



## Who pays compensation if you are injured from the COVID-19 vaccine?

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The Federal Government's COVID-19 Vaccine Compensation Scheme is now live. We have updated the content related to the scheme including:

- what you need to know about eligibility;
- what compensation is payable;
- how to make a claim; and
- how to dispute a rejected claim.

You can read the updated content here: ["The COVID-19 Vaccine Claims Scheme is now live! What compensation is payable?"](#)

The below article was written prior to the scheme going live and provides some background information.

With the uptake of COVID-19 vaccines increasing and the introduction of COVID related directives, associated penalties, and restrictions if not vaccinated set to remain, is it time for Australia to establish a no-fault vaccine injury compensation scheme? In this blog, we look at where the Federal Government is to date with a compensation scheme, how it will work, what evidence will be required and, importantly, what compensation may be currently available.

As of 6 September 2021, Australians who suffer injury and lose income due to the COVID-19 vaccine are able to [register their intent to claim](#) compensation through the [COVID-19 Vaccine Claim Scheme](#) (VCS). The actual payment of any compensation has not yet commenced; only the ability to register an intent to claim.

## How will Australia's COVID-19 vaccination claim scheme work?

The purpose of the COVID-19 VCS is to compensate those who suffer a moderate or significant injury because of an approved COVID-19 vaccine. An "injury" is compensable if it was caused by an adverse vaccine-related reaction.

For example, an "injury" could be an anaphylactic reaction following the vaccine, resulting in loss of earnings and earning capacity, medical costs, permanent impairment or loss of function, and pain and suffering. It could also include a vaccine-related reaction resulting in death.

It is intended that the VCS will cover certain costs of COVID-19 vaccine-related injuries.

## What evidence will be required for a successful claim?

For claims between \$1,000 and \$20,000, claimants will be required to provide evidence they were hospitalised for at least one night, including applicable evidence of:

- the nature of the injury and medical documentation of its likely relationship to a COVID-19 vaccination;
- hospitalisation due to a vaccine-related injury;
- medical costs incurred; and
- lost wages.

The requirement to prove hospitalisation may be waived if it can be established by a doctor:

- the nature of their clinical condition; and/or
- the claimant was in a rural or remote area, making it difficult to access a hospital.

Curiously, for claims \$20,000 and over, including reactions resulting in death, evidence requirements have not yet been established.

Presently, you can only [register your interest in making a claim](#). Once you have registered your interest, you will receive an email once the VCS is processing formal claims.

## Why does Australia need a vaccine injury compensation scheme?

In other countries, a vaccine injury compensation scheme (VICS) acts like a form of 'no-fault' insurance.

The scheme requirements around the world vary. As the majority of the schemes are 'no-fault' they do not require the injured person to establish negligence (or fault) by the vaccine provider, health care providers or systems to make a claim for compensation.

Claimants do still have the right to seek damages through civil litigation but they cannot pursue both.

Presently, Australia does not have an established no-fault VICS. As noted above, presently you can only register your interest or intent to claim; you cannot actually lodge a claim for compensation.

No-fault VICS in other countries have been shown to improve confidence of consumers and health providers and have the effect of reducing some of the pressures from the health care (and legal) systems.

## Can I claim compensation without a specific vaccine injury compensation scheme in place?

You may be entitled to lodge an application for statutory compensation benefits (like a worker's compensation claim in your State or Territory) for an adverse reaction to COVID-19 vaccination.

A workers' compensation insurer will determine the claim in the usual way, paying particular attention to whether your employment was a significant contributing factor to the injury. You will need to lodge an application and obtain an approved medical certificate from your GP (he or she will know what form to complete).

In the writer's opinion, if an employer were to have provided the vaccine (at no cost) to one of its employees, and the employee was to suffer an 'injury' due to administration or effects of the vaccine, then it would certainly be possible for the worker to seek workers' compensation benefits.

Subject to meeting eligibility requirements, you may also apply to obtain benefits from Centrelink.

This article does not contemplate possible claims under the National Disability Insurance Scheme (NDIS).

## Conclusion

With restrictions in Queensland soon to ease amid rising vaccination rates, a VICS would appear more relevant than ever.

If you have sustained any injury and require advice or assistance, contact our team of experienced personal injury solicitors at Hall Payne Lawyers.

## Contacting Hall Payne Lawyers

You can contact us by phone or email to arrange your consultation; either face-to-face at one of our offices, by telephone or by videoconference consultation.

Phone: [1800 659 114](tel:1800659114)

Email: [general@hallpayne.com.au](mailto:general@hallpayne.com.au)

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