

Regulatory Analysis

Notice of Intended Action to be published: Iowa Administrative Code 61—Chapter 9
“Crime Victim Assistance Program”

Iowa Code section(s) or chapter(s) authorizing rulemaking: 915

State or federal law(s) implemented by the rulemaking: Iowa Code chapters 709 and 915

Public Hearing

A public hearing at which persons may present their views orally or in writing will be held as follows:

August 27, 2024
11 a.m.

Lucas State Office Building
Des Moines, Iowa

Public Comment

Any interested person may submit written comments concerning this Regulatory Analysis. Written comments in response to this Regulatory Analysis must be received by the Attorney General’s Office, Victim Assistance Section, no later than 4:30 p.m. on the date of the public hearing. Comments should be directed to:

Tracey L. Bearden
Iowa Attorney General’s Office, Victim Assistance Section
Lucas State Office Building
321 East 12th Street
Des Moines, Iowa 50319
Email: tracey.bearden@ag.iowa.gov with subject line “Regulatory Analysis Public Comment”

Purpose and Summary

Attorney General Brenna Bird took office in January 2023 and quickly discovered that a complete audit of the Crime Victim Assistance Program was obligatory to address any gaps and update practices to allow Attorney General Bird’s staff to continue to provide victims the highest level of service and have a victim-centered approach to all issues. Several areas were identified during the audit as needing improvement and will be addressed with the proposed updates to Chapter 9. The updates will help ensure that the rights guaranteed to victims under Iowa Code chapter 915 are upheld. Due to Chapter 13 not being updated in a regular and timely manner by the previous administration, it is necessary to rescind the entire chapter and readopt it with the changes to continue to improve overall services for victims and those who serve victims. Multiple factors, some independent, will be addressed in this Regulatory Analysis to provide a complete picture of the need and urgency for the update.

Analysis of Impact

1. Persons affected by the proposed rulemaking:
 - Classes of persons that will bear the costs of the proposed rulemaking:

The Office will bear the greatest costs (personnel) to assist in the successful implementation of the proposed rulemaking, but others will be impacted as well. Specifically, the Chair of the Crime Victim Assistance Board will need to assume a greater responsibility in ensuring members follow the attendance and resignation policies. Without previous hands-on support from the Chair, this has not been successfully implemented. Commitment of Board members is essential because two-thirds of the members are needed to meet a quorum to conduct business as required by state law. If the quorum is not met, victim-related issues being considered by the Board will not be addressed in a timely manner.

Sexual assault nurse examiners will be required to work more closely with the Office to ensure they meet or exceed the standards put in place to support high-quality care for victims. Many sexual assault nurse examiners expressed interest to the Office or sexual assault nurse examiner coordinators requesting guidance of the requirements sexual assault nurse examiners needed to follow. Since this guidance was specifically requested by those whom the updated chapter will directly impact, the increased documentation and training are not foreseen to be a significant burden. This is especially true for rural sexual assault nurse examiners because the requirements were developed to support Iowa's unique patient volume and ensure sexual assault nurse examiners and sexual assault examiners are set up for success.

- Classes of persons that will benefit from the proposed rulemaking:

The sexual assault nurse examiners and sexual assault examiners who meet or exceed the standards in the proposed changes to the chapter will be the ones who benefit, along with victims of sexual abuse. It should also be noted that there is no mandate that hospitals or clinics must use sexual assault nurse examiners or sexual assault examiners. The choice is up to each individual facility; however, facilities electing to not support patient access to qualified trainings will forfeit the \$400 provider fee and will only be eligible to receive the \$300 facility fee. The Office supports the highest level of care for victims and hopes hospitals and clinics will choose to support sexual assault nurse examiners and sexual assault examiners. The Office also foresees that victims in Iowa will be positively impacted because the victims will be served by qualified sexual assault examiners with reduced negative outcomes. With more qualified providers performing examinations, the Office hopes that this will translate into additional forensic value as evidence collected for a fair and just judicial outcome.

2. Impact of the proposed rulemaking, economic or otherwise, including the nature and amount of all the different kinds of costs that would be incurred:

- Quantitative description of impact:

In regard to proposed Chapter 9, the one quantitative (financial) impact borne by a nonstate entity would be the cost of the background investigation required to meet the proposed standards for sexual assault nurse examiners. Additional time will also be required of all persons involved with the sexual assault nurse examiner standards or who would like to become a sexual assault nurse examiner or sexual assault examiner under the proposed Iowa standards, but the increased time commitment will result in quality best practice standards of care and positive outcomes overall for patients and victims as well as those who care for and assist victims. The goal will be to provide a minimum of 80 percent of victims with access to specially trained providers, resulting in the greatest overall direct outcomes for patients. This statistic is not currently tracked at the state level; however, through discussions and evaluations, the current estimate is that less than 70 percent of victims are currently receiving care by specially trained nurses and more than 60 percent of patients are required to transfer their care to another facility if they want treatment by a trained provider. This is unacceptable, and the creation of the standards and overall updated rules are a direct result of needing to provide victims with the highest quality of care and closing additional gaps in staffing by increasing the monetary incentive to support sexual assault nurse examiners and sexual assault examiners.

- Qualitative description of impact:

The qualitative impact of rescinding and replacing Chapter 9 with updated rules would be the overall satisfaction of state employees, sexual assault nurse examiners, victims, the state crime laboratory, law enforcement agencies, county attorneys, prosecutors, and potentially attorneys and others involved in the process.

The proposed rules will have an overall positive impact on state employees in the Section since the rules will match current practice and increase consistent decision making at the program level whenever possible.

With the implementation of the standards for sexual assault nurse examiners, this is the area where overall increased satisfaction is expected to be impacted. State-supported standards of care

incentivized with increased pay and reimbursement for mileage will assist in increasing the number of available sexual assault nurse examiners and sexual assault examiners for victims of sexual abuse. More importantly, the goal is that, regardless of where in Iowa a person lives, the person will be able to access qualified, specially trained sexual assault examiners to care for the person during one of the most vulnerable and traumatic experiences. The benefit continues throughout the legal process since qualified providers will be less likely to make detrimental mistakes in the evidence collection process and will be available and knowledgeable to share their expertise in legal proceedings for which their expertise may be sought.

3. Costs to the State:

- Implementation and enforcement costs borne by the agency or any other agency:

Victim compensation specialists, grant compliance coordinators, and grant coordinators should not see a significant increase in workload since the updated changes reflect current practice and place many of the decision-making processes at the program level instead of the Section level.

The Sexual Assault Forensic Response Coordinator will have a significant increase in workload related to the implementation of the rules. On average, 50 percent of job tasks will be spent implementing these rules. One added duty will include properly tracking qualified sexual assault nurse examiners and sexual assault examiners in a protected database, which will be used to ensure that the standards are adhered to and individuals are being reimbursed in accordance with the proposed rules. The Coordinator will need to work with experts in the state to ensure that resources are available to providers. The resources include but are not limited to trainings or webinars and regular meetings with the Coordinator to support the qualified providers in staying current with changes and recommendations to continuously ensure that the highest standards of care are being implemented. Providers will have access to networking and collaboration opportunities that are not currently available due to the lack of support for formalized guidance and ability to maintain an updated roster of qualified sexual assault nurse examiners. The Office will support the Coordinator in finding and providing opportunities to be made available to those individuals deemed qualified providers.

The investigator who currently processes and pays claims related the sexual assault forensic examination, prophylactic treatment, and follow-up care will also have a significant increase in workload related to the implementation of the proposed rules. The increase in workload will be comparable to that of the Coordinator. The investigator will also need to provide training on how to successfully submit claims for payment.

- Anticipated effect on state revenues:

An internal review of the effects of the increased payment to sexual assault nurse examiners and sexual assault examiners on the funding stream was conducted before any pay increase was proposed by Attorney General Bird. The analysis determined that the current balance of the Victim Compensation Fund would sustain the increase in payment.

4. Comparison of the costs and benefits of the proposed rulemaking to the costs and benefits of inaction:

When addressing the cost and benefits of the proposed rulemaking, one of the most important factors to consider is the rights afforded to sexual abuse victims under Iowa Code sections 915.40 through 915.46. The proposed rules will assist in ensuring that the rights are upheld and embraced instead of being considered a box to check to ensure compliance.

Failure to address a need to increase compensation for sexual assault nurse examiners would be detrimental to the number of qualified providers in the state. After not receiving compensation adjustments in approximately 20 years, or since the program was implemented, it is difficult to find qualified and trained sexual assault examiners in all areas of the state to provide forensic examinations. The proposed new standards will generate an updated database of trained and qualified practicing sexual assault nurse examiners and sexual assault examiners; therefore, access to these qualified professionals will be easily identifiable throughout the state and shed light on areas critically lacking and needing additional awareness of services and training opportunities. Having trained and

qualified practitioners who perform these examinations will eliminate detrimental concerns and complaints such as providers using training or demonstration evidence kits instead of new, unopened, sealed kits that have been relayed to the Office. These mistakes are detrimental to the pursuit of justice and are the result of untrained professionals attempting to perform these examinations. There is simply no excuse for victims to not have access to these standards of care. Iowa victims deserve better and for our current practices and expectations to change.

Other changes proposed in the rulemaking are updating practices and titles used since Attorney General Bird took office. These changes will not impact current practice, but it is important that the chapter aligns with current practice.

5. Determination whether less costly methods or less intrusive methods exist for achieving the purpose of the proposed rulemaking:

The monetary cost of the rulemaking relating to increasing payment to sexual assault nurse examiners and sexual assault examiners was increased purposefully to increase the number of qualified providers and the quality of care provided to victims of sexual abuse. The only other method considered was to continue with current practice, which is deemed unacceptable since guidance from the Office has been directly requested by sexual assault nurse examiners and providers serving sexual assault victims.

6. Alternative methods considered by the agency:

- Description of any alternative methods that were seriously considered by the agency:

The answer is essentially the same as in section five above. There are not many alternatives available other than increasing pay for qualified providers or continuing without changes.

