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# The Vaccine Injury Compensation Program and the Office of Special Masters

In 1986, Congress passed the [National Childhood Vaccine Injury Act](#) (NCVIA; 42 U.S.C. §§ 300aa-10–300aa-34), which created the [National Vaccine Injury Compensation Program](#) (VICP). The VICP is a no-fault compensation program that allows individuals to file a petition against the Secretary of Health and Human Services (the Secretary) to seek compensation for vaccine-related injuries or deaths allegedly caused by vaccines listed on the [Vaccine Injury Table](#) (the Table). Congress created the [Office of Special Masters](#) (OSM), situated within the U.S. Court of Federal Claims (Court of Federal Claims), to [adjudicate](#) petitions filed under the VICP.

This In Focus describes OSM’s creation, authority, and unique jurisdiction. It then identifies several issues related to the VICP that may be of interest to Congress.

## Jurisdiction and Authority

OSM has [exclusive jurisdiction](#) to adjudicate petitions filed under the VICP. To seek compensation through the VICP, individuals or their designees (also called petitioners) file [petitions](#) with OSM against the Secretary (the respondent). Medical records are reviewed by the Health Resources and Services Administration (HRSA), a division of HHS. The Secretary is represented by attorneys from the U.S. [Department of Justice](#) (DOJ), and petitioners often retain attorneys to represent them.

The VICP currently covers [16 vaccines](#), some of which were added by Congress when the NCVIA was passed and others of which were added by the Secretary via [rulemaking](#) after they were recommended by the Centers for Disease Control and Prevention (CDC) for routine administration to children or pregnant women. The list of covered vaccines is found on the Table, which is codified in regulations at [42 C.F.R. § 100.3\(a\)](#). The Table describes the injuries and onset periods known to be associated with each vaccine. The Secretary may modify the Table via regulation as outlined in the statute, including by [adding or removing](#) injuries and onset periods. The Secretary is also required to add a vaccine to the Table within two years when that vaccine is [recommended by the CDC](#) for routine administration to children or pregnant women.

Currently, the VICP does not include [COVID-19 vaccines](#). Individuals seeking compensation for injuries related to COVID-19 vaccines must instead file a request for benefits under the [Countermeasures Injury Compensation Program](#) (CICP), which is administered by HRSA.

## The Liability Shield

Congress [created](#) the VICP to limit the liability of manufacturers and administrators of certain vaccines, while

also providing a process by which individuals injured by those vaccines could receive compensation. Congress [created](#) the liability shield to address the concern that tort lawsuits against vaccine manufacturers could result in vaccine shortages. The VICP [shields](#) manufacturers and administrators from liability for vaccine-related [injuries and deaths](#) by generally barring individuals from filing civil claims in excess of \$1,000 against a covered vaccine manufacturer or administrator until after a petition has been filed and judgment entered through the VICP. A petitioner may choose to [dismiss](#) a VICP petition [240 days](#) after its filing, if the special master has not reached a decision. Thereafter, the petitioner could file a civil suit.

Once a petition has been adjudicated through the VICP and judgment is entered, a petitioner must choose to [accept or reject the judgment](#). If the petitioner accepts the judgment, the petitioner is entitled to any damages awarded by the special master. In return, however, the petitioner is barred from filing a claim in court against a vaccine manufacturer or administrator for the same injury. If the petitioner [rejects](#) the judgment, he or she is not entitled to any money damages that were awarded, but may sue the manufacturer or administrator in court for the alleged injury or death. The VICP statute also [limits](#) the types of civil actions that can be brought against manufacturers and administrators; for example, it generally bars claims for damages for unavoidable side effects.

## Court Proceedings

### Special Masters

A [special master](#) is an officer of the court who is appointed by the judges of the Court of Federal Claims to adjudicate vaccine petitions. The judges appoint special masters for four-year terms and designate a [chief special master](#) (CSM). The CSM is responsible for assigning petitions for adjudication by the special masters and for carrying out OSM’s administrative business. By statute, OSM is limited to eight special masters. Like the Court of Federal Claims, it has nationwide jurisdiction and may hear cases in all states and U.S. territories.

Special masters function much like judges in adjudicating VICP petitions. They conduct telephonic status conferences between the parties, ensure the record is complete, and hold hearings. They may also recommend alternative dispute resolution proceedings, and they may [decide a petition on the record](#) without a hearing.

### Proving Causation

To be entitled to compensation under the VICP, a petitioner must show that the vaccine the petitioner received [more](#)

likely than not caused the petitioner’s injuries or death. A petitioner may demonstrate causation by either (1) demonstrating that the injury or death is listed on the [Table](#) and manifested within the specified time period; or (2) by demonstrating [causation-in-fact](#), meaning that the vaccine was the “but for” cause of the injury or death.

