-26 to 22-22-26.2, inclusive, the term, forensic medical examination, includes:</p> <ol style="list-style-type: none"> (1) Examination of physical trauma; (2) Patient interview, including medical history, triage, and consultation; and (3) Collection and evaluation of evidence, including any photographic documentation; preservation and maintenance of the chain of custody of evidence; medical specimen collection; and any alcohol- or drug-facilitated sexual assault assessment and toxicology screening deemed necessary by the physician, hospital, or clinic. 	<p>A person who is convicted of a rape or sexual offense shall be required as part of the sentence imposed by the court to reimburse the county for the cost of any forensic medical examination performed under § 22-22-26 resulting from the rape or sexual offense for which the defendant is convicted. The cost of a forensic medical examination to be paid by the county under § 22-22-26 and reimbursed to the county under this section shall include:</p> <ol style="list-style-type: none"> (1) Physician, hospital, or clinic services and fees directly related to the forensic medical examination, including integral forensic supplies; (2) Scope procedures directly related to the forensic medical examination, including anoscopy and colposcopy; (3) Laboratory testing directly related to the forensic medical examination, including drug screening, urinalysis, pregnancy screening, syphilis screening, chlamydia culture, gonorrhea coverage culture, blood test for HIV screening, hepatitis B and C, herpes culture, and any other sexually-transmitted disease testing directly related to the examination; (4) Any medication provided during the forensic medical examination; and (5) Any radiology service directly related to the forensic medical examination.

Discussions with counties have indicated several issues with the implementation of these laws. One issue is that the two different pieces of legislation on what are



associated SAMFE costs have been used by hospital systems and/or by counties to derive different rates for payment. Another is that the Medicaid rate methodology also does not produce a standardized amount across counties. Further, no particular entity within the county is charged with SAMFE payment, creating as many different arrangements as there are counties.

The result is that some counties have consistent SAMFE bills at a rate negotiated between their local hospital system and the State’s Attorney’s Office and other counties see great variation in SAMFE costs billed. Furthermore, there is inequity in SAMFE payment with some patients have all their costs covered and others being charged (e.g., for HIV treatment or contraception). The confusion has been noted to affect patients in a variety of ways, including anecdotal reports of patients being discouraged to get a SAMFE to save the county money and patients getting unexpected bills.

As a result, if South Dakota as a state wants to standardize SAMFE payment for all patients, there are three decision points to consider:

- (1) What healthcare services should be covered?
- (2) What entity within the state should be responsible to provide payment?
- (3) Should there be a standardized cap set?

To provide guidance to support this discussion, we analyzed the legislation of all 50 states and discuss findings below. Please see the appendix for a note on methodology.

HEALTHCARE SERVICES COVERED

When analyzing each state’s law related to what is covered in SAMFE payments, we discovered four primary arrangements (see Table 3). All categories include the basic examination costs which include the evidence collection (frequently called a rape kit or kit), DNA analysis, and testing for STIs. This is consistent with the criminal justice definition of a SAMFE. While the federal government does not require STI testing in its minimum requirements, the presence of an STI related to a sexual assault can be evidence of the assault, still consistent with the criminal justice-oriented definition of SAMFE. Of the 50 states, the majority (26 or 52%) only cover these costs.

Table 3. What is Covered in SAMFE Payment

Included in Payment	STATES
Exam-Related Costs	AK, AZ, CO, FL, GA, HI, KS, KY, MS, MO, NE, NM, NC, MA*, PA, RI, SC, SD, TN, TX, VT, VA, WA, WV, WI, WY
+STI Treatment	AL, CA, IA, LA, ME, MD, MI, MN, NY, ND, OH, OK, OR*
+Hospital Services	AR, CT, DE*, ID, IL*, IN, NJ*, NV, MT, UT*
Vouchers	NH

Note: *Law requires a contraceptive be available to victims who request it at no cost.



Each additional level adds on to the level before. In this way, all categories cover the exam-related costs, but subsequent levels add additional coverage moving towards a healthcare-centered approach. The second category (+STI Treatment) is the second most common (an additional 13 or 26%). This category adds treatment for STI. The third category (+Hospital Services) includes the previous two categories (evidence collection, DNA analysis, testing for STIs, and treatment for STIs) and adds additional hospital costs such as for ambulance service, physician fee, and after visit care. There are ten states (20%) in this category. Rather than provide legislative payments for these costs, one state (New Hampshire) provides the patient vouchers for any charges beyond the initial examination cost (covered directly by the state).

ENTITY RESPONSIBLE FOR PAYMENT

We also analyzed legislation in terms of who has statutory responsibility to process and pay for SAMFEs (see Table 4). From the analysis, four different types of payment arrangements were seen in the legislation. Options included a county or local office (counties or local law enforcement division that was tasked with payment); a separate victims board or division (a state developed board or division tasked with deciding where payment comes from and how much to cover); programs (a program made by the state to delegate the payment); or departments (already existing departments within the state covered the payment).

