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# Breaking: Government Program for Compensating COVID Vaccine Injuries Is ‘Unconstitutional,’ Lawsuit Alleges

Two women, with support from Children's Health Defense, are suing the government agency that oversees the compensation program for COVID-19 vaccine injuries. The women, who developed debilitating injuries after receiving Pfizer and Moderna COVID-19 vaccines, allege the program violated their constitutional rights by setting eligibility criteria so restrictive that neither woman qualifies for compensation.

by Michael Nevradakis, Ph.D.

DECEMBER 23, 2025



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Two women, with support from [Children's Health Defense](#) (CHD), are [suing the government agency](#) that oversees the compensation program for COVID-19 vaccine injuries.

Angela K. McNish and Christina Gay Fible, who said they developed debilitating [COVID-19 vaccine](#) injuries, allege the program violated their constitutional rights by setting eligibility criteria so restrictive that neither woman qualifies for compensation.

The [lawsuit](#), filed late Monday against the Health Resources & Services Administration (HRSA), alleges the [Countermeasures Injury Compensation Program](#) (CICP) violates the Constitution's [due process](#) and [equal protection](#) provisions because it leaves the women with no [legal](#) remedy for their injuries.

The CICP was established under the [Public Readiness and Emergency Preparedness \(PREP\) Act](#). The program processes claims for countermeasures, including COVID-19 shots, administered during a public health emergency.

The PREP Act protects COVID-19 [vaccine](#) makers, healthcare workers and others who administer the vaccines from liability for most types of injuries caused by the vaccines — so those injured by the vaccines can't sue in a regular court of law.

The only course of action for people injured by COVID-19 vaccines is to file a claim with the CICP. The claim must be filed within 12 months after the injury occurred.

CICP says it “provides [compensation for covered serious injuries or deaths](#)” caused by covered countermeasures. But the women's attorney, [Ray Flores](#), said the program's definition of “serious physical injury” is “arbitrary.”

The federal government defines “[serious physical injury](#)” as injuries that are “life-threatening,” result in “permanent impairment of a body function or permanent damage to a body structure,” or require “medical or surgical intervention to preclude permanent impairment of a body function or permanent damage to a body structure.”

McNish and Fible allege the vaccines caused multiple injuries that have impaired their ability to work and live normal lives — but their injuries fall below CICP's threshold.

“It is fundamentally unjust and unconstitutional under the U.S. Constitution for someone to suffer substantial injury and have absolutely no path to recovery or accountability,” said CHD CEO Mary Holland. “This simple lawsuit on behalf of two women makes it clear that U.S. courthouse doors may no longer remain closed to the vast majority of people injured by COVID shots.”

CHD General Counsel Kim Mack Rosenberg told [The Defender](#) the lawsuit highlights a “flaw in the CICP that has largely gone unrecognized” — namely, that “potentially millions” of people have “suffered tremendous harms that the government does not consider ‘serious’ and have been “left without any remedy” as a result.

McNish, from Georgia, and Fible, who lives in Indiana, filed their suit against HRSA in the U.S. District Court for the District of Columbia. HRSA is a division of the U.S. Department of Health and Human Services.

The lawsuit names HRSA Administrator [Thomas J. Engels](#) in his official capacity. In addition to legal fees, the suit asks the court to declare the CICP unconstitutional and order the program administrator to open the compensation process to a broader range of injuries.

## 105 doctor appointments over 2-and-a-half years

McNish received two doses of the Pfizer-BioNTech COVID-19 vaccine in 2021. She developed an [autoimmune disorder](#), [small fiber neuropathy](#), [postural orthostatic tachycardia syndrome](#) (POTS), [mast cell activation syndrome](#), [tinnitus](#) and heart palpitations, leaving her unable to work.

She alleges that over two-and-a-half years, she had over 105 doctor appointments to treat her substantial, painful symptoms.

Fible received two doses of Moderna's COVID-19 vaccine in 2021. She said the vaccines caused her to develop high blood pressure, [tachycardia](#), pelvic pain, tremors, leg numbness, weight loss, frequent urination and insomnia. She had to sit upright for several months.

