

# How to File a Petition in Vaccine Court

## [How to File a Petition in Vaccine Court](#)

by [Wayne Rohde](#), guest contributor, [Children's Health Defense](#)  
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One of the most common questions that I receive regarding the National Vaccine Injury Compensation Program (NVICP aka The Vaccine Court) is “how can I file for compensation?”

The process for filing for compensation is not as difficult as many believe but there are a few steps in the process to help move the petition forward without delay.

In this article I briefly discuss the following steps in order to make the process less confusing and to help assure people to proceed instead of giving up.

1. Do I need an attorney? Who pays the attorney fees?
2. How do I file? I can't afford the filing fee.
3. What information is required?
4. Is there a time requirement to file?
5. Who can file a petition? For my child or for my spouse, parent?
6. What vaccines are covered by the NVICP?
7. Where do I send the petition?

You are not suing nor do you have the legal standing to sue the vaccine manufacturer for any injuries or death as the result of a defective product.

Most people do not know that by filing a petition seeking compensation, you are suing the Federal Government, specifically the Secretary of Health and Human Services (HHS). You are not suing nor do you have the legal standing to sue

the vaccine manufacturer for any injuries or death as the result of a defective product.

Contrary to popular belief, you do not need an attorney to file a petition. This process is known as “pro se.” However, it is highly encouraged that you hire an attorney as soon as possible. As I have highlighted in my book, *The Vaccine Court*, less than 1% of all petitions filed and prosecuted as pro se, are dismissed for several reasons.

Another common question about filing a petition is “I can’t afford an attorney.” The NVICP pays for attorney fees and medical expert costs, if needed, out of the Vaccine Injury Trust fund (VIT). The only cost that you as a petitioner would be responsible for is the application fee of \$400.00. The NVICP does have a program for those who can’t afford the fee.

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The biggest concern for any petitioner is to file the petition within the statute of limitations (SOL). Currently, the statute requires the petitioner to file a petition for a vaccine injury within three years after the first symptom or manifestation of onset or of the significant aggravation of the injury; within two years of the death and within four years of the first symptom or manifestation of onset or of the significant aggravation of the injury from which the death resulted.<sup>[1]</sup>

Now, who can file a petition? There are some restrictions on who can file regarding a child or as a representative/guardian of a disabled adult. There is also a severity requirement for every petition. The effects of the injury must have lasted more than 6 months; or resulted in in-person hospitalization and surgery; or resulted in death.

The injury or death caused by a vaccine must be from a list of “covered” vaccines. To review the current list, [click here](#).

Some vaccines that are being promoted by media outlets or by retail pharmacies are not included in the program. The most common is the shingles vaccine. This is not a "covered" vaccine. Any injury or death claim will be dismissed due to lack of jurisdiction. The Court can't litigate a claim for this vaccine.

To obtain a copy of a petition template, please check out this [website](#).

To file the petition, you must include medical records and send original petition plus 2 copies to:

*Clerk  
U.S. Court of Federal Claims  
717 Madison Place NW  
Washington, DC 20439*

And then send a copy to:

*Secretary, Health and Human Services  
Health Resources and Services Administration  
Director, Division of Injury Compensation Programs  
National Vaccine Injury Compensation Program (VICP)  
5600 Fishers Lane, 08N146B  
Rockville, MD 20857*

This is why I sincerely suggest that you contact an attorney to help you with this process. If you are within a few days of the Statute of Limitations, please file ASAP and then contact an attorney. The clock will stop when Court receives your petition. Since the entire communication process in today's COVID environment is done via telephone conference call, you do not need to meet with a local attorney. Just call a few of the attorneys on the list, proceed like you are interviewing them to represent you. Ask questions about their experience in the NVICP. Go with the attorney you feel most comfortable

with. For a complete list, please [click here](#).

You can also visit the [Vaccine Injured Petitioners Bar Association website](#) for more information on the NVICP and the attorneys who will represent you.

I hope that this clarifies the filing process, who can file and where to send your petition.

[1] <https://www.hrsa.gov/vaccine-compensation/eligible/index.html>

### **About the author:**

Wayne Rohde is the author of [The Vaccine Court – The Dark Truth of America’s Vaccine Injury Compensation Program](#) and *The Vaccine Court 2.0* – to be released October 2020. He is the host of the upcoming podcast, “*The Vaccine Court, all things legal about vaccine injury, The PREP Act and CounterMeasures Injury Compensation Program*”