In terms of county or local office, these 11 states have SAMFE payment addressed by the county or the local law enforcement agency where the sexual assault occurred. Montana is a unique state that uses two different systems based on whether the patient reports their sexual assault to law enforcement or does not. If they report, the law enforcement agency with jurisdiction over the assault will pay for the SAMFE. If the patient does not report, payment is by the Forensic Rape Examination Payment Program (FREPP).

Table 4. Statutory Responsibility for SAMFE Payment

PAYMENT CATEGORIES	STATES
County or Local Office	AZ, CA, CO, KS, KY, MT*, NV, NJ, SD, WV, WY
Separate Victims' Board or Division	AR, DE, FL, HI, IN, LA, ME, MD, MA, MI, MS, MT^, NE, OK, OR, PA, RI, TN, TX, UT, VT, WA
Programs	AL, GA, ID^^, MN, NY, NC, VA, WI
Departments	AK, CT, IL, IA, MO, NH, NM†, ND, OH, SC

Notes: *If sexual assault is reported to law enforcement; ^If sexual assault is not reported to law enforcement; †Separate collection pays for excess fines; ^^If part of government program, then victims' program.



South Dakota is in this category with the county where the assault occurred being the responsible payee (regardless of whether the patient reported to law enforcement). Funding for payment comes from the county budget.

For separate victims' board or division, these 22 states create separate entities under a department to address payment of SAMFEs. These boards or divisions are given the power and authority to develop guidelines and practices relating to what expenses are covered outside the base kit and how victims can obtain additional resources. For example, within the Indiana Criminal Justice Institute there is a victims' service division that deals with the payments for the entire state. Michigan is another state with a similar practice. They have a "Crimes Victims Compensation Board" which sets the total amount allotted to pay for kits.

Other states (8) have specific programs created by offices or departments. These programs dictate how much the state will pay for SAMFEs by setting limits and specifying what will be covered. They also identify additional resources for victims to pay for any costs not covered under state law. Unlike the "separate victims' board or division" categorization, this designation is headed by a single person rather than a multi-council board. In Minnesota, they have the Office of Justice Programs, which is relied upon for payment and has set out a limit on what can be charged for any test or treatment.

Finally, some states (10) have an existing department assigned to handle SAMFE payment. For this category, there is no separate program created, instead the responsibility is an existing state department. Two example states are Missouri and Illinois, kit payments both fall under the Department of Health of each state. Another state that falls under this category is North Dakota. In North Dakota, the State Attorney General's Office pays for the kits.

FISCAL CAPS

The third typology created was on legislatively mandated payment caps for SAMFEs (see Table 3). We found that 22 states have specific payment caps mentioned in their legislation, ranging from \$215 to \$2500 per SAMFE. This means that 28 states (the majority 56%) do not provide a specific payment amount in the legislation. These caps were grouped into four categories based on the maximum amount allowed. Given that South Dakota's codified law does not provide a precise cap, it is not included in this analysis.

The first cap is \$215-\$750. Seven states fall into this category, including Alabama, Iowa, Maine, Massachusetts, Nebraska, Ohio, and Oregon. These states have the lowest caps, potentially limiting the scope of services covered. For example, Alabama differentiates between exams with and without medication (\$550 and \$400 respectively), while Iowa separates fees for the SANE physician (\$200) and facility (\$300).



The second cap is \$501-\$1,000. Nine states have caps in this range, including California (for unreported cases), Florida, Georgia, Louisiana, Nevada, New York (for basic exams), Oklahoma, Pennsylvania, and Tennessee. The third cap is between \$1,001 and \$1,500. Seven states set their caps in this range, including Arkansas, California (for reported cases), Michigan, Minnesota, New York (for more complex cases), North Carolina, and Utah. Finally, only two states have caps in the fourth range of \$1,501 to \$2,500. New York and Oregon, have caps in this highest range, specifically for cases requiring extensive HIV medication or treatment.

Table 5. Legislated Payment Caps

Cost Range	Cost Detail
\$215-\$750	(AL) \$400 w/o medication, \$550 w/ medication (IA) \$200 SANE Physician, \$300 Facility fee, 75% of Pharmacy & Lab fees (ME) \$750 (MA) \$600 (NE) \$250 Exam fee & \$300 Facility fee (OH) \$632 (OR) \$470 w/collection of evidence, \$215 w/o, \$70 for contraceptive, \$125 STI treatment
\$751-\$1000	(CA) \$911 if unreported (FL) \$1000 (GA) \$1000 (LA) \$1000 (NV)* Treatment Cap \$1000 (NY) Tier 1- \$800 without kit (OK) \$800 for kit, \$100 for treatment of injuries or STI's (PA) \$1000 (TN) \$1000
\$1001-\$1500	(AR) \$350 Physician fee, \$350 Facility fee, \$350 Ambulance fee, \$200 Lab fee, \$160.88 Colposcope fee (CA) \$1,127 If reported (MI) \$1,200 (MN) \$1,400 (NY) Tier 2- \$1,200 kit included, Tier 3- \$1,500 w or w/o kit, but with 7-day supply of HIV medication (NC) \$1500 (UT) \$1250, exam room covered up to %50 or \$350
\$1501-\$2500	(NY) Tier 4- 2500 w or w/o kit but with full regimen of HIV medication (OR) 5-day HIV supply, 50% up to \$2,000

As is apparent, some states like California and New York have set their caps based on what is included in the SAMFE. For example, HIV medication may not be indicated in all sexual



assaults. New York has three different caps that cover exam only (no kit done), exam with evidence collection done, and exam with evidence collection and HIV medication provided. This allows New York the control over the amount charged while also allowing for different levels of care based on requests from the patient and what treatment is medically indicated.

