



## **National Vaccine Injury Compensation Program (VICP) *Fast Facts***

In the 1980s, increasing litigation against vaccines drove many manufacturers out of the U.S. market.<sup>1</sup> The National Vaccine Injury Compensation Program (VICP) was created by an act of Congress in 1986 to:<sup>1</sup>

- Ensure an adequate supply of vaccines;
- Stabilize vaccine costs; and
- Establish an efficient way to provide adequate compensation for those who have been injured by vaccines. While rare, vaccine injuries can be serious.

Claims are adjudicated at the U.S. Court of Federal Claims by a group of eight Special Masters. Special Masters are specifically told to make sure “proceedings [are] expeditious, flexible, and less adversarial” than civil court.<sup>2</sup>

**On average, for every 1 million doses of vaccine that are distributed, one individual is compensated.<sup>3</sup>**

- Since the beginning of VICP on October 1, 1988, 20,728 cases have been filed. Of those, 17,923 have been adjudicated and 6,597 were found to be compensable. Approximately \$4.1 billion has been paid in compensation.<sup>3</sup>
- In 70 percent of compensated cases, the vaccine was not determined to have caused the injury but the parties negotiated a monetary settlement of the case to avoid the risk, time, and expense of litigation.<sup>3</sup>
- The program maintains a list of injuries that could be caused by a vaccine. If a “petitioner,” someone who files a claim, can demonstrate they suffered one of these so called “table injuries” within the specified timeframe, they are compensated without going through a hearing.

**Many of the cases heard by the Court are now due to administration errors, not side effects from the vaccine itself.**

- About half of petitions filed since 2017 are due to a condition called Shoulder Injury Related to Vaccine Administration (SIRVA), which was added to the vaccine injury table in March 2017. Most SIRVA claims are a result of the flu vaccine, which has been covered by the VICP since 2005. As a result, most of the claims in the program are now from adults, not children.<sup>4</sup>

**The VICP is not funded by the federal government and Petitioners do not have to pay their attorneys.**

- The VICP is funded exclusively by a \$0.75 excise tax on each dose of a vaccine. Combination

vaccines – such as MMR or DTaP – are charged \$0.75 per disease it prevents (or \$2.25 total). Vaccines such as PCV13 or HPV 9 are charged a single \$0.75 tax because each vaccine prevents many serotypes of the same disease.<sup>1</sup>

- Attorneys are entitled to receive full payment of their fees from the Court regardless of whether the Petitioner wins.<sup>2</sup> Attorneys' payments are not paid from petitioners' compensations, but by the fund.

**The VICP may be the first remedy for individuals who believe they have been injured by a vaccine, but it is not the only available venue to hear vaccine injury claims.**

- Special Masters have 240 days from the date a petition is filed to issue a ruling. If they do not, the "Petitioners" can choose to continue within the court or remove their petition to civil court.<sup>2</sup>
- Petitioners have 30 days from the date a judgment is issued to accept the judgment, appeal, or file a civil action.<sup>2</sup>
- Appeals to the decisions of Special Masters are heard by the following courts (in order): U.S. Court of Federal Claims; the U.S. Court of Appeals for the Federal Circuit; and finally the U.S. Supreme Court.<sup>3</sup>

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<sup>1</sup> HRSA. "About the National Vaccine Injury Compensation Program." <http://www.hrsa.gov/vaccinecompensation/about/index.html>. Accessed 11 October 2016.

<sup>2</sup> "VACCINE RULES OF THE UNITED STATES COURT OF FEDERAL CLAIMS." <http://www.uscfc.uscourts.gov/sites/default/files/160801-Final-Version-of-Vaccine-Rules.pdf>. Accessed 11 October 2016.

<sup>3</sup> HRSA. "Vaccine Injury Compensation Data." <https://www.hrsa.gov/vaccine-compensation/data/index.html>. June 2019. Accessed 24 June 2019.

<sup>4</sup> Belluck, Pam and Abelson, Reed. "Vaccine Injury Claims Are Few and Far Between." *The New York Times*. 18 June 2019. <https://www.nytimes.com/2019/06/18/health/vaccine-injury-claims.html?searchResultPosition=2>. Accessed 24 June 2019.