Iowa is desperately in need of more qualified providers and a more accurate representation of the number of qualified providers in the state. With sexual assault nurse examiners and sexual assault examiners asking for standards to be in place, and with qualified providers not receiving fair compensation in almost 20 years, it is almost unconscionable not to act. The implementation of these changes will produce positive outcomes for both the providers and, most importantly, the victims receiving the best standards of practice and quality care. Sexual assault is one of the most vulnerable and traumatic experiences one can endure. Patients should not have to question whether they are receiving care by a trained and qualified professional that would impact their health outcomes as well as potentially compromising their overall case in the legal process. The updated rules also take into consideration the larger public health consequences, such as decreasing transmission of infections by ensuring victims receive the needed prophylactic treatments.

The Section has committed to the development and implementation of these standards through collaboration with experts directly serving Iowa. The standards are reasonably achievable for specially trained providers, and increased compensation is proposed by Attorney General Bird to support providers' additional training, commitment, service, and knowledge to benefit those impacted by sexual abuse in Iowa regardless of age, race, ethnicity, gender, or social status.

- Reasons why alternative methods were rejected in favor of the proposed rulemaking:

See previous answer.

Small Business Impact

If the rulemaking will have a substantial impact on small business, include a discussion of whether it would be feasible and practicable to do any of the following to reduce the impact of the rulemaking on small business:

- Establish less stringent compliance or reporting requirements in the rulemaking for small business.
- Establish less stringent schedules or deadlines in the rulemaking for compliance or reporting requirements for small business.
- Consolidate or simplify the rulemaking's compliance or reporting requirements for small business.

- Establish performance standards to replace design or operational standards in the rulemaking for small business.
- Exempt small business from any or all requirements of the rulemaking.

If legal and feasible, how does the rulemaking use a method discussed above to reduce the substantial impact on small business?

Not applicable. This proposed rulemaking does not have an impact on small business.

Text of Proposed Rulemaking

ITEM 1. Rescind 61—Chapter 9 and adopt the following **new** chapter in lieu thereof:

CHAPTER 9
CRIME VICTIM ASSISTANCE PROGRAM

61—9.1(915) Definitions. These definitions apply to the entire chapter.

“*Board*” means the crime victim assistance board of the Iowa department of justice.

“*Chief*” means the section chief of the victim assistance section established in the Iowa department of justice or a designee of the chief.

“*Department*” means the Iowa department of justice.

“*Section*” means the victim assistance section of the Iowa department of justice.

61—9.2(915) Board.

9.2(1) A crime victim assistance board is established pursuant to Iowa Code section 915.82.

9.2(2) Members of the board shall serve terms for three years and are eligible for reappointment to the board by the attorney general.

9.2(3) The initial term of the board members shall commence on July 1 of the state fiscal year.

61—9.3(915) Expenses.

9.3(1) Board members shall be reimbursed from the victim compensation fund for expenses actually and necessarily incurred in the discharge of their duties including attendance at board meetings, board committee meetings, and other activities on behalf of the board as designated by the board chair and approved by the department. Reimbursement for expenses shall conform with guidelines established by the department of revenue.

9.3(2) A member of the board may receive, in addition to actual expense reimbursement, a per diem that conforms with guidelines established by the department of revenue.

9.3(3) Expenses of the board and individual members shall be submitted to the chief.

61—9.4(915) Chair of the board.

9.4(1) The attorney general shall select one of the members of the board to serve as chair of the board. The chair shall serve at the pleasure of the attorney general.

9.4(2) A member who is chair of the board and relinquishes the position or is removed as the chair may maintain board membership for the remainder of the term for which the member was originally appointed.

61—9.5(915) Resignations.

9.5(1) Resignations from the board shall be made to the attorney general.

9.5(2) Whenever a member of the board ceases to have the statutory qualifications for appointment to the board, that member shall be considered to have resigned and a vacancy shall occur on the board.

9.5(3) A board member shall be deemed to have submitted a resignation from the board if any of the following events occur:

a. The member does not attend three or more consecutive regular meetings of the board. This paragraph does not apply unless the first and last of the consecutive meetings counted for this purpose are at least 30 days apart. The chair of the board shall contact the board member if two consecutive meetings are missed.

b. The person attends less than one-half of the regular meetings of the board within any period of 12 calendar months beginning July 1. This paragraph applies only to such a period beginning on or after the date when the person is appointed to the board.

9.5(4) If the member receives no notice and had no knowledge of a regular meeting and gives the attorney general a sworn statement to that effect within ten days after the person learns of the meeting, such meeting shall not be counted for the purposes of this rule.

9.5(5) If the events described in paragraphs 9.5(3) “*a*” and “*b*” occur, then the chair of the board will provide the attorney general notice of resignation.

9.5(6) The attorney general may accept or reject such resignation. If the attorney general accepts it, the attorney general shall notify the member, in writing, that the resignation is accepted pursuant to this rule. The attorney general shall then make another appointment to fill the vacancy.

61—9.6(915) Vacancies. Barring unusual circumstances, vacancies on the board shall be filled within 45 days after the attorney general is advised of the vacancy. Vacancies shall be filled for the remainder of the vacant term.

61—9.7(915) Meetings.

9.7(1) The board shall meet a minimum of once per quarter. The board may also meet at the call of the chair or upon the written request to the chair of at least five members of the board.

9.7(2) No fewer than two-thirds of board members shall be present to vote and transact board business in accordance with the Iowa administrative procedure Act.

61—9.8(915) Duties of board. The board shall adopt rules pursuant to Iowa Code chapter 17A relating to the administration of the section, including the adoption of administrative rules relating to the following:

9.8(1) Administration of state and federal grants received for victim services and training and outreach.

9.8(2) Administration of the crime victim compensation program provided in Iowa Code chapter 915.

9.8(3) Administration of sexual abuse examination payments as provided in Iowa Code section 709.10.

9.8(4) Appeal procedures for victim compensation claims denied by the program.

9.8(5) Appeal procedures for grants administered by the program and denied by the board.

61—9.9(915) Chief and staff. The attorney general shall employ a chief and staff for the section, and they shall be employees of the department.

61—9.10(915) Duties of section. In addition to the duties contained in Iowa Code section 13.13, the section shall:

9.10(1) Administer other funds, grants, or programs for victim assistance created by public law or the department.

9.10(2) Provide administrative support to the board.

9.10(3) Enter into agreements under Iowa Code chapter 28E or other law including agreements with other state agencies and political subdivisions for the transfer to the department of funds authorized by law for victim service programs.

9.10(4) Accept, use, and dispose of contributions of money, services, and property that are made available by an agency or department of the state or any of its political subdivisions, the federal

government, a private agency, or an individual and that are specifically designated for crime victim assistance programs.

61—9.11 to 9.24 Reserved.

61—9.25(915) Administration of the crime victim compensation program. The section shall administer the crime victim compensation program as provided in Iowa Code chapter 915. All questions, comments, requests for information, or applications for compensation shall be directed to the section by calling 515.281.5044 or 1.800.373.5044.

61—9.26(915) Definitions. For rules related to the crime victim compensation program of the section, the following definitions apply:

“*Affinity*” means the relationship of persons who are related by marriage, cohabitation, or engagement to be married.

“*Applicant*” includes the following individuals who file an application with the crime victim compensation program:

1. A victim of a crime, as defined in Iowa Code section 915.80(9).
2. A person responsible for the care and maintenance of a victim.
3. A resident of Iowa who is the victim of an act that would be compensable had it occurred within the state of Iowa and that occurred in a state or foreign country that does not have a victim compensation program as defined in the federal law.

4. In the event of a victim’s death, a spouse, fiancé or fiancée, child, parent, sibling, or person cohabiting with or related by blood or affinity to the victim. An estate is not an eligible applicant for crime victim compensation. An estate shall, however, be reimbursed for funeral and burial expenses if the estate paid the costs on behalf of an eligible applicant who shall benefit from the proceeds of the estate.

5. A legal representative authorized to act on behalf of any of the persons listed above.

“*Causal relationship*” means that the crime would not have occurred without the action of the victim. A causal relationship exists if the actions of the victim result in a foreseeable injury, play a substantial role in the injury, or directly cause the injury.

“*Claimant*” means an applicant who has been found to be eligible for compensation.

“*Cohabiting*” means living in the same household. It is not necessary to establish that a sexual relationship exists between the parties.

“*Compensation*” means moneys awarded by the section as authorized in Iowa Code chapter 915.

“*Consent*” means to agree to a course of action or to voluntarily allow what is planned or done by another.

“*Counseling*” means problem solving and support concerning emotional issues that result from a compensable crime. Counseling is a confidential service provided on an individual basis or in a group. Counseling has as a primary purpose to enhance, protect and restore a person’s sense of well-being and social functioning. Counseling does not include victim advocacy services; conversation in a nonprivate setting such as the common area of a shelter or a courthouse; transportation; or attendance at medical procedures, law enforcement interviews or civil and criminal justice proceedings.

“*Crime*” as defined in Iowa Code section 915.80 includes:

1. Conduct punishable as a misdemeanor or a felony.
2. Property crimes, including but not limited to robbery, residential burglary, and residential arson, where there is a threat of personal injury or harm against a person.
3. Violation of a custody order in which the custodial parent suffers injury.

“*Denial*” means disqualification of an application or reduction in the amount of compensation paid.

“*Dependent*” means a person who is unable to care for the person’s self due to injury, disability, or minor age status.

“Incitement” means to urge forward or to goad to action.

“Lost wages or income,” “lost income,” or *“lost wages”* means the gross rate of pay, decreased by 25 percent.

“Medical care” means services provided by or provided under the supervision of a person licensed under Iowa law as a medical physician or surgeon, physician assistant, osteopathic physician or surgeon, chiropractor, podiatrist, physical therapist, acupuncturist, or dentist. Medical care also includes services rendered in accordance with a method of healing sanctioned by a federally recognized sovereign nation or tribe.

“Medically necessary” means that the items and services prescribed or recommended by a medical provider under the prescriptive authority of the medical provider’s license are reasonably necessary to facilitate the victim’s physical and emotional recovery from the compensable crime.

“Pecuniary loss” means the amount of medical or medical-related expenses that include but are not limited to eyeglasses, hearing aids, dentures, and prosthetic devices, including those which were taken, lost, or destroyed during the crime; home health care; medications; counseling; pregnancy-related services; equipment rental or purchase; property alteration; transportation for emergencies and medical care provided outside the victim’s county of residence; or health insurance premiums covered by an employer previous to the victim’s disability from the crime. Pecuniary loss shall also include the loss of income that the victim has incurred as a direct result of the injury to the extent that the victim has not been and shall not be indemnified from any other source.

