

118TH CONGRESS
1ST SESSION

H. R. 5142

To amend the Public Health Service Act to make updates to the Vaccine Injury Compensation Program, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

AUGUST 4, 2023

Mr. DOGGETT (for himself, Mr. SMUCKER, and Mr. BLUMENAUER) introduced the following bill; which was referred to the Committee on Energy and Commerce

A BILL

To amend the Public Health Service Act to make updates to the Vaccine Injury Compensation Program, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Vaccine Injury Com-
5 pensation Modernization Act of 2023”.

6 **SEC. 2. CHANGES TO VACCINE INJURY COMPENSATION**
7 **PROGRAM.**

8 (a) SPECIAL MASTERS.—

1 (1) ESTABLISH MINIMUM NUMBER OF SPECIAL
2 MASTERS.—Section 2112(c)(1) of the Public Health
3 Service Act (42 U.S.C. 300aa–12(c)(1)) is amended
4 by striking “not more than 8” and inserting “not
5 less than 10”.

6 (2) TERMS.—Section 2112(c)(4) of the Public
7 Health Service Act (42 U.S.C. 300aa–12(c)(4)) is
8 amended—

9 (A) by striking “a term of 4 years” and in-
10 serting “an initial term of 4 years”;

11 (B) by striking the second and third sen-
12 tences; and

13 (C) by adding at the end the following:
14 “An individual appointed as special master may
15 be reappointed to serve one or more additional
16 terms of up to 8 years each, pursuant to para-
17 graph (1), and subject to termination under
18 paragraphs (2) and (3).”.

19 (3) ADDITIONAL REPORTING REQUIREMENTS.—
20 Section 2112(c)(6)(E) of the Public Health Service
21 Act (42 U.S.C. 300aa–12(c)(6)(E)) is amended—

22 (A) by inserting after “disposition of peti-
23 tions,” the following: “the number of petitions
24 filed that are pending disposition, the number

1 of hearings scheduled with respect to a pending
2 disposition,”; and

3 (B) by inserting “, including recommenda-
4 tions on whether additional special masters are
5 needed to ensure an expeditious and fair resolu-
6 tion of petitions or otherwise improve the Pro-
7 gram” after “in the Program”.

8 (b) RECOMMENDATIONS FROM CDC.—Section
9 2114(e)(2) of the Public Health Service Act (42 U.S.C.
10 300aa–14(e)(2)) is amended—

11 (1) by striking “within 2 years of” and insert-
12 ing “within 6 months of”; and

13 (2) in subparagraph (A), by inserting “adults,
14 or pregnant women” after “to children,”.

15 (c) INCREASE IN COMPENSATION.—

16 (1) COMPENSATION FOR DEATH.—Section
17 2115(a)(2) of the Public Health Service Act (42
18 U.S.C. 300aa–15(a)(2)) is amended to read as fol-
19 lows:

20 “(2) In the event of a vaccine-related death, an
21 award of—

22 “(A) if judgment on an award of com-
23 pensation is entered in calendar year 2021,
24 \$600,000; or

1 “(B) if judgment on an award of com-
2 pensation is entered in a subsequent calendar
3 year, the amount equal to the dollar amount
4 applicable under this paragraph for the pre-
5 ceding calendar year, adjusted by the total per-
6 centage change that occurred during such pre-
7 ceding calendar year in the Consumer Price
8 Index for all urban consumers (all items;
9 United States city average).”.

10 (2) COMPENSATION FOR PAIN AND SUF-
11 FERING.—Section 2115(a)(4) of the Public Health
12 Service Act (42 U.S.C. 300aa–15(a)(4)) is amended
13 to read as follows:

14 “(4) For actual and projected pain and suf-
15 fering and emotional distress from the vaccine-re-
16 lated injury, an award not to exceed—

17 “(A) if judgment on an award of com-
18 pensation is entered in calendar year 2021,
19 \$600,000; or

20 “(B) if judgment on an award of com-
21 pensation is entered in a subsequent calendar
22 year, the amount equal to the dollar amount
23 applicable under this paragraph for the pre-
24 ceding calendar year, adjusted by the total per-
25 centage change that occurred during such pre-

1 ceding calendar year in the Consumer Price
2 Index for all urban consumers (all items;
3 United States city average).”.

4 (d) INCREASE STATUTE OF LIMITATIONS.—Section
5 2116(a)(2) of the Public Health Service Act (42 U.S.C.
6 300aa–16(a)(2)) is amended by striking “36 months” and
7 inserting “5 years”.

8 **SEC. 3. TREATMENT OF COVID–19 VACCINES.**

9 (a) VACCINE INJURY TABLE.—Not later than 60
10 days after the date of the enactment of this Act, the Sec-
11 retary of Health and Human Services shall promulgate
12 regulations to add, in accordance with section 2114(c)(3)
13 of the Public Health Service Act (42 U.S.C. 300aa–
14 14(c)(3)) COVID–19 vaccines to the Vaccine Injury
15 Table. In promulgating such regulations, the Secretary
16 shall provide for notice and opportunity for a public hear-
17 ing and at least 30 days of public comment.

18 (b) TRANSFER TO VICP.—Not later than 30 days
19 after the date on which the rule promulgated under sub-
20 section (a) is finalized, the Secretary of Health and
21 Human Services shall transfer all claims pending, as of
22 such date, under section 319F–4 of the Public Health
23 Service Act (42 U.S.C. 247d–6e) with respect to a
24 COVID–19 vaccine to the Vaccine Injury Compensation
25 Program under title XXI of the Public Health Service Act

1 (42 U.S.C. 300aa–1 et seq.) finalized. Before such trans-
2 fer, all claimants with pending claims under such section
3 319F–4 shall be notified of such transfer via mail, email
4 (if available), and through any legal representative of such
5 claimant for the cause of action involved.

6 **SEC. 4. PROFESSIONAL JUDGMENT BUDGET.**

7 (a) IN GENERAL.—The Secretary of Health and
8 Human Services—

9 (1) in consultation with the Attorney General,
10 shall submit a budget outlining the resource needs
11 for each agency for purposes of carrying out the Na-
12 tional Vaccine Injury Compensation Program under
13 subtitle 2 of title XXI of such Act (42 U.S.C.
14 300aa–10 et seq.) for fiscal years 2024 through
15 2028; and

16 (2) shall submit a budget outlining resource
17 needs for purposes of carrying out the Counter-
18 measures Injury Compensation Program under sec-
19 tion 319F–4 of the Public Health Service Act (42
20 U.S.C. 247d–6e) for fiscal years 2024 through 2028.

21 (b) INCLUSIONS.—The budgets described in para-
22 graphs (1) and (1) of subsection (a) shall include esti-
23 mates of both the resources necessary to process current

- 1 backlogs and each program's ability to reduce processing
- 2 times with respect to such professional judgments.

