

Memorandum

To: Hospitals and Health Care Providers in New York
From: NYCLU
Date: December 16, 2021
Re: Summary of New York's New Law Regarding Minors' Access to Post-HIV Exposure Prophylaxis Following Sexual Assault

On June 15, 2020, a new law came into effect that removes hurdles that minors previously faced in accessing post-HIV exposure prophylaxis (PEP) following sexual assault.¹ This memo will summarize the new framework governing access to PEP.

What are the Obligations of Hospitals and Medical Providers Under Current Law?

- Where an individual who is less than 18 years old presents following a sexual offense and medical providers determine that a significant exposure to HIV has occurred, the hospital must offer and make available to the individual the full 28-day course of PEP.²
- The State Department of Health also advises that the hospital schedule a minor who receives the full course of PEP for a follow-up appointment within 24 hours to evaluate drug tolerance and arrange for follow-up care.³
- Survivors may not be billed directly for sexual assault forensic exams and are not required to use their health insurance to pay for this care. When a patient does not have health insurance or chooses not to use their health insurance, the hospital should bill the State Office of Victim Services (OVS).⁴ When minors are provided with the full 28-day PEP course, hospitals will be reimbursed at the Medicaid rate, which will not exceed \$2,500.⁵
- Hospitals must continue to offer and make available a 7-day PEP starter kit to those ages 18 and older who survive sexual assault when medical providers determine that a significant exposure to HIV has occurred.⁶ Hospitals must inform survivors who receive a 7-day starter kit that they may file a compensation application with OVS that, if eligible, will cover the rest of the course of PEP and any other medical expenses related to the assault.⁷

- Survivors may not be billed directly for sexual assault forensic exams and are not required to use their health insurance to pay for this care. When a patient does not have health insurance or chooses not to use their health insurance, the hospital may instead bill (OVS), which will reimburse at the Medicaid rate, up to \$1,500.⁸
- Hospitals must also inform survivors of any age of local rape crisis centers and other victim assistance organizations.⁹

For more information or if you have questions, please contact Allie Bohm, NYCLU Policy Counsel, at abohm@nyclu.org.

¹ N.Y. Pub. Health Law § 2805-i; *New Law Taking Effect-FRE/HIV-PEP Update*, OFFICE OF VICTIM SERVICES, June 12, 2020, <https://ovs.ny.gov/news/new-law-taking-effect-frehiv-pep-update>.

² *Id.*

³ *Id.*

⁴ N.Y. Pub. Health Law § 2805-i.

⁵ *Id.*

⁶ Cronin, Elizabeth, et al., *Dear CEO Letter: Sexual Assault Law, Updated PEP Guidance*, NEW YORK STATE DEPARTMENT OF HEALTH, June 9, 2020, www.health.ny.gov/diseases/aids/general/pep/clinicians.htm.

⁷ N.Y. Pub. Health Law § 2805-i; *New Law Taking Effect-FRE/HIV-PEP Update*, OFFICE OF VICTIM SERVICES, June 12, 2020, <https://ovs.ny.gov/news/new-law-taking-effect-frehiv-pep-update>.

⁸ *Id.*

⁹ N.Y. Pub. Health Law § 2805-i.