

*Compensation for Vaccine-Related Injuries*

November 1980

NTIS order #PB81-163909

**COMPENSATION FOR  
VACCINE-RELATED  
INJURIES**

---

**A TECHNICAL MEMORANDUM**

---

NOVEMBER 1980



DEPARTMENT OF THE INTERIOR  
Office of Technology Assessment  
WASHINGTON, D. C. 20540

Library of Congress Catalog Card Number 80-600187

For sale by the Superintendent of Documents,  
U.S. Government Printing Office Washington, D.C. ,20402

P R E F A C E

In September 1979, the Office of Technology Assessment published a report *A Review of Selected Federal Vaccine and Immunization Policies*. That report included a chapter that reviewed issues related to legal liability and compensation for vaccine-related injuries. The report noted that all vaccines, even when properly manufactured and administered, may pose risks to users. Under the existing legal liability system, persons injured as a result of vaccination must go to court and establish fault for their injury in order to receive compensation. To establish fault, the plaintiff (injured person) generally sues one or more of the participants in the vaccination process (e.g., administers the vaccine). The report noted that in three major cases in the past 11 years, plaintiffs have won large judgments against vaccine manufacturers for injuries caused by nondefective and properly administered vaccines. The resulting uncertainty for manufacturers has affected their willingness to produce and supply vaccines.

Because of these problems, OTA suggested that it might be desirable to establish a federally operated program to compensate vaccinees injured as a result of being vaccinated in public immunization programs.

Early in 1980, the House Interstate and Foreign Commerce Committee asked OTA to delineate the specific elements and principles necessary for inclusion in a legislative proposal to implement this option. This memorandum does not analyze the positives and negatives of establishing such a program. It begins with the assumption that establishing a compensation program is desirable, and then discusses the questions that Congress must answer in developing such a program.



JOHN H. GIBBONS  
*Director*

OTA HEALTH PROGRAM STAFF

Joyce C. Lashof, Assistant Director, OTA  
Health and Life Sciences Division

H. David Banta, Health Program Manager

Lawrence Miike, Project Director  
Pamela Doty, Congressional Fellow  
Virginia Cwalina, Administrative Assistant  
Shirley Ann Gayheart, Secretary  
Nancy L. Kenney, Secretary

ACKNOWLEDGEMENTS

In addition to reviews by the members of the Health Program Advisory Committee, OTA received reviews of drafts of this technical memorandum from the following people. These reviewers do not necessarily approve, disapprove, or endorse the report.

William Foege, M.D.  
Director  
Center for Disease Control  
Atlanta, Georgia

Richard F. Kingham  
Covington & Burling  
Washington, D.C.

Joel Kavet, D.S.C.  
Department of Health and Human Services  
Washington, D.C.

Kathleen H. Acree, M.D.  
Chief  
Preventive Medical Services Branch  
Department of Health Services  
Health and Welfare Agency  
State of California

Hugh Tilson, M.D.  
Director  
Division of Health Services  
Department of Human Resources  
State of North Carolina

Suzanne Dandoy, M.D., M.P.H.  
Director  
Department of Health Services  
State of Arizona

HEALTH ADVISORY COMMITTEE

C. Frederick Mosteller, Ph.D.  
Professor and Chairman  
Department of Biostatistics  
Harvard University  
School of Public Health

Mark Lepper, M.D.  
Vice President for  
InterInstitutional Affairs  
Rush-Presbyterian Medical School  
St. Luke's Medical Center

Lewis H. Butler, L.L.B.  
Health Policy Program  
School of Medicine  
University of California,  
San Francisco

Kerr L. White, M.D.  
Rockefeller Foundation

Stuart H. Altman, Ph.D.  
Dean  
Florence Heller School  
Brandeis University

Rashi Fein, Ph.D.  
Professor of the Economics of Medicine  
Center for Community Health  
and Medical Care  
Harvard Medical School

Mitchell Rabkin, M.D.  
General Director  
Beth Israel Hospital

Kurt Deuschle, M.D.  
Professor of Community Medicine  
Mount Sinai School of Medicine

Ms. Beverlee Myers  
Director  
Department of Health Services  
State of California

Sidney S. Lee, M.D.  
Associate Dean  
Community Medicine  
McGill University

Melvin A. Glasser, LL.D.  
Director  
Social Security Department  
United Auto Workers

Robert M. Ball  
Senior Scholar  
Institute of Medicine  
National Academy of Sciences

Frederick C. Robbins, M.D.  
President  
Institute of Medicine

Zita Fearon  
Consumer Commission on the  
Accreditation of Health Services, Inc.