“Personal injury” or *“injury”* means bodily harm or mental suffering and shall include a victim’s pregnancy or miscarriage resulting from a crime.

“Program” means the crime victim compensation program of the department of justice.

“Provocation” means to cause anger, resentment, or deep feelings that cause or instigate another to take action.

“Public funds” means moneys provided by federal, state, county, city or other local government.

“Reasonable charges” means those ordinarily charged by the provider of the service to the general public for services of a similar nature.

61—9.27(915) Duties of the section. The duties of the section shall include but not be limited to the duties provided for in Iowa Code sections 13.31 and 915.83, as well as:

9.27(1) To prepare appropriate forms for the filing and processing of compensation applications.

9.27(2) To conduct an administrative review of claims when a request for reconsideration is filed by an applicant with the chief.

9.27(3) To receive moneys bequeathed, awarded, or donated to the section by a public or private organization or individual.

61—9.28(915) Application for compensation. An applicant may file an application for compensation by telephone or in writing within two years of the occurrence or discovery of a crime pursuant to Iowa Code section 915.84(1). For a victim of sexual abuse when the offender has been referred pursuant to Iowa Code chapter 229A, the date of the discovery of the crime shall be considered to be the date when the referral was made. The program may waive the requirements of Iowa Code section 915.84(1) if good cause is shown.

9.28(1) *Application postmarked.* An application postmarked within the prescribed time period shall be considered timely filed.

9.28(2) *Good cause.* In determining whether there is good cause for waiver of the two-year application filing requirement, the victim’s age, physical condition, psychological state, and cultural or linguistic barriers and any compelling health or safety reasons that would jeopardize the well-being of the victim may be considered.

9.28(3) *Multiple erroneous claims.* When two or more applications are filed by or on behalf of an individual applicant during a calendar month and the applications appear on initial review to be erroneous claims based on innocent misrepresentation or circumstances of a similar nature, the claims

shall be treated as a single application. Verification shall be investigated for each crime recorded in a file with multiple erroneous applications. If any of the crimes recorded in a combined application are verified as compensable crimes, the applications for compensation for those crimes shall be separated from the combined file and assigned distinct application numbers. The program will notify the applicant whenever two or more applications have been combined as one application.

9.28(4) *Program effective date.* The effective date of the crime victim compensation program is January 1, 1983. Victims and survivors of crimes that were committed prior to the effective date may be eligible for compensation if the program can obtain sufficient documentation to verify eligibility.

9.28(5) *Concurrent primary and secondary applications.* A victim may be both a primary victim and a secondary victim in the same crime. The secondary victim application shall not be opened until a benefit has been exhausted for the primary application and there is documentation of need for further benefits in that category. The secondary victim application shall be considered timely filed if the primary victim application was timely filed.

9.28(6) *Concurrent secondary victim applications.* A victim may be a secondary victim to multiple primary victims in a crime. A subsequent secondary victim application shall not be opened until a benefit has been exhausted in the first secondary victim application and there is documentation of need for further benefits in that category. Subsequent secondary victim applications shall be considered timely filed if the primary victim application was timely filed.

61—9.29(915) Report to law enforcement. A person is not eligible for compensation unless the crime is reported to law enforcement pursuant to Iowa Code section 915.84(2). The program may waive the requirements of Iowa Code section 915.84(2) if good cause is shown.

9.29(1) *Law enforcement report sources.* The program finds there is good cause to accept that the report of a crime to any of the following is a report to law enforcement pursuant to Iowa Code section 915.84(2):

- a. Sheriffs and their regular deputies.
- b. Marshals and police officers of cities.
- c. Peace officers of the department of public safety.
- d. Special security officers employed by a board of regents institution as identified in Iowa Code section 262.13.
- e. Peace officers as authorized by Iowa Code section 350.5 or 456A.13.
- f. Employees of the department of transportation who are designated “peace officers” by resolution of the department under Iowa Code section 321.477.
- g. Correctional officers, including parole and probation officers.
- h. County and state prosecutors.
- i. An employee of the department of health and human services having jurisdiction to investigate the incident.
- j. A magistrate or judge of the Iowa court system.

9.29(2) *Elements of a report.* A victim is considered to have made a report to law enforcement when the victim has provided a true and accurate report of the incident, which shall include to the best of the victim’s knowledge:

- a. The nature of the crime,
- b. The location of the crime,
- c. The name, whereabouts and description of the suspect, if known, and
- d. The names of witnesses, if known.

9.29(3) *Law enforcement record.* A law enforcement trip record may satisfy the requirement that the crime be reported to law enforcement.

9.29(4) *Good cause.* In determining whether there is good cause for waiving the requirement to report a crime to law enforcement within 72 hours of the occurrence of the crime, the victim’s age, physical condition, psychological state, and cultural or linguistic barriers and any compelling health or safety reasons that would jeopardize the well-being of the victim may be considered.

a. Child victim. If the victim is a child as defined in Iowa Code section 232.2 and is reported to be a victim of child abuse, the section finds there is good cause to waive the 72-hour reporting requirement.

b. Dependent adult victim. If the victim is a dependent adult as defined in Iowa Code section 235B.2(4) and is reported to be a victim of dependent adult abuse, the section finds there is good cause to waive the 72-hour reporting requirement.

c. Sexual abuse victim. For a victim of sexual abuse, the section finds there is good cause to waive the 72-hour reporting requirement if a sexual abuse evidentiary examination was completed within 72 hours of the crime and the victim files a subsequent law enforcement report.

d. Domestic abuse victim. For a victim of domestic abuse, the section finds there is good cause to waive the 72-hour reporting requirement if a pro se protection order pursuant to Iowa Code chapter 236 is entered by the court and the victim files a subsequent law enforcement report.

e. Victim of a sexually violent predator. For a victim of sexual abuse, the section finds good cause to waive the 72-hour reporting requirement when the offender is referred pursuant to Iowa Code chapter 229A.

61—9.30(915) Cooperation with law enforcement. To be eligible for compensation, the crime victim shall cooperate with the reasonable requests of law enforcement. After considering the factors in subrule 9.29(4), the department may waive the requirement if good cause is shown.

9.30(1) Reasonable cooperation. Reasonable cooperation by the victim may include but is not limited to the following:

- a.* Providing law enforcement with a true and accurate report of the crime.
- b.* Participating in the investigation of the crime to assist law enforcement in the identification of a suspect as requested, including the review of photographs, composites, and lineups.
- c.* Participating in prosecution procedures including deposition and trial testimony as requested.

9.30(2) Determination of cooperation. In determining whether a victim reasonably cooperated with law enforcement, the program may consider the victim's age, physical condition, psychological state, and cultural or linguistic barriers and any compelling health or safety reasons that would jeopardize the well-being of the victim.

9.30(3) Polygraph testing. In determining whether a victim reasonably cooperated with law enforcement, the refusal of a victim to undergo a polygraph examination shall not be the basis of denial.

9.30(4) Sexual abuse victim. A victim of sexual abuse shall be deemed to have reasonably cooperated with law enforcement if the victim undergoes a sexual abuse evidentiary examination.

9.30(5) Domestic abuse victim. A victim of domestic abuse shall be deemed to have reasonably cooperated with law enforcement if a report of the crime was made to law enforcement.

61—9.31(915) Contributory conduct. The program shall reduce or disqualify compensation when there is a causal relationship between the contributory conduct on the part of the victim and the victim's injury or death. Contributory conduct includes consent, provocation, or incitement of the crime on the part of the victim.

9.31(1) Consent, provocation, or incitement. In assessing consent, provocation or incitement on the part of the victim pursuant to Iowa Code section 915.87(2) "a," the program may consider factors including but not limited to the following:

- a.* Whether charges are filed against the suspect;
- b.* Whether the victim attempted to withdraw from the incident;
- c.* Comparable or reasonable force on the part of the suspect in response to an action of the victim;
- d.* The amount of time from the beginning of the interaction between the victim and the suspect and the criminal act committed by the suspect;
- e.* The age of the victim; and

f. Comparable size or strength of the victim and suspect.

9.31(2) *Additional assessment of consent.* In assessing the causal nature of consent pursuant to Iowa Code section 915.87(2)“a,” the program may consider the victim’s age, physical condition, psychological state, and cultural or linguistic barriers and any compelling health or safety reasons that would jeopardize the well-being of the victim.

9.31(3) *Consent in intoxicated driving cases.* A victim who was the passenger in the vehicle of a driver who has been determined to have been legally intoxicated at the time of the crash shall not be automatically denied eligibility for compensation. The program may consider whether the victim could have reasonably known the intoxication level of the driver, the driver’s behavior or judgment appeared impaired, the victim encouraged or discouraged the driver from driving, or the victim’s judgment was impaired.

9.31(4) *Additional assessment of provocation and incitement and commission of a criminal act.* In assessing the causal nature of provocation or incitement and commission of a criminal act pursuant to Iowa Code section 915.87(2), the program may consider law enforcement documentation that indicates:

a. Retaliatory action. The crime was committed as retaliation for a prior physical assault or injury committed by the victim against the perpetrator, and the victim could have reasonably foreseen the likelihood of retaliation.

b. Gang action. The crime was a direct result of gang activity, including gang initiation, or was inflicted as retaliation for prior gang activity in which the victim participated in a criminal street gang as defined in Iowa Code section 723A.1(2).

c. Mutual combat. The crime was an incident of mutual combat if the victim:

- (1) Initiated a physical altercation;
- (2) Made a credible threat of bodily harm against the person and took action to indicate the intent to carry out the threat and a physical altercation immediately followed; or
- (3) Accepted a verbal challenge to engage in a physical altercation and took action to indicate acceptance of the challenge and a physical altercation immediately followed.

d. Exception to mutual combat. Incitement and provocation are not present in an incident of mutual combat when a significant escalation of the fight, such as the introduction of a deadly weapon, is made by a person other than the victim or when a third party becomes involved resulting in more serious injury than the victim could have reasonably expected.

