



Compensation Growing for Botched Vaccine Administration

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Article



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The US Department of Health and Human Services (HHS) is making it easier for patients with shoulder injury related to vaccine administration (SIRVA) to be compensated for their pain.

HHS recently made revisions to its vaccine injury table, which lists and explains potential injuries presumed to be caused by vaccines.

Citing scientific evidence demonstrating a causal relationship between a vaccine injection and deltoid bursitis, HHS Secretary Sylvia Mathews Burwell suggested adding “a more expansive injury of SIRVA” to the table.

There is also evidence of patients experiencing shoulder pain

after getting vaccinated against tendonitis, impingement syndrome, frozen shoulder syndrome, and adhesive capsulitis, HHS noted.

“In order to capture the broader array of potential injuries, the Secretary proposes to add SIRVA for all tetanus toxoid-containing vaccines that are administered intramuscularly through percutaneous injection into the upper arm,” the agency stated.

With these changes, patients diagnosed with SIRVA may receive compensation 12 to 18 months faster, according to a report published in *Wired*.

How to Prevent SIRVA

SIRVA is thought to occur when a vaccine is incorrectly injected too high on the shoulder. Patients diagnosed with SIRVA have an onset of pain within 48 hours, limited mobility in the shoulder, and no prior history of shoulder pain.

In 2006, a pair of researchers published their findings in *Vaccine* on shoulder pain and weakness following influenza and pneumococcal vaccine injections administered high into the deltoid muscle. They posited that the injections caused periarticular inflammatory response, subacromial bursitis, bicipital tendonitis, and adhesive capsulitis.

“We conclude that the upper third of the deltoid muscle should not be used for vaccine injections, and the diagnosis of vaccination-related shoulder dysfunction should be considered in patients presenting with shoulder pain following a vaccination,” they wrote.

One of the researchers involved in the study, Marko Bodor, MD, told *Wired* that vaccine administrators must “feel where the needle is.”

“You feel it pop through the skin,” Dr. Bodor said. “The fat is like butter, and the muscle like steak.”

Dr. Bodor noted that patients who receive vaccines at a pharmacy may be pulling their shirt down just a little, which could lead the pharmacist to administer the vaccine higher up on the shoulder. In contrast, patients receiving vaccinations in a physician’s office may be dressed in a gown, which would allow for more space to administer the vaccine.

However, SIRVA cases have popped up in all settings, including well-regarded medical centers, *Wired* noted.

In an article titled “Vaccine Administration: Preventing Serious Shoulder Injuries,” authors Stephan Foster, PharmD, FAPhA, FNAP, and McLisa V. Davis, PharmD, recommended that pharmacists make injections at a 90-degree angle in the thickest and most central part of the deltoid muscle to prevent injury.

“Health professionals need to remain knowledgeable about the anatomy of the shoulder to avoid injecting too high,” the authors noted. “Further, reviewing current recommendations for intramuscular injections helps ensure that proper technique is used.”

Patients Compensated for SIRVA

Since 2011, \$18 million has been awarded to 12 individuals with SIRVA, and half of them were paid in the last year, according to *The Wall Street Journal*. Twenty more claims are also pending.

Both increased awareness of SIRVA and more individuals receiving immunizations may be contributing to this rise in patient claims.

SIRVA is the first condition compensated by the government that relates to vaccine technique instead of the substance within the vaccine, *The Wall Street Journal* noted.

Recently, a nurse named Latasha George was awarded \$1.04 million because of her SIRVA diagnosis from a flu shot. The shot, which was administered in 2010, caused George to lose mobility in her arm, so she could not pick up a cup of coffee or wash her hair.

"I will never get a flu shot again," George told *The Wall Street Journal*.

Elisabeth Cassayre said a flu shot administered at her local pharmacy caused pain that prevented her from lifting her right arm.

"I remember thinking: I'll never be able to make an apple pie for my grandchildren," she told *Wired*.

Almost 10 years later, Cassayre said her injury is better now and she still gets flu shots, though she cautions people to be

more careful about vaccinations.

Vaccine Injury Compensation Program

While all of these vaccine injury cases come before the Office of Special Masters of the US Court of Federal Claims for judgment, it's the National Vaccine Injury Compensation Program (VICP) that doles out the funds.

VICP allows patients to file claims for financial compensation due to an adverse event, though it maintains that receiving compensation does not necessarily mean that the vaccine caused the alleged injury.

"Over 80% of all compensation awarded by the VICP comes as result of a negotiated settlement between the parties in which HHS has not concluded, based upon review of the evidence, that the alleged vaccine(s) caused the alleged injury," VICP stated.

The program also noted that the United States has the safest and most effective vaccine supply in history and adverse effects occur very rarely.

For every 1 million doses of vaccine distributed, 1 individual was compensated between 2006 to 2014, according to VICP.

Looking at VICP claims in that time period, the most common vaccines involved in an alleged injury that led to compensation were influenza (1188), Tdap (141), and DTaP (113).

There were 325 petitions filed with the program in 2006, but

this number has climbed to 690 in 2015, according to a VICP September 2015 report.

In 2006, 68 individuals were compensated for a petitioners' award amount totaling around \$48.7 million. With additional attorneys' fees/costs payments, including those for dismissed payments, plus fees and costs for interim attorneys, the total outlay in 2006 was \$52.5 million.

In 2015, 481 individuals received a total compensation of around \$198 million. With the various attorneys' fees, the total outlay in 2015 was around \$218 million.

Since 1989, the government has paid more than \$3.2 billion related to VICP claims.

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