

Report of the Process Work Group
June 5, 2014
Advisory Commission on Childhood Vaccines

The Process Work Group was able to meet by telephone on May 8, 2014. The meeting focused on two items that were brought up during the March full commission meeting last March. These two items are:

1. Presentation of the statistical data on vaccine cases filed and adjudicated over the years;
2. How the Commission as a whole can gain support to move the recommendations that had been presented to the Secretary forward.

The summary of the one-hour discussion of the Process Work Group is as follows:

1. Data mining:

The Group discussed the table proposed by Ms Theresa Wrangham and how it differed from the information already available in the HRSA DVIC website, under the heading Data and Statistics that is updated monthly by the Division.

hrsa.gov/vaccinecompensation/data.html

After a lengthy discussion, the Group came up with the following:

- a. It was decided that Ms. Wrangham would be invited in a future PWG meeting (probably July or August) to provide us with the thinking behind her request. She could also provide us insight as to why she suggested a new table and who are the most served by the information being requested in the new presentation?
- b. Studying the proposed sample table proposed, the level of detail being requested under the section "Not Compensable" (e.g., exceeded SOL, incomplete claim, withdrawn, dismissed for other reasons) can only be determined by reading individual files and the DVIC is not doing that.
- c. Also noted is that all decisions are published in the Court of Federal Claims website in so far as the main vaccine case is concerned. Lawyers' fees are usually not published but entitlements are published information. Other search engines that access court information can also be used to search details of different cases, especially older cases. However, the records of most of the newer cases that are decided via proffer or settlement do not offer details.
- d. Also pointed out is that when a potential claimant requests the assistance of a vaccine lawyer to file a petition that exceeds the SOL, the vaccine lawyer would not take the case and so would be likely not reach the court system.

2. How the ACCV can gain support in moving its Recommendations forward:
Process discussed how the Commission can move forward the recommendations that were formulated and presented to the Secretary. For now, extending the SOL was the focus.
 - a. There was a strong sentiment that as a whole, the Commission should expect a response from the Secretary, specifically the Secretary's stand on the Recommendations made by ACCV, beyond acknowledging the receipt of these Recommendations in her office.
 - b. Since there are two types of Recommendations made (i) those that can be acted on internally at the Department level, and (ii) those that requires legislative change (statutory), Process Work Group wants the Commission to have a discussion on how we can create a movement, a buzz, that would help to get attention on the Recommendations without stepping out of bounds of our capacity as an advisory body – especially the Recommendations that would entail statutory change for their implementation.
 - c. As a start, members of the ACCV already represents the different stakeholders and the representatives of the different departments sit on the Commission meetings and so this discussion is included as an agenda for the June ACCV meeting to enable the Commission as whole to see the different point of views (POV).
 - d. Some reasons for exceeding the SOL were enumerated:
 - i. Lack of awareness of the program despite the information provided by VIS about it. Either the VIS was not read in full initially or by the time the information was needed, it was already forgotten.
 - ii. Reliance on the statement of the healthcare provider as to the cause of the problem, sometimes the potential claimant receives an outright denial that a vaccine could be the cause.
 - iii. Sometimes a lawyer approached by a potential claimant tells him/her that s/he could not be helped (i.e., the case has no merit).
 - iv. Parents or caregiver are too busy dealing with the aftermath of the injury to realize the passage of time.
 - e. There was also a brief mention of revisiting the issue of public awareness of the Vaccine Injury Compensation Program.