Compensation for Vaccine-Related Injuries

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For sale by the Superintendent of Documents,
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.

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