

Coverage Information for WVDHHR Employees
Serving on Public Health Response Teams

It is important for WVDHHR employees considering smallpox vaccination to understand what coverage is and is not available in the rare, but possible event that adverse reactions to the vaccine occur in either the vaccinated individual or their close contacts. Please review the following. This includes updated material (last section, page 2) from that handed out at our initial WVDHHR Response Team meetings.

Employment and Financial Risks

Treatment Issues

The most common side effect of the smallpox vaccine is a sore and itchy arm lasting for several days to a few weeks. Up to one-third of normal vaccines may feel achy and develop a fever enough to miss a day of work or school. Although a nuisance, these reactions resolve within a few days.

Although rare, bad reactions to the vaccine can occur. If you or someone you live with has a bad reaction, the treatments for these reactions can be very expensive. The Centers for Disease Control and Prevention (CDC) will provide the special drugs needed to treat certain reactions free of charge. However, the CDC will not cover the cost of hospitalization, medical consultations, other possible medical expenses or lost wages and currently there is no Federal program to cover these issues. As a result the WVDHHR has developed a plan to compensate employees for these situations.

For WVDHHR Employees Receiving Vaccine:

WVDHHR Compensation Plan

In the absence of Federal coverage for problems associated with the Bio-Terrorism smallpox vaccination effort the WVDHHR has developed the following plan to assure that WVDHHR employees participating in the Bio-Terrorism Response Team effort are compensated for medical expenses or work leave issues related to adverse smallpox inoculation reactions.

Direct Compensation

WVDHHR will provide two categories of direct compensation for employees participating on a Bio-Terrorism Response Team who experience an adverse vaccination reaction in the performance of their duties. These categories will be administrative leave compensation and medical expense compensation. These compensation benefits will be provided as follows:

Administrative Leave

The WVDHHR will provide a maximum of three initial days of administrative leave of absence with pay, by authorization of the Governor, to Bio-Terrorism Response Team participants experiencing an adverse reaction to work related smallpox inoculation. Utilization of this administrative leave will follow the sick leave protocols and procedures established by the West Virginia Division of Personnel but will not count against the employee's sick leave. Any medical leave related to an adverse vaccination reaction which exceeds three working days will require a physician's statement documenting the need for the absence and will not be covered as administrative leave.

Medical Expenses Coverage

The Department of Health and Human Resources will assume direct responsibility for coverage of the first three days of noncatastrophic medical expenses related to adverse vaccination reactions by Bio-Terrorism Response Team participants. This coverage will include physician, hospital and pharmaceutical expenses. Catastrophic medical expenses and medical expenses encumbered in excess of three days will not be directly assumed by the WVDHHR.

Indirect Compensation

As a West Virginia employer, WVDHHR participates in the state Workers' Compensation insurance program and therefore indirectly, through this program, provides medical and wage compensation for work site injuries or work related medical problems encountered by its employees. Consequently, medical expenses and work leave needs encountered by Bio-Terrorism Response Team participants that are related to smallpox vaccination reactions, catastrophic in nature and/or exceed three days in duration should be considered a worker's compensation issue and directed to that system for compensation. (The WV Worker's Compensation policy related to smallpox vaccination is attached, for your information.)

Employees are eligible to file a workers' compensation claim for medical and or wage benefits up to six months following the occurrence of an adverse reaction to a work related smallpox vaccination. An incident reporting form has been developed to provide you with the opportunity to document for future reference any problem that may arise as a result of your vaccination during this project. Completion and submission of this form with the Employee Relations/Risk Management Unit will assure documentation of any adverse vaccination reaction you may have as a participant in this project.

For Household Contacts Experiencing Problems as a Result of Employee Vaccination:

Although rare, vaccinia virus can be spread to household or other close physical contacts during the time when the vaccination site is healing (until the scab separates). Historically, this occurred in about one (1) of every few thousand vaccinations, most commonly among children. When it did occur, it usually resulted in self limited problems, but occasionally resulted in serious illness or even death in the contact. This complication is largely preventable by being very attentive to good hand washing with antimicrobial soap and water and with care to prevent others from contacting the vaccination site or materials contaminated from the site.

As it currently stands, in the rare event that transmission to a contact occurred, medical expenses would have to be covered by the ill individual's own health insurance in accordance with usual deductibles and co-pays. WVDHHR has verified with PEIA that such expenses would be covered, in accordance with the person's usual coverage, for contacts covered by PEIA who contracted vaccinia. It should be noted, however, that there is currently no system in place to cover or compensate for lost work time, wages, or other disability in a vaccinated employee's contact that developed illness as a result of this effort. At the request of WVDHHR and others, Congress is now discussing development of a national compensation program to address such issues, but, at this point, no such program is in place.

Workers' Compensation Division

Claims Management

Policy Statement

SUBJECT: 1. Compensability

TOPIC: 1.05 Vaccination and possible complications

EFFECTIVE DATE: 2/6/03

Policy Statement: The Division will approve claims involving side effects from the receipt of the smallpox or other vaccines providing that the vaccination was received in the course of and resulting from covered employment and meets the statutory definition of occupational disease as defined by W. Va. Code § 23-4-1.

If an employer requires a particular inoculation as a condition of continued employment, a secondary reaction to that inoculation is compensable under West Virginia workers' compensation laws. If an employer induces an employee to submit to the inoculation through the posting of notices or otherwise, or making an "inoculation facility" available to the employee, and it is determined that the inoculation provided a mutual advantage or service to both the employer and employee, then a secondary reaction to an inoculation would also be a compensable condition.

The facts and circumstances of each case are reviewed in making compensability determinations.

The statute defines an occupational disease as "a disease incurred in the course of and resulting from employment. No ordinary disease of life to which the general public is exposed outside of the employment shall be compensable except when it follows as an incident of occupational disease as defined in this chapter. Except in the case of occupational pneumoconiosis, a disease shall be deemed to have been incurred in the course of or to have resulted from the employment only if it is apparent to the rational mind, upon consideration of all the circumstances (1) that there is a direct causal connection between the conditions under which work is performed and the occupational disease, (2) that it can be seen to have followed as a natural incident of the work as a result of the exposure occasioned by the nature of the employment, (3) that it can be fairly traced to the employment as the proximate cause, (4) that it does not come from a hazard to which workmen would have been equally exposed outside of the employment, (5) that it is incidental to the character of the business and not independent of the relation of employer and employee, and (6) that it must appear to have had its origin in a risk connected with the employment and to have flowed from that source as a natural consequence, though it need not have been foreseen or expected before its contraction."