9.31(5) *Victim’s criminal act.* Contributory conduct includes assisting in, attempting, or committing a criminal act by the victim. A causal relationship must be documented between the injury or death for which compensation is sought and the criminal act of the victim.

61—9.32(915) Eligibility for compensation. The program shall determine the eligibility of an application for compensation.

9.32(1) *Determination of eligibility.* A denial of eligibility shall be based on written documentation that an application does not satisfy the requirements of Iowa Code chapter 915. An applicant shall be deemed eligible for compensation if the section has not obtained written documentation supporting a denial within six months of the date of the application. Notwithstanding the foregoing, the section may extend the determination of eligibility beyond six months if a court date or grand jury hearing is pending and is reasonably expected to result in information necessary to render an eligibility decision.

9.32(2) *Reopening applications.* Pursuant to Iowa Code section 915.83(2), the program may reopen and reinvestigate an application if the program determines that the decision was incorrect or incomplete. A denied application may be reopened and reinvestigated if it is discovered through a criminal trial or other investigatory source that the information relied upon for the denial decision was incorrect or incomplete. The eligibility of an approved application will be reopened for consideration if information is discovered through a criminal trial or other investigatory source that the information relied upon for the approval decision was incorrect or incomplete. The reopening of a denied or

approved case is at the discretion of the administrator for the compensation program, the chief, or the board.

9.32(3) *Withdrawal of application.* An applicant may withdraw the application for compensation from consideration.

9.32(4) *Maximum compensation.* Compensation shall be reduced or disqualified to the extent that the maximum compensation allowable pursuant to Iowa Code chapter 915 and these rules has been awarded.

61—9.33(915) Emergency award of compensation. Emergency awards of compensation may be made if the applicant has incurred a loss of income or pecuniary loss as a direct result of the crime.

9.33(1) *Preliminary eligibility determination.* The program must determine that the application is likely to be eligible based on documentation available including, at a minimum, the law enforcement verification form provided to law enforcement by the program.

9.33(2) *Documentation.* To make an emergency award of compensation, the program must have documentation of the lost wages or the pecuniary loss.

9.33(3) *Emergency award decision.* A decision denying an emergency award shall not be appealable.

9.33(4) *Offset.* Any emergency award shall be deducted from the final award of compensation made to the claimant.

61—9.34(915) Computation of compensation. The section shall determine the amount of compensation to be awarded to an eligible applicant.

9.34(1) *Benefit limits.* Compensation shall be made up to the benefit category limits in effect on the date the application is filed. For an eligible victim of sexual abuse when the offender has been referred pursuant to Iowa Code chapter 229A, compensation shall be paid for expenses incurred after referral of the offender.

9.34(2) *Payer of last resort.* The program is a payer of last resort pursuant to federal law 34 U.S.C. 20102. Compensation shall not be paid for services when the provision for those services is mandated by law or administrative rule to be the responsibility of another governmental unit, private agency or program. Payments shall be reduced by payments made by offenders and third parties responsible for the damages of the crime.

9.34(3) *Voluntary financial programs.* Compensation applicants will be encouraged to apply for other financial assistance programs to pay costs resulting from the crime-related injury. However, no applicant will be denied compensation benefits based on the applicant's refusal to seek funds from a voluntary financial assistance program.

9.34(4) *Insurance providers.* Eligible victims and claimants must give service providers the information necessary to bill insurance providers for crime-related treatment. Payment of compensation will not be made if the victim refuses or fails to provide information requested by the service or insurance provider or to sign the required assignment of benefits within a reasonable time frame.

9.34(5) *Supplanting of funds prohibited.* Compensation shall be made only when the claimant is responsible for the cost of crime-related injury. Compensation shall not be paid when a government entity, including but not limited to a mental health facility, jail, or prison, is responsible for the costs of treatment for injury from crime.

61—9.35(915) Computation of benefit categories. The section shall determine the amount of compensation to be awarded to an eligible applicant for injury from crime for each benefit category pursuant to Iowa Code section 915.86.

9.35(1) *Medical care.* Compensation may be paid for the reasonable expenses of medical care provided to eligible crime victims by, or under the supervision of, a person licensed by the state under Iowa Code chapter 147, 148, 148A, 148E, 149, 150A, 151, 152C, or 153. When preexisting medical

conditions are treated during crime-related medical care, the program may reduce payment to a percentage equal to the portion of the medical care determined to be directly related to the compensable crime. Medical care expenses include the following:

a. Medical care sanctioned by sovereign nations and tribes. Compensation may be paid for medical care rendered in accordance with a method of healing sanctioned by a state-recognized or federally recognized sovereign nation or tribe.

b. Medical counseling costs. Compensation may be paid for counseling provided under the direct supervision of a psychiatrist or other physician and shall be applied toward the medical benefit maximum.

c. Medical care for homicide victim survivors. Compensation may be paid to a spouse, fiancé or fiancée, child, parent, sibling, or person related by blood or affinity to a homicide victim for the same types of medical care that are allowable for primary victims, including but not limited to hospital and physician care, psychiatric care, prescriptions, and transportation expenses related to injury from the crime.

d. Medical equipment and property alteration. Compensation may be paid for equipment and property alteration that are prescribed as medically necessary care due to injury from the crime.

e. Medical supplies. Compensation may be paid for medical care supplies and incidental supplies necessary for medical care due to injury from the crime.

f. Medical care for pregnancy. Compensation may be paid for medical care costs related to pregnancy resulting from the crime of sexual abuse. Eligible expenses for the care of the victim shall be paid. Expenses incurred for the care of a newborn child are not compensable.

g. Medical devices. Compensation may be paid for the replacement of a medical device including but not limited to a sight or hearing device, dentures, a prosthetic device, a wheelchair, and medication that was taken, lost or destroyed during the crime.

h. Transportation for medical emergency. Compensation may be paid for the reasonable cost of transportation in a medical emergency by private vehicle at the per-mile rate established by the department of administrative services for state employees using a privately owned vehicle for state business. Mileage will be based on mileage calculation from the most current map published by the department of transportation. Transportation within a city limit will be based on the program's estimate of mileage from the location of the injured victim to the medical facility.

i. Transportation for nonemergency care. Compensation may be paid for the cost of transportation by commercial vehicle or by private car for nonemergency medical care and counseling received outside of the victim's county of residence. Transportation provided by private vehicle for nonemergency care will be reimbursed at the per-mile rate established by the department of administrative services for state employees using a privately owned vehicle for state business. Mileage will be based on mileage calculation from the most current map published by the department of transportation.

j. Transportation medical benefit. Compensation may be paid for transportation from the applicable medical care or counseling benefit category. The available funds to the victim from the applicable benefit category will be reduced by the amount of compensation paid for transportation.

k. Health insurance. Compensation may be paid for premiums to continue a health insurance policy that was provided in whole or in part by the victim's employer prior to the crime and the employment ceased as a result of the crime.

9.35(2) *Medical care records.* When compensation for medical care is requested, the provider shall submit medical records that document the care provided and show that the medical care is for injury from crime.

9.35(3) *Mental health counseling.* Compensation may be paid for the reasonable costs of mental health counseling for eligible crime victims and survivors of a homicide victim. When preexisting mental health issues are addressed during crime-related counseling, the program may reduce payment to a percentage equal to the portion of the counseling determined to be directly related to the compensable crime. The mental health counseling provider shall submit a vitae establishing the

provider's educational qualifications for compensation. A provider who is required to be licensed under Iowa law must provide proof of licensure and good standing with the department of inspections, appeals, and licensing. Compensation shall be paid for mental health counseling provided by the following:

a. Master's level counselor. Compensation may be paid for mental health counseling provided by a person holding at least a master's degree in a mental health or counseling field including but not limited to social work, psychology, guidance and counseling, behavioral sciences, art therapy, marriage and family therapy, child life therapy, and advanced mental health registered nursing.

b. Supervised mental health counselor. Compensation may be paid for mental health counseling provided by a counselor who does not have a master's degree but is under the supervision of a counselor with a master's degree. The supervising mental health counselor must sign the session notes that must be submitted for review by the program.

c. Intern mental health counselors. Compensation may be paid for mental health counseling provided by an intern candidate for a master's degree when the counseling is provided within a course of professional education and the intern is supervised by a provider eligible for compensation.

d. Out-of-state providers. Compensation may be paid to mental health counselors outside Iowa who provide services to victims of crime eligible for the Iowa program if the mental health counselor meets the professional licensure criteria of the state in which the counselor works.

9.35(4) *Mental health counseling records.* When compensation for mental health counseling is requested, the provider shall complete verification forms related to the counseling as follows:

a. Treatment plan and certification form. Information submitted on the treatment plan and certification form shall include but not be limited to a summary of the initial evaluation, any preexisting mental health diagnoses currently being treated, current diagnoses, issues addressed, counseling goals, expected length of counseling services, and certification of the percentage of mental health counseling directly related to issues arising from the victimization.

b. Treatment progress and certification form. At six-month intervals for the duration of the crime-related mental health counseling, the provider shall submit a treatment progress and certification form. Information on the form shall include progress on previously stated goals of counseling, current goals, current diagnosis, expected length of additional counseling, and certification of the percentage of mental health counseling directly related to issues arising from the victimization.

c. Session notes. The program may require submission of session notes to determine if the mental health counseling is directly related to the crime when:

- (1) The counseling expenses for a victim exceed \$3,000.
- (2) The provider has not completed the treatment and certification plan with statement of the percentage of treatment directly related to the crime.
- (3) The counseling begins, or is provided, more than one year after the crime.
- (4) The treatment plan or progress summary indicates that the victim is receiving treatment for a diagnosis or issue not exacerbated by the crime.

9.35(5) *Victim service counseling.* Reasonable charges for counseling provided by a victim counselor as defined in Iowa Code sections 236A.2 and 915.20A, when fees for services of a similar nature to the general public have not previously been established, may be paid within the following guidelines:

a. Counseling provided by victim counselors whose position is funded, in whole or in part, with or whose position is used as match requirement for federal Victims of Crime Act funds shall not be eligible for compensation payment.

b. Counseling services provided to an eligible victim by a victim counselor may be compensated as follows:

- (1) Individual counseling at an hourly rate of \$35.
- (2) Group counseling at an hourly rate of \$20.

c. Compensation paid, combined with other funding sources for the service, shall not be in excess of the total cost of providing the counseling hour.