Under the U.S. Court of Appeals for the Federal Circuit’s (Federal Circuit’s) case law, petitioners may demonstrate causation-in-fact by providing (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 proximate temporal relationship between the vaccination and the injury. These three causation factors are known as the [Althen factors](#).

### Damages Awards and Attorney’s Fees

A petitioner who prevails on a VICP claim may receive [damages](#) for actual and reasonable projected expenses resulting from the vaccine-related injury or death, including compensation for past and future medical care, pain and suffering, and lost earnings. In the case of a vaccine-related death, the deceased petitioner’s estate receives an award of \$250,000, which is set by [statute](#). Under the Act, petitioners are not entitled to [punitive or exemplary damages](#), and OSM may not award them.

The special master may also [award](#) reasonable attorney’s fees and other costs for the petitioner’s attorney. If a petition is denied, the special master may still award reasonable attorney’s fees and costs if the special master finds the petition was brought in good faith and a reasonable basis existed for the claim. Attorneys who receive fees from the program are not permitted to charge their clients any additional fees or costs. OSM has created a [schedule](#) of attorney’s fees, available on its website, to streamline the processing of fees and costs requests.

Monetary compensation and attorney’s fees awarded by the program are paid from the [Vaccine Injury Compensation Trust Fund](#), which is funded by a \$0.75 excise tax on each dose of a covered vaccine. Congress also [appropriates](#) VICP-related funds for (1) OSM and its staff; (2) the DOJ attorneys; and (3) HRSA’s medical reviewers. A significant percentage of VICP petitions are resolved via [settlements](#), wherein the Secretary agrees to compensation without conceding that the vaccine was responsible for the petitioner’s injuries. Settlements are particularly common for [Table injuries](#).

### Appeals

Both the petitioner and the respondent may [appeal](#) an OSM decision to the Court of Federal Claims by filing a motion for review within 30 days of the special master’s decision. A party may [appeal](#) a decision of the Court of Federal Claims to the Federal Circuit by filing a motion within 60 days of the date judgment is entered by the Court of Federal Claims.

The Court of Federal Claims and the Federal Circuit conduct de novo review on questions of law, but both courts defer to special masters’ factual findings. The courts

typically uphold a special master’s findings of fact unless they are arbitrary or capricious.

### Recent Caseload Statistics

In Fiscal Year (FY) [2025](#) (October 1, 2024–September 30, 2025), vaccine petition filings increased by almost 10% over [FY2024](#) for a total of 1,301 filings. As of September 30, 2025, there were more than [3,400 pending vaccine petitions](#). In FY2025, OSM disposed of more than 1,300 vaccine petitions.

### Issues for Congress

#### Expansion of OSM

Congress may consider whether the number of special masters, which is presently capped at eight by statute, is sufficient for OSM’s caseload. The number of vaccine petitions filed in [FY2025](#) (1,301) represented a 62% increase from the number filed 10 years earlier in [FY2015](#) (803). To address the increase in petitions filed in recent years, Congress could amend the NCVIA to allow the Court of Federal Claims to increase the number of special masters who may adjudicate petitions. Additionally, [COVID-19 vaccine injury claims](#) are currently addressed through the CFCP. If the COVID-19 vaccines were added to VICP—which would require an act of Congress in addition to regulatory changes—that may affect VICP’s caseload. As of March 2026, almost 11,000 COVID-19 vaccine injury claims have already been [filed](#) in the CFCP.

#### Vaccine Tax

VICP compensation may only be [paid](#) for injuries from vaccines subject to the \$0.75 excise tax. When a new vaccine is recommended by the CDC for routine administration to children or pregnant women, Congress must amend the Internal Revenue Code to apply the excise tax to the vaccine before it can be covered by the VICP. Because OSM may not make compensation awards until the vaccine becomes subject to the tax, any amendment to the [Table](#) to add a nontaxable vaccine would be insufficient to include it in the VICP. To facilitate the process of adding new vaccines, Congress may consider subjecting to the tax any vaccine recommended for routine administration by the CDC. Alternatively, Congress may wish to maintain control over the vaccines added to VICP.

#### Changes to the Vaccine Injury Table

The Secretary has discretion to amend the [Table](#) based on evolving science and data, as well as changes in policy. For example, in 2017, the Secretary amended the [Table](#) to include shoulder injuries related to vaccine administration (SIRVA). In January 2021, reflecting a change in administration, the Secretary published a final rule removing SIRVA from the [Table](#), although the Secretary later rescinded the rule and SIRVA remains on the [Table](#) at this time. Some news reports have [speculated](#) that the HHS Secretary may attempt to add autism, encephalopathy, or other injuries to the [Table](#). Although the Secretary has [authority](#) under NCVIA to add or delete the injuries listed on the [Table](#), such changes may be challenged in court under the [Administrative Procedure Act](#).

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