The National Vaccine Injury Compensation Program

A Critical Tool to Protect Public Health

Vaccines are a significant public health tool, playing a vital role in protecting individuals and communities from infectious and other diseases. Because of the broad availability of vaccines many serious diseases that once posed significant threats are now nearly eliminated or eradicated.

The United States has the safest, most effective vaccine supply in history, providing lifelines for millions of Amercians.[1] Because vaccines are given to healthy people to prevent disease, including children, they must go through extensive safety studies. Thousands of peer-reviewed studies involving hundreds of thousands of people, as well as the experiences of millions of people that have taken vaccines, have shown that for the overwhelming majority of people, vaccines are safe.[2] However, no vaccine is without side effects. Vaccines can cause mild side effects such as pain, tenderness or redness at the injection site. In addition, some vaccines can cause rare but severe side effects, such as a serious allergic reaction.[3,4] Overall, the risks associated with vaccines are very small compared with the risks of suffering the diseases they prevent.

The National Vaccine Injury Compensation Program (VICP) is a federal program that was established in 1986 as a no-fault alternative to the traditional legal system that provides compensation to people found to be injured by certain commonly used vaccines. The fund provides compensation without requiring the injured individuals to prove negligence or wrongdoing by a vaccine manufacturer or health care provider, reducing lengthy and costly legal burdens often experienced in traditional litigation. However people who are not satisfied with the result may still file a civil lawsuit if they reject a VICP judgment, though the procedures and standards for determining liability under applicable tort law are modified in several respects.[5,6]

WHY IS THE VICP NECESSARY?

In 1982, a report on TV suggested that the whole-cell pertussis vaccine caused permanent brain damage. While later studies indicated that the whole-cell vaccine was associated with febrile seizures but not long-term brain damage, it took at least 10 years for those studies to clear the fears about the vaccine.[7] The deluge of personal injury lawsuits that resulted from the perceived safety issues with the DTP (dipththeria, tetanus, and whole cell pertussis) vaccine significantly discouraged manufacturers from remaining in the vaccine market, leading many to halt vaccine production. By the end of 1984, only one manufacturer of DTP remained, leading to concerns about the strength of the vaccine supply and future vaccination rates, risking the resurgence of vaccine-preventable diseases.

Congress acted bipartisanly to stabilize the vaccine supply by establishing the VICP to ensure a means for those injured by vaccines to be compensated while simultaneously addressing the potential impact of product liability suits on manufacturers. The program ensures that individuals can file claims for compensation and improves the process from both the perspective of injured individuals and manufacturers. A common misperception is that this process completely shields vaccine makers. However, a plaintiff may file a civil court claim against a vaccine maker after filing a claim in the VICP if they reject the vaccine court's decision. Under the statute, the procedures and standards for determining liability in such a civil case are modified from traditional tort suits.

HERE'S WHAT ELSE YOU NEED TO KNOW

WHAT VACCINES ARE COVERED BY THE VICP?

The VICP covers those vaccines that are recommended by the Centers for Disease Control and Prevention (CDC) for routine administration to children or pregnant women and that are subject to an excise tax of $0.75 per dose imposed by Congress. Vaccines that are solely used in adults, such as the shingles vaccine, are not included in the program. All VICP covered vaccines are listed on the Vaccine Injury Prevention Table, which also lists the specific injuries that are presumed to be caused by specific vaccines when they appear within a specified timeframe. However, it is not necessary for a petitioner's injury or condition to be listed on the Table in order to receive compensation.

HOW IS THE VICP FUNDED?

The VICP is funded by an $.75 excise tax on vaccines recommended by the CDC for administration to children and pregnant women. The excise tax is imposed on each dose of a vaccine based on the number diseases it prevents.

WHO CAN FILE A CLAIM?

Claims can be filed by (1) individuals who received a vaccine covered by the VICP; (2) the parent or legal guardian of a child or disabled adult who received a vaccine covered by the VICP; or (3) the legal representative of the estate of a deceased person who received a vaccine covered by the VICP. In any case, to file a claim the effects of the person's injury must have (1) lasted for more than six months after the vaccine was given; (2) resulted in a hospital stay and surgery; or (3) resulted in death. Petitioners file claims in the U.S. Court of Federal Claims listing HHS as the respondent.

WHO DECIDES THE MERIT OF CLAIMS?

VICP claims are decided by a special master, an officer of the court who is appointed by judges of the U.S. Court of Federal Claims. Special masters serve renewable four-year terms and work exclusively on vaccine claims.

HOW MANY CLAIMS HAVE BEEN AWARDED COMPENSATION?

According to the CDC, from 2006 to 2024 more than 5 billion doses of covered vaccines were distributed in the U.S. For claims filed in this period, 14,325 were adjudicated by the VICP and of those 10,556 were compensated.

This means that for every 1 million doses of vaccine that were distributed, approximately 1 individual was compensated.[8]

DOES THE PROGRAM PAY FOR ALL CLAIMS?

No. Compensation is provided only if the claim meets specific criteria supported by medical evidence.

WHAT IS THE REQUIRED FOR A CLAIM TO BE SUCCESSFUL?

To succeed on a claim, a petitioner must show that it is more likely than not that the vaccine received caused the petitioner's injury or death. A petitioner may demonstrate causation by either (1) demonstrating that the petitioner's injury is on the Vaccine Injury Table and appeared within the specified time period; or (2) demonstrating causation in fact, meaning that the vaccine was the "but for" cause of the petitioner's injury or death. Petitioners may demonstrate causation in fact by providing each of the following: (1) a medical theory causally connecting the vaccination and the injury; (2) a logical sequence of cause and effect showing that the vaccination was the reason for the injury; and (3) a showing of a close relationship in time between the vaccination and the injury.[9]

IS THE COVID-19 VACCINE INCLUDED IN THE VICP?

The COVID-19 vaccine is currently covered under the Countermeasures Injury Compensation Program. The CICP provides compensation for covered serious injuries or deaths that occur as the result of the administration or use of certain countermeasures.[10]

More information is available at the Health Resources and Services Administration: https://www.hrsa.gov/vaccine-compensation

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1 https://www.hrsa.gov/sites/default/files/hrsa/vicp/vicp-stats-03-01-26.pdf
2 https://www.chop.edu/vaccine-education-center/science-history/vaccine-science/common-questions-about-vaccine-liability
3 Centers for Disease Control (CDC). (2024). Possible side effects from vaccines. https://www.cdc.gov/vaccines/basics/possible-side-effects.html
4 Children's Hospital of Philadelphia (CHOP). (2024). Vaccine Safety: Are Vaccines Safe? https://www.chop.edu/vaccine-education-center/vaccine-safety/other-vaccine-safety-concerns/are-vaccines-safe
5 https://historyofvaccines.org/vaccines-101/ethical-issues-and-vaccines/vaccine-injury-compensation-programs
6 https://www.justice.gov/civil/vicp
7 https://www.chop.edu/vaccine-education-center/science-history/vaccine-science/common-questions-about-vaccine-liability
8 https://www.hrsa.gov/sites/default/files/hrsa/vicp/vicp-stats-03-01-26.pdf
9 *Althen v. Sec'y of Health & Hum. Servs.*, 418 F.3d 1274, 1278 (Fed Cir. 2005).
10 https://www.hrsa.gov/cicp