9.35(6) *Victim service counseling records.* A record of each counseling session, including the date of service, the length of service, the name of the victim counselor who provided the service, the general topics addressed, and referrals made, shall be maintained in the victim's file.

9.35(7) *Counseling with the perpetrator.* Compensation for mental health counseling that includes the perpetrator of the crime may be payable when the perpetrator takes part only to take responsibility for the crime and apologize to the victim and, at the request of the victim, the victim is allowed to confront the perpetrator regarding the effects of the crime; or where treatment is court-ordered.

9.35(8) *Family counseling.* Compensation for family mental health or victim service counseling may be paid only for sessions where the victim is present and the focus of the session is to assist the victim in recovery from a compensable crime.

9.35(9) *Lost wages or income.* Compensation may be paid for reasonable lost wages or income when an eligible crime victim is unable to work as the result of injury from a crime or as a result of cooperation with the investigation or prosecution of the crime. Lost wages or income due to crime is determined as follows:

a. Gross wage computed. Lost wages are computed as the gross rate of pay times the number of scheduled hours of work missed.

b. Variable income. Income that is variable shall be computed based on the average income earned during a minimum 28-day period within the three months preceding the crime. Estimated earnings not supported by past income statements shall not be accepted.

c. Self-employment and small business income. Self-employed persons or small business employees must provide federal or state income tax forms for the most recent year completed or verification of average income for a minimum of the past six months. Work estimates, labor contracts, and affidavits from individual employers may be used to establish wages.

d. Vacation, sick, holiday, bereavement, and annual leave. Lost wages or income paid shall not be reduced by vacation, sick, holiday, bereavement, or annual leave available or used by the victim due to the crime.

9.35(10) *Lost wages or income due to disability.* Compensation shall be paid for lost wages incurred by an eligible crime victim within two weeks after injury from a crime or by an eligible survivor of a homicide victim after the death of a victim without an authorized disability statement. Compensation for lost wages may be paid to a spouse, fiancé or fiancée, child, foster child, sibling, foster sibling, stepsibling, brother-in-law, sister-in-law, grandparent, parent, grandchild, aunt, uncle, first cousin, legal ward, son-in-law, daughter-in-law, niece, nephew, or spouse of a first cousin of or a person cohabitating with or related by affinity to the homicide victim for up to one month without a disability statement as determined reasonable by the program. A victim or survivor of a homicide victim seeking lost wages for a longer period of time shall submit a disability statement from a licensed physician for a physical injury or an injury related to mental health or from a licensed mental health provider as included in paragraph 9.35(3)"a" for an injury related to mental health. Compensation shall be made for lost wages under the following circumstances:

a. Victim injured. Compensation may be paid when the victim cannot work due to injury from crime.

b. Lost hire income. Compensation may be paid when the victim has been hired by an employer but is unable to begin employment because of injury due to the crime, until released to work. Required documentation includes a signed affidavit by the employer.

c. Employment terminated. Compensation may be paid when the victim is terminated from employment as a result of crime-related injuries, until released to seek work.

d. Unemployment eligible. Compensation may be paid for the difference between the victim's gross wage and the unemployment benefit when the victim is terminated from employment because of injury from crime and is found to be eligible for unemployment benefits.

e. Unemployment ineligibility. Compensation may be paid for the amount of the victim's unemployment benefit when the victim is rendered ineligible for unemployment benefits because of injury from the crime, until the victim is released to work.

f. Workers' compensation benefit eligible. Compensation may be paid for the difference between the victim's gross wage and the workers' compensation benefit when the victim is unable to work because of injury from the crime and is found to be eligible for workers' compensation benefits.

g. Medical and counseling appointments. Compensation may be paid to a primary victim, the parent or guardian of a minor-aged primary victim, or the caretaker of a dependent adult primary victim for wages lost due to medical care or counseling appointments for the victim.

9.35(11) *Lost wages or income for cooperation in an investigation and prosecution.* Compensation may be paid for lost wages or income incurred by an eligible primary victim, survivor of a deceased victim as described in Iowa Code section 915.86(8), parent or guardian of a minor-aged primary victim, or caretaker of a dependent primary victim while cooperating with the investigation and prosecution of the crime, including but not limited to participation at identification sessions, arraignment, deposition, plea agreement meetings, trial, sentencing, parole and probation hearings, and sexually violent predator civil commitment proceedings.

9.35(12) *Residential crime scene cleanup.* Compensation may be paid for the reasonable costs of an eligible victim or applicant for cleaning a residential crime scene, which includes a home, or a private vehicle if the vehicle serves as the primary residence, in which the crime was committed. Cleaning a residential crime scene means to remove, or attempt to remove, from the crime scene blood, dirt, stains, or other debris caused by the crime or the processing of the crime scene. Compensation shall be paid for the reasonable out-of-pocket cost of cleaning supplies, equipment rental and labor and the value of property that is essential to the victim and that is held by law enforcement for evidentiary purposes. Cleaning a residential crime scene does not include replacement or repair of property damaged in the crime.

9.35(13) *Loss of support.* Compensation for loss of support may be paid for the dependents of an eligible homicide victim or of a victim disabled for a period of 60 days or more when the applicant documents that the dependent relied on the victim wholly or partially for physical care or financial support.

a. Period of dependency. Compensation may be paid for loss of support for the remaining period of dependency, up to the limits established in Iowa Code section 915.86(5), in an amount equal to the lost wages or income the victim was earning at the time of death or disability. The amount of compensation shall be subject to reduction by the amount of collateral sources designated as support pursuant to Iowa Code section 915.87(1).

b. Dependent care. Compensation may be paid for loss of support at the current hourly rate of the Iowa minimum wage for dependent care provided by a person other than the victim if the victim was providing physical care to the dependent at the time of the crime.

9.35(14) *Clothing and bedding.* Compensation may be paid for clothing and bedding held as evidence by law enforcement. Compensation shall not be made for a deceased victim's clothing that is held as evidence.

9.35(15) *Funeral, burial, and memorial expenses.* Compensation may be paid for reasonable expenses incurred for the funeral and burial or cremation for an eligible victim who has died as the result of a crime committed against the victim. An estate may be reimbursed for this benefit if the application is filed by the victim's surviving spouse, fiancé or fiancée, children, parents, or siblings or by a person cohabiting with or related by blood or affinity to the victim. This benefit cannot be used if there are no surviving eligible applicants. Life insurance will only be considered a collateral source if there is a specific funeral expense clause in the life insurance policy. The following expenses may be paid up to the maximum expense established in Iowa Code section 915.86.

a. Funeral service. Compensation may be paid for expenses related to funeral and burial or cremation preparation and services. Funeral services may also include a memorial service or items commemorating the deceased victim.

b. Burial plot and vessel. Compensation may be paid for the cost of a burial plot, vault, casket, urn, or other permissible vessel.

c. Burial effects. Compensation may be paid for miscellaneous funeral and burial expenses including, but not limited to, flowers, burial clothing for the victim, transportation of the victim's body, and travel and lodging expenses for survivors of the deceased victim as described in Iowa Code section 915.86 with priority for the surviving spouse, children, and parents of the victim. Documentation must be provided for all miscellaneous funeral and burial expenses.

9.35(16) Dependent care.

a. Compensation may be paid for reasonable costs of dependent care incurred by a primary victim, the parent or caretaker of a dependent primary victim, or the survivor of a deceased victim to attend medical or counseling appointments or criminal justice proceedings. Dependent care expenses may be paid for the parent or caretaker of a primary victim to attend the parent's or caretaker's own medical or mental health appointments.

b. Compensation may include but is not limited to expenses for care provided by a day care center, private residential child care, a relative who is not a tax dependent, a before- or after-school program, custodial elder care, an adult day care center, a nanny, or an au pair. Expenses may be paid up to the maximum benefit established in Iowa Code section 915.86(13).

9.35(17) Residential security.

a. Compensation may be paid for reasonable costs incurred by a victim, the victim's parent or caretaker, or the survivor of a deceased victim to install new residential security items, or to replace inadequate or damaged residential security items, not to exceed the maximum expense established in Iowa Code section 915.86(14).

b. Compensation may be paid for doors, locks, windows, security cameras, security systems or devices, or other reasonable expenses that provide for the safety of the victim or the security of the residence.

9.35(18) Transportation and lodging expenses. Compensation may be paid for reasonable transportation and lodging expenses incurred by the victim, secondary victim, parent or guardian of the victim, or survivor of a deceased victim for medical and counseling services, criminal justice proceedings, or funeral activities, not to exceed the benefit limit established in Iowa Code section 915.86(15).

a. Use of a privately owned vehicle shall be paid at the per-mile rate established by the department of administrative services for state employees using a private vehicle for state business.

b. Commercial vehicle transportation shall be paid at the cost incurred by, or on behalf of, an eligible applicant.

61—9.36(915) Appeal of compensation decisions. An applicant shall be informed in writing of the basis for the denial of eligibility or the amount of an award.

9.36(1) Applicant appeal. An applicant may appeal a compensation decision as follows:

a. Appeal to chief. An applicant aggrieved by a denial decision or the amount of compensation awarded by the program may appeal to the chief.

b. Appeal to board. An applicant may appeal the chief's decision to the board.

c. Appeal to district court. An applicant who disagrees with the decision of the board has the right to appeal to the district court for judicial review within 30 days of receipt of the board's decision.

9.36(2) Chief appeal period. An applicant shall submit to the chief a written request for reconsideration within 30 days of the date the notice of the crime victim compensation program decision is mailed or otherwise issued by the section. Any request for reconsideration postmarked within the prescribed time period shall be considered timely filed by the division. Barring any unusual circumstances, within 30 days of the receipt of the request for reconsideration, the chief shall issue a decision.

9.36(3) Board appeal period. An applicant may file with the board a request for consideration of the chief's decision. This written request for consideration by the board shall be submitted within 30

days of the date the notice of the chief's decision is mailed or otherwise issued by the chief. Any request for review postmarked within the prescribed time period shall be considered timely filed by the section. Barring any unusual circumstances, within 90 days of the receipt of the request, the board, or a committee designated by the chair of not fewer than five members of the board, shall issue a decision.