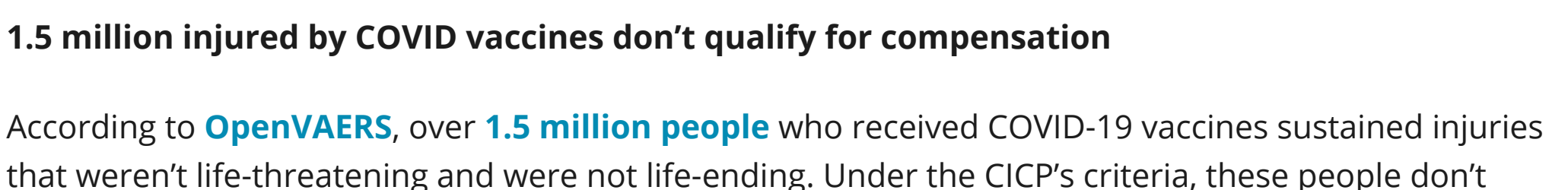
“While the injuries have subsided somewhat from their zenith, Plaintiffs remain impaired and have no access to any remedy,” the [complaint](#) states.

According to the lawsuit, the lack of an alternative remedy violates the plaintiffs’ Fifth Amendment rights to due process and their 14th Amendment equal protection rights.

“Plaintiffs did not, and could not apply” for compensation, the complaint states. “Justice to remedy their harms is completely out of reach.”

The lawsuit alleges that the CICP is “designed to exclude the vast majority of those injured” and subverts the “rights to bodily autonomy and to be free of physical harm from others.”

Flores said that, unlike prior cases challenging CICP, the new lawsuit is “narrowly pled to show that plaintiffs and the vast majority of the injured are left without any remedy whatsoever.”



## 1.5 million injured by COVID vaccines don't qualify for compensation

According to [OpenVAERS](#), over [1.5 million people](#) who received COVID-19 vaccines sustained injuries that weren't life-threatening and were not life-ending. Under the CICP's criteria, these people don't qualify for compensation.

The sole exception to the PREP Act's liability shield is [willful misconduct](#) — defined as intentional acts (or omissions) done with knowledge that harm is highly probable.

However, the PREP Act requires that willful misconduct claims first be adjudicated through CICP — even though CICP bars claims that fall below its “serious physical injury” threshold.

This creates a classic — and likely unconstitutional — catch-22 scenario for prospective claimants, according to the lawsuit.

Former U.S. Health Secretary Xavier Becerra declared the [end of the COVID-19 public health emergency](#) in May 2023. However, the declaration didn't end a separate public health emergency that leaves COVID-19 covered under the PREP Act.

In December 2024 — just before the end of former President Joe Biden's term — Becerra [extended the PREP Act's liability shield](#) for COVID-19 countermeasures until Dec. 31, 2029. It was the 12th extension since 2020.

According to the lawsuit, even with the extensions, many people who meet CICP's stringent criteria to file an injury claim have seen those applications habitually rejected.

As of Dec. 1, [CICP has compensated](#) just 42 COVID-19 vaccine-related claims, out of 14,046 total claims filed, or less than 0.3%. A total of 87 claims were found “eligible for compensation,” while 6,186 claims have been denied, and 7,773 are [“pending review](#)” or in review.”

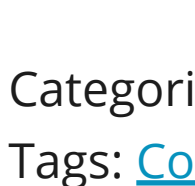
CICP's [median payout](#) for the COVID-19 vaccine injury claims it has compensated is \$4,131.50, while the average payout amount is \$155,147.61. However, the latter figure is skewed by two unusually large payouts. Without those payouts, the average compensation amount falls to \$5,126.65.

“There has never been a successful challenge to CICP,” Flores said. “A ruling that CICP's narrow application process is unconstitutional could open the door for many more” COVID-19 vaccine injury victims to submit claims to CICP.

[To support this lawsuit, and other work by Children's Health Defense on behalf of the vaccine-injured, please make a donation here.](#)

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Guillermo

4 hours ago edited

The hope is that this lawsuit, supported by CHD, will not prove that the license to lie, steal, and kill withstands all attempts at litigation. People's health doesn't matter; corporate profits do. The shield against compensation is a trap where there is only one winner: the vaccine manufacturers who run rampant and multiply their profits. The point is to avoid compensation because the PREP Act requires that claims of intentional misconduct first be adjudicated through the CICP, even though the CICP prohibits claims that fall below its threshold of “serious physical injury.” The perfect vicious cycle!  
We know from a CHD report that approximately 10% of all American adults who received the COVID-19 vaccine experienced “major” side effects, and more than a third (36%) had “minor” side effects, according to a national survey conducted this month.  
<https://imahealth.substack.com/p/36-of-americans-say-they-experienced->

The CICP has denied or dismissed over 98% of the more than 14,000 lawsuits filed, primarily due to strict statutes of limitations and high burdens of proof. In civil courts, immunity has largely held firm. While federal courts have occasionally returned inaction cases (such as nursing home negligence) to state jurisdictions, the latter have increasingly applied the PREP Act as a substantive defense to dismiss prejudicial lawsuits.