IMPLICATIONS

The cost of a SAMFE in South Dakota is a continual topic of conversation, with counties and hospitals struggling over how to be fiscally responsible and meet the needs of victims. The research on SAMFE payments is nascent, with nothing to date on how different arrangements affect victim outcomes. As such, academia has little to directly offer to guide decisions.

WHAT SERVICES SHOULD BE COVERED?

In terms of what should be reimbursed, South Dakota needs to determine what is included in payment by the responsible entity and provide this clarity in the codified law. If the intent of South Dakota is to use the criminal-justice oriented approach, they are in good company with a small majority of states and they do comply with federal law. At the same time, current public health concerns around STIs, particularly syphilis, may provide a public health imperative to expand the definition to at least include some STI treatment.

A more expansive healthcare definition of SAMFE payment seems to be suggested by the restitution law. While there is no direct research on which payment structure would provide better outcomes for survivors of sexual assault, the research is clear that the financial burden of SAMFEs can have significant negative impacts on survivors. Patients who receive bills for their exams often experience additional emotional distress (Tennessee et al., 2017; Sisak, 2018). Navigating complex payment and reimbursement systems while already coping with the physical, emotional, and psychological trauma of assault can feel revictimizing (Worthy et al., 2020) and may discourage individuals from seeking essential care (Dickmen et al., 2022). Moreover, the cost of a SAMFE is just one component of the estimated lifetime cost associated with sexual assault, which averages \$122,461 per victim, including losses from income and additional healthcare needs (Peterson et al., 2017). These financial pressures further compound the stress experienced by survivors.

At a minimum, South Dakota should clarify existing legislation to ensure consistent billing practices across all counties. This would eliminate confusion and enable clear, uniform communication about patients' financial responsibilities. With this knowledge, patients can make informed decisions about which aspects of the exam they consent to, a core



component of trauma-informed care. Empowering patients with this information allows them to actively participate in their care decisions without fear of unexpected costs. At the most comprehensive level, evidence suggests that adopting a healthcare-centered approach may lead to better patient outcomes. This should also be considered carefully.

WHAT ENTITY IN THE STATE SHOULD BE RESPONSIBLE FOR PAYMENT?

In South Dakota, the county where the assault occurred is currently responsible for SAMFE payment. This arrangement creates complications, particularly for unreported assaults. Some hospitals, to maintain patient confidentiality, don't inquire about the assault location, while others do. Consequently, counties may be billed for SAMFEs that didn't necessarily occur within their jurisdiction.

Analysis of other states reveals that those with county or local office responsibility (11 states) tend to have more limited coverage, with 64% only covering basic examination costs. This suggests that localized payment responsibility may lead to more conservative coverage, possibly due to local budget constraints. Should South Dakota choose to expand coverage, a shift in the responsible payee may be necessary.

Statewide discussions have considered changing SAMFE funding, with a greater role for Victim Compensation. This shift could ensure standardized costs, billing, and care for sexual assault patients. If implemented, a more centralized payment model may be more efficient. Given workforce limitations, assigning responsibility to an existing office or creating a new position within a current department to manage standardization and centralization of payments may be more feasible than establishing a multi-member board.

SHOULD THERE BE A STANDARDIZED CAP SET?

As it stands, it seems imperative that South Dakota set a standardized cap. With different counties receiving different bills, not only are county budgets being affected, so too are patients who may receive a bill because they were assaulted in county A rather than county B. The type of cap set will directly relate to what is decided about what will be covered. If South Dakota maintains the criminal-justice oriented payment scheme, one possible route would be to determine the highest Medicaid payment rate possible in the state and set that as the cap. If South Dakota decides to expand what is included, a tiered system like New York's may be beneficial.

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APPENDIX: METHODOLOGICAL NOTES

We conducted a comprehensive review of state legislation related to sexual assault forensic exam payment during spring of 2024. Our research methodology involved searching multiple legal databases, including Nexis Uni, CaseText, and Justicia US Law, as well as official state-specific codified law websites. This thorough approach ensured we captured all relevant statutes across all 50 U.S. states.

For each state, we analyzed the relevant statutes, focusing on three key elements: (1) the healthcare services covered; (2) the entity within the state responsible to provide payment; and (3) legislatively mandated payment caps. Different state arrangements were observed through legislative review, and categories were then inductively derived by identifying and grouping similar approaches across states. This process was led by the second author and checked by the first author.

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