9.36(4) *District court appeal period.* An applicant shall submit a petition for judicial review to the district court within 30 days of the receipt of the notice of the board's decision.

61—9.37(17A) Waiver from rules. This rule establishes a uniform process for granting waivers from rules adopted by the board governing the crime victim compensation program.

9.37(1) *When waiver is appropriate.* The board may grant a waiver from a rule the board has adopted if the board has rulemaking authority to promulgate the rule and no statute or rule otherwise controls the granting of a waiver from the rule. No waiver may be granted from a rule that defines a term. No waiver may be granted from a requirement that is imposed by statute. Any waiver must be consistent with statute.

9.37(2) *Criteria for discretionary waivers.* The board may grant a waiver from a rule, in whole or in part, in response to a request from an applicant, as applied to a specific claim, if the board finds that:

a. The application of the rule to the claim at issue would result in hardship or injustice to the person seeking compensation; and

b. The waiver would be consistent with the public interest, or the public interest will be protected by other means substantially equivalent to full compliance with the rule; and

c. The waiver in the specific case would not prejudice the substantial legal rights of any person.

9.37(3) *Board discretion.* The decision about whether the circumstances justify the granting of a waiver shall be made at the sole discretion of the board, upon consideration of all relevant factors.

9.37(4) *Criteria for mandatory waivers.* In response to an applicant's request, the board shall grant a waiver from a rule, in whole or in part, as applied to the particular circumstances, if the board finds that the application of the rule in that specific case would not, to any extent, advance or serve any of the purposes of the rule.

9.37(5) *Administrative deadlines.* When the rule from which a waiver is sought establishes deadlines, the board shall balance the specific individual circumstances of the applicant with the overall goal of uniform treatment of all applicants.

9.37(6) *Conditions.* The board may condition the granting of a waiver on reasonable conditions to achieve the objectives of the particular rule in question through alternative means.

9.37(7) *Public availability of waiver decisions.*

a. A board decision granting or denying a waiver shall be included in the board minutes with reference to the following:

(1) The particular case and the rule or portion thereof to which the decision pertains;

(2) The relevant facts and reasons upon which the action is based; and

(3) The scope and operative period of the waiver if one is issued.

b. Subject to the provisions of Iowa Code section 17A.3(1) "e," the department shall maintain a record of all orders granting and denying waivers under this chapter. All waiver decisions shall be indexed and available to members of the public at the section office.

9.37(8) *Voiding or cancellation.* A waiver is void if the material facts upon which the request is based are not true or if material facts have been withheld. The board may at any time cancel a waiver upon notice to the victim by regular mail and an opportunity to be heard if:

a. The facts as stated in the request are not true or material facts have been withheld, or

b. The applicant has failed to comply with the conditions of the waiver.

9.37(9) *Effectiveness of waiver.* After the board issues a waiver, a person seeking compensation may rely on the terms of that waiver for the purposes of the particular case for which it was issued. A waiver shall only be effective in the case for which it is issued.

9.37(10) *Appeals from waiver decisions.* Any request for an appeal from a decision granting or denying a waiver shall be in accordance with the procedures provided in Iowa Code chapter 17A and the board's rules. An appeal shall be taken within 30 days of the issuance of the waiver decision unless a contrary time is provided by rule or statute.

61—9.38 to 9.49 Reserved.

61—9.50(13) Administration of the victim services support program. The victim services support program of the Iowa department of justice shall administer the victim services grant funds as provided in Iowa Code chapters 13 and 236. All questions, comments, requests for information, or applications for grant funds shall be directed to the victim services support program by calling 515.281.5044 or 1.800.373.5044.

61—9.51(13) Definitions. For rules related to the victim services support program, the following definitions apply:

“Applicant” means a local or statewide government agency or a public or private nonprofit program that provides direct services and advocacy to crime victims; training and education to professionals and community agencies on crime-related issues, prevention, or justice support; or technical assistance to crime victim service providers and that makes an application for funds from the victim services support program.

“Application” means a request that complies with federal and state requirements for funds from the following funding streams:

1. The federal Victims of Crime Act.
2. The state domestic and sexual abuse program funds provided for in Iowa Code chapter 236.
3. The federal Family Violence Prevention and Services Act.
4. The federal Violence Against Women Act.
5. Other grants or funds available by law for crime victim assistance.

“Application review committee” means a committee, convened by the section, to review and assess applications and make funding recommendations to the crime victim assistance board.

“Competitive grant application” means an application for funding that the section solicits from eligible applicants and reviews for eligibility and completeness and for which the section convenes the application review committee to recommend grant awards to the board outlined in Iowa Code chapter 915.

“Crime victim center” means the same as defined in Iowa Code section 915.20A(1).

“Focus grant application” means the application for a grant for specific activities, including but not limited to training, travel, or materials, that is solicited at the discretion of the section and used in awarding the grant.

“Funding stream” means a distinct source of federal or state funding available to the section to distribute to entities eligible to receive such funds.

“Grant award” means funds granted to a local or statewide government agency or a public or private nonprofit program by the section.

“Grantee” means a local or statewide government agency or public or private nonprofit program that is awarded or receives funds from the section through a competitive or focus grant application.

“Justice support” means duties performed in the justice system related to investigation, prosecution, or disposition of a criminal case that assist or inform a victim of crime.

“Program” means the victim services support program of the Iowa department of justice.

“Victim” means a crime victim as defined in Iowa Code section 915.80.

61—9.52(13) Program description. Any eligible local or statewide government agency, any public or private nonprofit program, or a combination thereof may apply for and receive a grant award through the program. A contractual agreement specifying the terms of the grant award shall be executed between the department and the approved applicant.

61—9.53(13) Availability of grants. The program shall administer a competitive application process every three years unless otherwise directed by the board. The amount of the funds awarded shall be contingent upon the funds available through state and federal sources. The chief shall announce the opening of an application period through public notice, including but not limited to notice to current grantees and other eligible agencies identified by the program. Applications must be received by the designated due date.

9.53(1) Competitive grant applications will be awarded based on the availability of funds, history and demonstration of quality of services provided, compliance with the requirements of the section, number of victims served or other statistical data deemed useful by the program to demonstrate successful and cost-effective use of awarded funds, population served, and geographical distribution of funds across the state. A preference shall be given to continued funding of agencies and programs that have demonstrated success.

9.53(2) Focus grants will be awarded at the discretion of the chief and of the deputy attorney general who oversees the section. Funds utilized for focus grant applications must comply with all applicable state and federal rules and regulations. The award total of focus grant applications from one funding source may not exceed 3 percent of the funds available from the source in one fiscal year.

61—9.54(13) Application requirements. Applicants shall submit applications to the section in the form and manner prescribed by the section. Applications shall be available upon request to all interested parties.

9.54(1) To be included in the review process and considered for funding, an application shall be received by the section by the designated due date. Applications shall be submitted to the section in the format prescribed by the section. An extension of the filing deadline may be requested of the victim service support program prior to the deadline and may be granted for good cause. If the victim services support program administrator denies a request for extension, the applicant may file a written appeal to the chief delivered within seven days of the date of denial, stating the reason(s) for reconsideration of the request for extension of the deadline. The determination of a good cause extension by the chief shall be final.

9.54(2) An applicant shall have on file with the program current copies of the applicant's table of organization and, for all private nonprofit programs, articles of incorporation as required.

9.54(3) An applicant shall have on file with the program evidence of any insurance coverage the applicant carries for liability or property.

9.54(4) The program may allow combined applications from two or more local or stateside government agencies if a combined application will encourage cooperation between those agencies on behalf of crime victims, as determined by the program. Each agency receiving funds under a combined application shall sign a separate contract for the awarded funds.

61—9.55(13) Contents of application. Each application shall contain the following information:

9.55(1) A paragraph describing the agencies, units of government, or public or private nonprofit programs requesting the funds.

9.55(2) A description of services for which funding is being requested. The description shall include but not be limited to the following:

- a. The geographical area to be served.
- b. The crime victim population to be served.
- c. Victim eligibility requirements for the applicant's services.
- d. A description of substantial financial support from other sources.
- e. The intended use of volunteers, if any.
- f. The stated goals and objectives or measurable activities of the program.
- g. A description of the proposed services to be implemented during the funding year.
- h. The amount of funds requested.

- i.* The amount of cash or in-kind resources or combination thereof that is committed where required by the division.
- j.* Proof of coordination with appropriate agencies at the local level.
- k.* A total program budget for all services provided by the applicant's crime victim program.
- l.* A proposed budget for the requested funds.
- m.* A list of other anticipated sources of income, including written commitments, if possible, and plans for continued funding of the funded activities.
- n.* Other information identified by the section to be included in the application to assist the application review committee and the board.
- o.* Signed certified assurances as required by statute or regulation or otherwise designated by the section.

61—9.56(13) Eligibility requirements. Funds must be used only to provide victim services, justice support to victims of crime, training, community education, crime prevention, or technical assistance to victim service providers and allied professionals. Awarded funds shall not be used to supplant other available or mandated funds. An applicant must meet the following additional requirements:

9.56(1) The applicant shall be a local or statewide agency, a public or private nonprofit organization, or combination thereof, as stated in rule 61—9.51(13).

9.56(2) The applicant shall provide services to victims of crime through crime victim centers, law enforcement agencies, prosecution offices, state or local agencies, culturally specific service organizations, faith-based programs, and other allied professionals. Services provided to victims shall include but are not limited to crisis intervention, civil and criminal court advocacy and support, group and individual follow-up counseling, transportation, and information and referral. Applicants may contact the program at 515.281.5044 or 1.800.373.5044 for additional services that qualify for funding.

9.56(3) An applicant providing services to victims of domestic abuse, sexual abuse, and other violent crimes must also provide or arrange safe shelter or housing for victims and their children when needed at no cost to the victims. To ensure staff training and compliance with best practice standards, preference will be given to domestic abuse programs certified by the Iowa coalition against domestic violence and sexual abuse programs certified by the Iowa coalition against sexual assault.

9.56(4) An applicant providing services to victims of sexual abuse must also provide support to victims at the time of an evidentiary sexual abuse examination. To ensure staff training and compliance with best practice standards, preference will be given to sexual abuse programs certified by the Iowa coalition against sexual assault.