The point is that proving willful misconduct is exceptionally difficult, if not impossible. Clear and convincing evidence of the following is required:

—Intentionality: An act intentionally performed to achieve an unlawful purpose.

—Lack of Justification: Knowingly acting without legal or factual justification.

—Disregard for Risk: Disregarding a known or obvious risk so great that it makes it highly likely the harm will outweigh the benefit.

The community affected by the COVID-19 vaccine continues to feel abandoned by our healthcare professionals, healthcare systems, and federal regulatory agencies. Our federal regulatory agencies are tasked with protecting the public.

<https://sashalatpova.substack.com/p/case-law-reality-check-prep-act-is>

3 0 Reply Share



AMV

3 minutes ago

Maybe if our government alphabet agencies did a better job of not approving dangerous and debilitating drugs there wouldn't be issues in the first place. These mRNA jabs were never proven safe and we all know they are not effective. Where's the oversight, where's true clinical trials? As far as I'm concerned, this was all intentional with a massive compilation of lies, deceptions added on to mandates of dangerous poison shots. Since they refused to accept that there were safe inexpensive remedies for Covid, they actually legally did not have the right to give EUA authorization in the first place. Our government is so corrupt as well is the media, politicians, hospitals, drs, and leaders of our alphabet organizations and the CEO's of Pharmaceutical companies. Covid was intentional and so was the response. No drug is approved in 9 months simply because it's not enough time to test. The trials were horrible and the lies to the FDA are criminal. Sickening and infuriating. Still they are hiding behind massive lies while the injured suffer and many have passed! 😡😡😡

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Pat

a minute ago

The FDA hasn't looked out for our interests for decades; why would they start with this most lucrative “vaccine”? They are funded by Big Pharma, after all!

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Beatrice

2 hours ago

There they go splitting hairs again. This is complete lawlessness and immorality- not a good combination for any “civilized” nation.

1 0 Reply Share



Pat

5 minutes ago

I'm so sick of our government that treats CITIZENS with such disdain, and yet gives illegals and refugees the keys to the city, along with thousands of dollars EACH, every month!! Further, they allow illegals, as well as legal migrants, to swoosh in and steal BILLIONS of dollars from us taxpayers, and send some of it to terrorists who want to kill us!! We citizens need to stand up for OUR rights! I'm glad that CHD is helping these two women, who are a drop in the proverbial bucket, to be compensated for having to submit to this poison shot! I pray that the result will help the thousands of others harmed by the shot.

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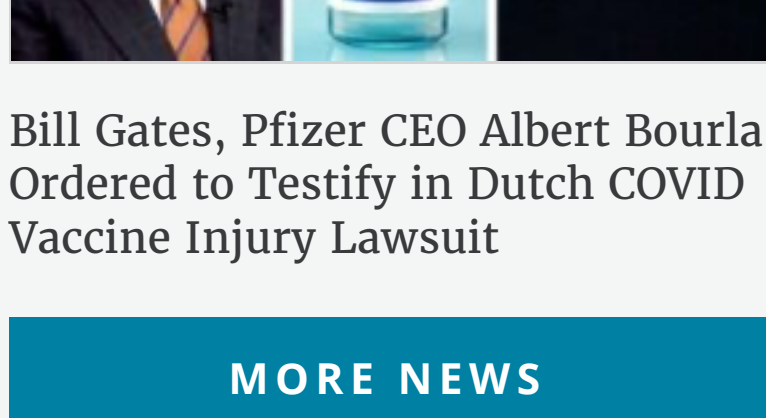
We'll be back on Jan. 5! The Defender wishes our readers a safe, healthy holiday.

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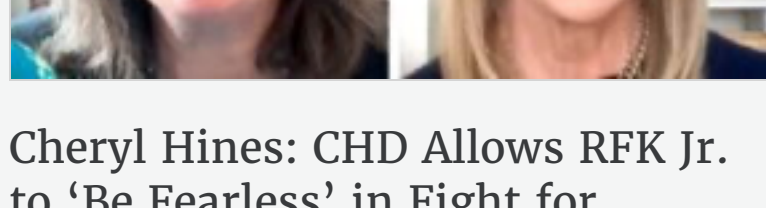
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