

# The VICP: How it works and why it's critical to our nation's public health

*The National Vaccine Injury Compensation Program (VICP) was established by the National Childhood Vaccine Injury Act of 1986 to provide fair and timely compensation to those who experience side effects from certain vaccines. The VICP covers most vaccines that are routinely given in the U.S.*

## How the VICP Works

The VICP provides a fair, streamlined process to ensure timely compensation – a more straightforward path than traditional civil litigation, which can be slow and unpredictable.

Here's how an individual can receive compensation from the VICP:<sup>1</sup>

- An individual will file a petition with the U.S. Court of Federal Claims, listing the U.S. Department of Health & Human Services (HHS) as the respondent.
- HHS reviews the medical information in the petition, determines if it meets the criteria for compensation and makes an initial recommendation.
- The U.S. Department of Justice submits a report to the Court with the medical recommendation and legal analysis.
- The report is presented to a Special Master, a judicial officer appointed by the U.S. Court of Federal Claims with experience in vaccine science and law. The Special Master decides if the individual should be compensated, ensuring consistent, well-informed and fair rulings. If compensation is awarded, the Special Master also determines the amount and type of compensation.
- The Court orders HHS to award compensation. The Special Master may award attorneys' fees even if claims are dismissed.
- The VICP cases can be taken to civil court if the outcome is not satisfactory. Either party (petitioners or the government) can appeal a Special Master decision to the U.S. Court of Federal Claims and then to the U.S. Court of Appeals for the Federal Circuit. However, most cases are resolved without civil litigation.

## The VICP can provide claimants with a timely, reliable path to compensation because:

- **It is non-adversarial.** Claims are meant to be resolved without major legal conflicts. Settlements are encouraged.
- **It has a lower burden of proof than traditional civil court.** The VICP is a "no-fault system,"<sup>2</sup> meaning unlike in court, petitioners do not need to prove negligence, product defect, or other fault. Instead, petitioners can qualify for compensation if the injury timing and definition meets the criteria of the Vaccine Injury Table or by showing an injury was more likely than not caused by the vaccine.<sup>3,4</sup>
- **Evidence standards are relaxed.** More evidence can be introduced by petitioners through the VICP than in a traditional civil court.
- **Compensation is comprehensive.** Compensation from the VICP covers the petitioner's actual and reasonable projected medical costs, lost wages and pain/suffering (capped).<sup>5</sup>

The VICP strikes a careful balance – ensuring that individuals are treated fairly and have a straightforward path to compensation if they experience a vaccine injury, while protecting the vaccine supply that keeps our nation healthy and strong. By providing a more timely, reliable path to compensation than traditional civil court – which is often burdensome and expensive for claimants – the program safeguards patients and reinforces the public health infrastructure that helps prevent disease outbreaks.

<sup>1</sup> <https://www.hrsa.gov/vaccine-compensation>

<sup>2</sup> <https://www.hrsa.gov/vaccine-compensation/faq>

<sup>3</sup> <https://www.hrsa.gov/sites/default/files/hrsa/vicp/vaccine-injury-table-01-03-2022.pdf>

<sup>4</sup> <https://www.hrsa.gov/sites/default/files/hrsa/vicp/about-vaccine-injury-compensation-program-booklet.pdf>

<sup>5</sup> <https://www.hrsa.gov/sites/default/files/hrsa/vicp/about-vaccine-injury-compensation-program-booklet.pdf>