

17 August 2021

Athina Andonatonou

[fyi-request-14982-bcadc163@requests.fyi.org.nz](mailto:fyi-request-14982-bcadc163@requests.fyi.org.nz)

Tēnā koe Athina

**Your Official Information Act request, reference: GOV-012556**

Thank you for your request of 18 July 2021, made via the FYI website, addressed to the Ministry of Health. The following parts of your request were referred to ACC to respond to under the Official Information Act 1982 (the Act):

- 5) Please provide the criteria ACC uses to diagnose a "treatment injury" and what evidence one would have to supply to be provided treatment and support for injuries caused by a vaccination.*
- 6) Finally, please provide me with details of how many people have successfully been awarded treatment and support for any vaccine related injury.*

**Criteria used to diagnose a treatment injury**

A physical injury resulting from any vaccination, can be considered for cover by ACC if the criteria for treatment injury are met.

ACC provides cover for treatment injuries in accordance with section 32 of the Accident Compensation Act 2001 (the AC Act), which you can view [here](#) . Under this section, a person is eligible for treatment injury cover if they have suffered a personal injury (which can include disease, gradual process or infection) caused by treatment (from, or at the direction of, one or more registered health professionals) and that it was not a necessary part, or ordinary consequence, of the treatment.

*Necessary Part or Ordinary Consequence of Treatment Policy*

This [guidance](#) is used when assessing a treatment injury claim to help determine whether the injury suffered by a client was a necessary part or ordinary consequence of the treatment provided.

**Background information about treatment injury data**

Before responding to question 6, we would first like to provide you with some background information about treatment injury data.

ACC has provided cover for treatment injuries since 1 July 2005. The treatment injury provisions replaced the medical misadventure provisions of the Accident Compensation Act 2001, to bring it more in line with the no-fault nature of the scheme.

When considering treatment injury data, it is important to note that the number of claims lodged with ACC cannot be taken as an accurate indication of the occurrence of injury during treatment or the quality of care. This is because, among other reasons, not all occurrences of injury during treatment are lodged with ACC.

**Context**

Treatment injury (TI) data is available from 1 July 2005, when treatment injury provisions came into law.

Further information about treatment injury can be found at the following links:

- <https://www.acc.co.nz/for-providers/treatment-safety/> and
- <https://www.acc.co.nz/assets/provider/supporting-treatment-safety-report-2020.pdf> (overview of treatment injury in public and private surgical hospitals and general practice settings).

Claim lodgement rates are dependent on several factors. They can be influenced by:

- population demography i.e. the characteristics of the resident population, visitors and referred patients
- health status of the population treated
- what level of facility the organisation provides i.e. tertiary versus secondary
- familiarity of health providers or clients in recognising and/or lodging treatment injury claims.

### Notes about the data provided

The following points should be considered when interpreting the data provided:

- The data has been extracted for vaccine-related TI claims where a cover decision was made between 1 July 2005 and 30 June 2021. The year the cover decision was made may differ from the year in which the claims was lodged and/or the injury occurred.
- Vaccine-related TI claims for injuries resulting from the use of vaccines for immunotherapy, such as the use of the BCG vaccine/product to treat bladder cancer, have been *excluded*
- The data was extracted on 29 July 2021 and may differ if extracted again at a later date.

### Costs

There are three broad categories of costs (entitlements) a claim could receive:

- **Compensation** (weekly compensation for lost earnings, lump sums and death benefits)
- **Treatment** (initial hospital treatment and on-going primary and secondary treatment)
- **Rehabilitation** support (physical rehabilitation and various forms of personal support).

The biggest single factor in determining the long-term costs of some injuries is the amount of personal support needed by the client. Some treatment injury types may be minor and require little or no ongoing support from ACC.

For the purpose of this analysis, costs have been considered for treatment only, entitlements (compensation and/or rehabilitation only) or both of these cost types.

### Payments

ACC pays for the provision of services for injured persons through DHBs via two mechanisms:

- a) Public Health Acute Services (PHAS) payments. Acute treatment for covered claims in public hospitals is provided by an annual service agreement between ACC and the Ministry of Health, and is funded by bulk payments from ACC to the Crown.
- b) Direct purchase of other services by ACC for persons suffering a personal injury.

Payment data relating to this request is limited to services purchased directly by ACC only.

### ACC takes privacy seriously

ACC does not routinely disclose claim counts fewer than four. Accordingly, the figure provided for the number of claims awarded compensation or rehabilitation payments only indicates the count of claims is less than four. This limits the potential for particular individuals or matters specific to certain individuals from being identified. Withholding the data in the is way is necessary to protect our clients' privacy. This decision has been made under section 9(2)(a) of the Act. In doing so, we considered the public interest in making the withheld figure available and determined that it does not outweigh the need to protect their privacy.

**Treatment injury claims related to *any* vaccines**

The data below has been extracted for treatment injury claims where the treatment event was *vaccination or injection/medication, adverse reaction/medication error* and where the medication type was recorded as *vaccine*.

*The number of vaccine related claims received by ACC*

In relation to your request, we can only respond based on the vaccine related claims lodged with ACC.

In the 16 years to 30 June 2021, ACC accepted 1,616 claims for treatment injuries caused by vaccination. Some claimants may have claimed for more than one vaccination event so this number is likely to overstate the number of individuals affected.

Of the 1,616 accepted claims, 56 have received payments for treatment and compensation and/or rehabilitation. 1,465 claims received payment for treatment and administration costs (in addition to any payments covered under Public Health Acute Services) and fewer than four claims received compensation or rehabilitation payments without specific payments for treatment. As noted above, costs covered under PHAS have been *excluded* from the data provided.

**If you have any questions**

If you have any questions, you can email me at [GovernmentServices@acc.co.nz](mailto:GovernmentServices@acc.co.nz).

If you are not happy with this response, you have the right to make a complaint to the Ombudsman. Information about how to do this is available at [www.ombudsman.parliament.nz](http://www.ombudsman.parliament.nz) or by phoning 0800 802 602.

Nāku iti noa, nā



Sasha Wood

**Manager Official Information Act Services**  
Government Engagement & Support