9.56(5) The applicant shall promote within the community a coordinated public and private effort to assist crime victims.

9.56(6) The applicant shall be an equal-opportunity employer and provide services on an equal-opportunity basis.

9.56(7) The applicant shall comply with applicable federal and state statutes and rules, all requirements specified in the grant between the section and any funding source, and all requirements set forth in the funding application or any other contractual document.

9.56(8) The applicant shall assist victims in seeking state crime victim compensation benefits.

9.56(9) The applicant shall have a grievance procedure established for victims, employees, and volunteers.

9.56(10) The applicant shall ensure that all employees and volunteers of crime victim centers providing direct services to victims are trained as victim counselors as defined in Iowa Code section 915.20A.

9.56(11) The applicant shall provide services within the geographical service area without regard to a victim's ability to pay.

9.56(12) An existing program must document results of prior program activities demonstrating that the needs of victims have been met.

61—9.57(13) Selection process. The program shall conduct a preliminary review of each application to ensure that the applicant is eligible, the application is complete, and the proposed services are consistent with the section's mission of providing quality assistance to crime victims and crime victim programs throughout the state.

9.57(1) In selection of competitive applicants, the program may utilize generally accepted methods of grant review, including but not limited to checklists; quality scales; written comments by application review committee members; and formulas based on past funding, population, clients served and available funds.

9.57(2) In selection of competitive applications, the program shall establish an application review committee. The committee shall submit recommendations for funding awards to the chief. The chief shall submit to the board the recommendations of the application review committee and any alternative recommendations by the program staff.

a. The application review committee shall be comprised of representatives from the crime victim assistance board and experts in the fields of victim services, funding administration and management, and criminal justice. Committee members shall be selected solely by section staff.

b. The program shall provide the committee with information related to an applicant's performance with previous awards, the quality and quantity of services provided, and community support for an applicant.

c. The committee shall review the contents of the applications and information provided by the section and members of the committee regarding an applicant and the geographical area to be served.

9.57(3) The board shall consider the recommendations of the application review committee and the chief to determine final competitive awards to the extent that funds are available and to the extent to which applications meet the application criteria. The board may reject any or all applications.

9.57(4) In selection of an applicant for a focus grant, a written proposal shall be solicited from current grantees. Interested grantees shall submit a proposal to the chief outlining the purpose, cost, and outcome of the proposed activities and funds. The chief shall submit a recommendation to the deputy attorney general for criminal justice who oversees the section, and the deputy attorney general shall make a final decision based on the availability of funds and the merits of the proposal.

61—9.58(13) Notification of applicants. An applicant shall be notified within 90 days after the application due date whether the application has been denied or approved by the board and the amount of funds approved for the application.

61—9.59(13) Request for reconsideration.

9.59(1) An applicant may file with the board a request for reconsideration of the denial of an application or of the amount of an award. The request for reconsideration must be submitted within ten working days of the date the notice of decision is mailed or otherwise issued by the section to the applicant. The request must be in writing and state grounds for reconsideration. The grounds for reconsideration the board shall consider are limited to the following: victim assistance misconduct, ineffective review processes, disparities in funding, or miscalculation of funding amounts. The appeals process is not an opportunity to resubmit an application or to provide additional information for consideration. The board or a committee designated by the board chairperson shall review the request in a timely manner. A decision of the board or designated committee shall constitute final agency action.

9.59(2) At the time a request for reconsideration is received by the chief, notice that a request for reconsideration has been filed shall be sent to all approved applicants whose funds may be affected by the request.

9.59(3) Funds shall not be disbursed pending a request for reconsideration to the extent the funds are affected by the outcome of the request. Every applicant that would be adversely affected shall be notified if a request for reconsideration is approved, and grant awards shall be reduced as necessary.

61—9.60(13) Contract agreement.

9.60(1) A contract shall be negotiated by the section and each applicant.

9.60(2) Prior to entering into a contract, the section or the board may require modification of the proposed program, submission of further information or documentation, or other stipulation by the applicant. The required modification, information, documentation, or stipulation shall be specified in the notification of award contract.

9.60(3) The applicant or the section may request a modification of the program budget to reflect the amount, expenses and activities allowed by the award. Both parties must agree to any modification of the applicant budget.

9.60(4) In the event of a state, federal, or other audit, the grantee shall be responsible for the audit and liable for payment of any funds required to conduct the audit, to compensate for any grant disallowance, or to repay any funds received or spent contrary to the contract, these rules, or applicable law.

9.60(5) Funds shall be spent to meet the stated services and activities as provided in the contract. Expenditures shall be reimbursed pursuant to regular reimbursement procedures of the state of Iowa in the form and manner as designated by the section.

9.60(6) The grantee shall sign the certified assurances for the award at the time of application and at any time requested by the section.

9.60(7) Nothing in these rules shall be construed as limiting the remedies available to the state or the section for improper use of awarded funds or other breach of the grantee's duties under the contract and applicable law.

61—9.61(13) Performance reports. Performance reports shall be submitted to the program from all grantees. Failure to submit reports by the due date shall result in suspension of financial payments to the grantee by the program until such time as the report is received. Delinquent or inadequate reports from prior grants may detrimentally affect any award to a grantee for the following year.

61—9.62(13) Termination. Contracts may be terminated for the following reasons:

9.62(1) *Termination by grantee.* The grantee may terminate the contract at any time during the contract period by providing written notice to the section.

9.62(2) *Termination by department.* The section may terminate a contract upon a ten-day written notice when the grantee or any of its subcontractors fail to comply with the grant award stipulations, standards, or conditions. When there is a reduction of funds by executive order or by another method, the section may terminate a contract by providing a grantee with written notice.

9.62(3) *Termination for cause.* If the grantee fails to fulfill its obligations under the contract properly or on time, uses grant funds for purposes other than crime victim services approved by the program, or otherwise violates any provision of the contract, the board may terminate the contract by providing written notice to the grantee. Funds shall not be used for social justice activities. The notice shall specify the acts or omissions relied on as cause for termination. All finished or unfinished products and services provided by the grantee shall, at the option of the section, become state property. The section shall pay the grantee fair and equitable compensation for satisfactory performance prior to receipt of notice of termination minus any funds owing to the department (e.g., damages for breach, improperly spent funds).

61—9.63(13) Financial statement supplied. Within 45 days of the termination, the grantee shall supply the section with a financial statement detailing all costs incurred up to the effective date of the termination. The section's determination of costs and amounts to be paid shall be final.

61—9.64(13) Indemnification. The grantee shall defend, indemnify, and hold harmless the state of Iowa; its officers, agents and employees; and any of the state's federal funding sources for:

9.64(1) Grantee's performance or nonperformance of a contract entered into or violation of these rules.

9.64(2) Grantee's activities with subcontractors and all other third parties.

9.64(3) Any other act or omission by a grantee, its agents, officers, or employees.

61—9.65(13) Records. Grantees shall keep statistical records and documentation of services provided and any other activities as required by the program. The program shall have immediate access during working hours to records pertaining to the contract. No notice needs to be provided to the grantee prior to inspection of the records.

61—9.66 to 9.78 Reserved.

61—9.79(915) Iowa standards for sexual assault nurse examiners.

9.79(1) General. To ensure the highest standard of care for sexual assault victims, nurses seeking reimbursement from the state for mileage and compensation for performing sexual assault examinations shall meet or exceed the Iowa standards for sexual assault nurse examiners. All standards are submitted, reviewed, and either approved or recommended for denial by the sexual assault forensic response coordinator of the section. All recommendations for denial are reviewed by the strategy and compliance manager and are either approved or denied. Sexual assault nurse examiners or sexual assault nurse examiner candidates who disagree with the decision may appeal to the crime victim assistance board (additional information can be found in rule 61—9.87(915)). All sexual assault nurse examiners must be committed to being in regular contact with the sexual assault forensic response coordinator and communicating any changes in their ability or commitment to serve.

9.79(2) Eligibility. To be eligible to become a sexual assault nurse examiner in the state of Iowa, a nurse shall meet or exceed the following requirements (doctors of medicine or doctors of osteopathic medicine, advanced registered nurse practitioners, and physician assistants are also eligible as long as they meet all the requirements):

a. Active and unrestricted registered nurse (or higher) licensure with the state of Iowa (verified by the sexual assault forensic response coordinator).

(1) An adult/adolescent sexual assault nurse examiner candidate shall have two years of nursing experience unless prior experience as a certified nursing assistant (CNA) or licensed practical nurse with experience in an acute care environment, including but not limited to an emergency department, intensive care, coronary care, cardiology, and neonatal intensive care, is deemed sufficient by the sexual assault forensic response coordinator.

(2) A pediatric sexual assault nurse examiner candidate shall have three years of nursing experience that includes a minimum of one year of specialty pediatric nursing experience.

b. A criminal history record check. All candidates shall request a background check from the division of criminal investigation online, by mail, by fax, by email, or in person. The fee is not reimbursed by the state but may be reimbursable through the candidate's employer.

(1) Iowa Code section 272C.15(2) describes criminal convictions that may disqualify a candidate from qualifying to serve as a sexual assault nurse examiner. Any convictions involving a crime of dishonesty or false statements shall be disclosed by the candidate since the conviction may be used to attack a witness's character and ultimately impeach the witness (more information can be found in Iowa Rule of Evidence 5.609).

(2) In cases where a conviction may disqualify a candidate, the sexual assault forensic response coordinator will provide a recommendation to the strategy and compliance manager, who will make the final determination of whether the conviction would disqualify the candidate. A candidate may appeal the decision to the crime victim assistance board up to 30 days after receiving the final decision.

(3) After the completion of the background check, any conviction other than a minor traffic infraction shall be disclosed to the sexual assault forensic response coordinator within 15 calendar days to determine whether the conviction disqualifies the individual from continuing to serve as a sexual assault nurse examiner. The sexual assault forensic response coordinator will provide a

recommendation to the strategy and compliance manager, who will make the final determination of whether the conviction would disqualify the candidate. The sexual assault nurse examiner may appeal the decision to the crime victim assistance board within 30 days of receiving the final decision.

c. Commitment to practice as a sexual assault nurse examiner and maintain knowledge, standards and education. Every sexual assault nurse examiner in Iowa will complete the Commitment to Practice as a Sexual Assault Nurse Examiner in Iowa document and submit it to the sexual assault forensic response coordinator.

d. A letter of support to practice as a sexual assault nurse examiner in a facility. The letter of support will be written by a professional in the sexual assault field or a supervisor, state that the professional supports the candidate in providing services to sexual assault victims, and be submitted to the sexual assault forensic response coordinator. Examples of professionals or supervisors include but are not limited to a sexual assault nurse examiner coordinator, emergency department director, or advocacy sexual assault response team (SART) coordinator.

