

CLAIM: MANUFACTURERS HAVE TO LIST ADVERSE REACTIONS FOR LIABILITY REASONS

Let's research

CONGRESS.GOV

H.R.5546 - National Childhood Vaccine Injury Act of 1986

99th Congress (1985-1986)

Part B: Additional Remedies

Provides that no vaccine manufacturer shall be liable in a civil action for damages arising from a vaccine-related injury or death: (1) resulting from unavoidable side effects; or (2) solely due to the manufacturer's failure to provide direct warnings. Provides that a manufacturer may be held liable where: (1) such manufacturer engaged in the fraudulent or intentional withholding of information; or (2) such manufacturer failed to exercise due care. Permits punitive damages in such civil actions under certain circumstances.

In other words, manufacturers are not held liable for any product-related injuries + death because reactions are unavoidable or the manufacturer did not provide a direct warning of those side effects

congress.gov/bill/99th-congress/house-bill/5546

SO WHO IS LIABLE?

Subtitle 2: National Vaccine Injury Compensation Program - Part A: Program Requirements - Establishes the National Vaccine Injury Compensation Program as an alternative remedy to judicial action for specified vaccine-related injuries.

The [National Childhood Vaccine Injury Act of 1986](#) (PDF - 312 KB), as amended, created the National Vaccine Injury Compensation Program (VICP), a no-fault alternative to the traditional tort system. It provides compensation to people found to be injured by certain vaccines. Even in cases in which such a finding is not made, petitioners may receive compensation through a settlement.

The federal government

- U.S. Department of Health and Human Services (HHS) hosts the Program, conducts medical reviews of petitions, and makes Court-ordered compensation payments;
- U.S. Department of Justice (DOJ) represents HHS in Court; and
- U.S. Court of Federal Claims (the Court) makes the final decision regarding whether a petition is compensated and the type and amount of compensation.

In other words, an injured party seeking compensation from a vaccine reaction never sees a manufacturer, but instead a government employee.

hrsa.gov/vaccine-compensation/about/index.html

WHERE DO THE PAYOUTS COME FROM?

Funded by a \$.75 excise tax on vaccines recommended by the Centers for Disease Control and Prevention for routine administration to children, the excise tax is imposed on each dose (i.e., disease that is prevented) of a vaccine. Trivalent influenza vaccine for example, is taxed \$.75 because it prevents one disease; measles-mumps-rubella vaccine, which prevents three diseases, is taxed \$2.25.

The Department of Treasury collects the excise taxes

You pay for injuries + death caused by manufacturers.

hrsa.gov/vaccine-compensation/about/index.html

HOW MUCH HAS BEEN PAID OUT?



Health Resources & Services Administration

Data & Statistics

\$4,431,468,456.19

that's in the billions

hrsa.gov/sites/default/files/hrsa/vaccine-compensation/data/data-statistics-report.pdf

THE FOLLOWING IS FROM NPR (NOT A .GOV SOURCE)



Vaccine Court Aims To Protect Patients And Vaccines

June 2, 2015 · 3:21 PM ET

The court administers a no-fault compensation program that serves as an alternative to the traditional U.S. tort system. The program was established in 1986, after a series of high-profile lawsuits against drug companies. A number of children had serious adverse reactions — including seizures and brain damage — that appeared to be linked to the diphtheria, pertussis, tetanus vaccine or DTP vaccine (this version was later replaced by the DTaP vaccine). The parents filed lawsuits against the makers of the DTP vaccine and, in at least two cases, won awards worth millions of dollars.

Several drug companies then threatened to cease vaccine production, claiming the risk of litigation was too high. [Anna Kirkland](#), an associate professor of women's studies and political science at the University of Michigan, says that threat frightened health officials.

In response, Congress passed the [National Childhood Vaccine Injury Act](#), a bill that established the no-fault compensation program for vaccine injuries.

"Basically what it did was shield the vaccine makers from liability," Kirkland says, thereby encouraging them to continue producing vaccines and developing new ones.

Many people who might qualify for compensation in the vaccine court don't know it exists. Anna Kirkland says there has been a lot of discussion over the years about advertising the court's services. But doing that creates a problem, she says.

Health officials have worried about the downside of such publicity for years, Kirkland says. If the court becomes too high-profile and people keep hearing about payouts to the rare patients who may have been harmed by an immunization, the public might think vaccines are more dangerous than significant research and evidence suggests they are. And, as a result, vaccination rates might fall.

"Critics, once they see a compensation — you see this on blogs and websites all the time — [say] this means vaccines are dangerous and you shouldn't vaccinate," she says.

A few years ago, Kirkland says, there was an attempt to promote the court more.

"They had [a] public relations firm prepare this advertising campaign," she says, "and then Congress just didn't fund it."

So the court keeps humming away, quietly, in the background, hearing cases from people who are able to find it.