9.79(3) *Candidate approval.* All sexual assault nurse examiner candidates shall meet one of the following:

a. The candidate has completed an approved and accredited 40-hour adult and adolescent course that is consistent with sexual assault nurse examiner education guidelines established by the International Association of Forensic Nurses (IAFN), which includes the awarding of continuing education for course completion. Additionally, the course shall include training and objectives covering Iowa-specific knowledge, including but not limited to laws; regulations; Iowa kit tracking requirements; and medical, legal, and judicial protocols. The candidate shall submit all certificates of completion to the sexual assault forensic response coordinator; or

b. If the candidate has completed a sexual assault nurse examiner education course in another state, the course will be verified and either approved or denied by the sexual assault forensic response coordinator, indicating whether the course meets the standards required by Iowa (as referenced above). If the course is denied, the sexual assault forensic response coordinator will provide all documentation to the strategy and compliance manager for a second review and decision. If the 40-hour course meets approved standards but is missing the Iowa-specific education, the sexual assault forensic response coordinator will make a recommendation to fulfill this training requirement.

9.79(4) *Completion of clinical training log/preceptorship.* All sexual assault nurse examiner candidates shall complete the following within six months of successfully completing coursework:

a. Complete and turn in a training log to the sexual assault forensic response coordinator, who will maintain the initial certificate and all CE.

b. Clinical experience, which may be obtained by working with an experienced practicing sexual assault nurse examiner, through a live clinical simulation training, or a combination of the two. Documentation shall be submitted to the sexual assault forensic response coordinator.

c. Submit a log of a preceptorship to the sexual assault forensic response coordinator for review and approval. The log shall include acute examination evaluation and skill verification, including demonstration of use and the ability to perform the following: components of a medical and forensic examination and interview; documentation; understanding and obtaining patient consent forms; kit collection; tracking system use and education to patient; prophylactic medication administration and education; and verbalizing and demonstrating interaction of the multidisciplinary team (MDT) approach and collaboration.

9.79(5) *Reapproval, practice expectations, and CE.* Every three years, sexual assault nurse examiners will submit reapproval documentation to the sexual assault forensic response coordinator by March 31 of the year reapproval is due. The sexual assault forensic response coordinator will provide confirmation of reapproval by April 30 of the same year. The documentation will include:

a. 200 total hours of sexual assault nurse examiner-related practice or education, which can be achieved in the following ways:

(1) A minimum of 150 hours of intended direct care of sexual assault patients (this includes on-call shifts assigned, direct patient care as a sexual assault nurse examiner, or a combination of both on-call shifts and direct care); and

(2) 50 hours of education related to sexual assault patient care. This can include topics such as trauma neurobiology, sexual assault, testifying, human trafficking, and other related topics.

b. Continuing education. All sexual assault nurse examiners shall complete the following:

(1) Attend at least one virtual or in-person biannual meeting led by the sexual assault forensic response coordinator.

(2) Submit proof of attendance for at least 50 hours of education in the area of sexual assault patient care every three years. This can include topics such as neurobiology of trauma, MDT response, human trafficking, testifying, and other related topics.

(3) Submit verification of the number of examinations completed. If fewer than two examinations are completed in a 16-month period, attendance at an approved clinical simulation training or collaboration with a designated preceptor for skill validation will be required.

61—9.80(915) Administration of sexual abuse examination payment. The section shall administer the sexual abuse examination program as provided in Iowa Code section 915.41. That Iowa Code section states in part that the cost of a medical examination for the purpose of gathering evidence and the cost of treatment for the purpose of preventing sexually transmitted disease and preventing pregnancy shall be borne by the department of justice. Questions regarding payment should be made by calling 515.281.5044 or 1.800.373.5044.

61—9.81(915) Definitions. For rules related to sexual assault nurse examiners and sexual abuse payments, the following definitions apply:

“Administration” means the administrator of the section.

“Eligible claimant” means a medical provider that provides a sexual abuse examination to a sexual assault victim. The following are eligible to file a claim with the crime victim assistance program in the event that they have made payment to a medical provider for the costs of a sexual abuse examination:

1. A victim of sexual abuse.
2. A person responsible for the maintenance of a sexual abuse victim.
3. A dependent of a victim who has died as a result of injuries sustained in a sexual assault.
4. The guardian of a sexual abuse victim.

“Reasonable charges” means those ordinarily charged by the provider of the service to the general public for services of a similar nature.

“Sexual abuse” means the same as “sexual abuse” as defined in Iowa Code section 709.1 or “incest” as described in Iowa Code section 726.2.

“Sexual abuse examination” means a medical examination provided to a woman, man, or child to collect evidence of sexual abuse victimization of that person as described in Iowa Code sections 709.1 and 726.2 and provide treatment for the prevention of sexually transmitted disease and prevention of pregnancy pursuant to Iowa Code section 915.41. When applicable, the provider of a sexual abuse examination shall file a child abuse report with the Iowa department of health and human services as required by Iowa Code section 232.70.

61—9.82(915) Application for sexual abuse examination payment.

9.82(1) Consideration for payment. The department will consider payment upon receipt of a claim for reimbursement from a medical provider indicating that the claim is for the collection of evidence by sexual abuse examination. In the case that a victim, guardian of a victim, person responsible for the victim, or dependent of a victim who died of injuries sustained in a sexual assault has paid part or all of the charges incurred, a copy of the provider bill and documentation of personal payment of the bill must be submitted for reimbursement. An application for sexual abuse

examination payment must include the federal identification number or social security number of the claimant.

9.82(2) *Application filing.* To apply for payment under the sexual abuse examination program, the form or bill submitted must identify the sexual assault victim by name, birth date, and patient number; indicate that the claim is for a sexual abuse examination; and itemize all services rendered and the fee for each service.

61—9.83(915) Computation of sexual abuse examination payments.

9.83(1) *Payment for examination.* The department shall make payment for sexual abuse examinations, as appropriate, for services including but not limited to:

- a. Examiner's fee:
 - (1) To collect the patient's medical history;
 - (2) To conduct a physical examination;
 - (3) To collect laboratory specimens; and
 - (4) To test for sexually transmitted diseases.
- b. Treatment for the prevention of sexually transmitted disease.
- c. Examination facility, including:
 - (1) Emergency room, clinic room or office room fee;
 - (2) Pelvic tray and medically required supplies;
 - (3) Additional facility or equipment fees that the department determines to be reasonable.
- d. Laboratory collection and processing of specimens for criminal evidence, sexually transmitted disease, and pregnancy testing.

9.83(2) *Provider payment.* Any sexual assault forensic examination performed or any sexual abuse services provided by a qualified provider within the first 30 days after a sexual abuse will qualify the provider to receive a \$400 provider fee and the \$300 facility fee. Qualified providers serving sexual abuse patients with follow-up care will receive a \$200 provider fee and a \$300 facility fee, if it applies. Services provided by nonqualified providers will only be reimbursed the \$300 facility fee, if it applies. Qualified providers are sexual assault nurse examiners as well as other professionals who meet or exceed the Iowa standards for sexual assault nurse examiners (more information can be found in rule 61—9.79(915)). For this purpose, an individual does not have to be certified by IAFN to be a qualified provider. Additionally, accredited certified child protection centers (CPC) medical providers whose initial and ongoing training was approved by the National Children's Alliance or equivalent accrediting body at the time the CPC was accredited will be reimbursed by the state at a rate equivalent to that of those individuals who meet or exceed the Iowa standards for sexual assault nurse examiners. A qualified sexual assault nurse examiner shall also be reimbursed for travel at the per-mile rate established by the department of administrative services for state employees using a privately owned vehicle for state business. No reimbursement will be provided until the appropriate reimbursement invoice and the sexual assault forensic examination consent form are submitted. Any charges in excess of these amounts will require additional documentation from the provider. The crime victim assistance program will pay only those charges determined by the department to be reasonable and fair.

9.83(3) *Examination kits available at no cost.* The Iowa department of public safety division of criminal investigation makes sexual abuse examination kits available to health care providers at no cost.

61—9.84(915) Victim responsibility for payment. A victim of sexual abuse is not responsible for the payment of the costs of a sexual abuse examination determined to be eligible for payment by the department. A medical provider must not submit any costs associated with a sexual abuse examination to a victim's insurance or to the sexual abuse victim. A medical provider must not submit any remaining balance to the sexual abuse victim after the sexual abuse examination program has determined payment.

61—9.85(915) Sexual abuse examination—right to restitution. In all criminal cases under Iowa Code chapter 709 and sections 726.2 and 710.2 in which there is a plea of guilty, verdict of guilty, or special verdict upon which a judgment of conviction is rendered, restitution may be ordered from the offender to the crime victim assistance program for the cost paid by the department for a sexual abuse examination rendered to the victim of that crime pursuant to Iowa Code section 910.2.

61—9.86(915) Erroneous or fraudulent payment—penalty. If a payment or overpayment of a reparation is made because of clerical error, mistaken identity, innocent misrepresentation by or on behalf of the recipient, or other circumstances of a similar nature, not induced by fraud by or on behalf of the recipients, the recipient is liable for repayment of the reparation. However, if the program does not notify the recipient of the erroneous payment or overpayment within one year of the date of payment, the recipient is not responsible for repayment to the department. If a payment or overpayment has been induced by fraud by or on behalf of a recipient, the recipient is liable for repayment to the department.

61—9.87(915) Right to appeal. An eligible claimant who disagrees with the program's decision concerning payment or amount of payment has the right to request reconsideration of the decision by the crime victim assistance board. The request for reconsideration must be received by the department within 60 days after the decision of the program is mailed.

These rules are intended to implement Iowa Code chapter 915.