

§ 130A-425. Filing of claims.

(a) Notwithstanding any other provision of State law, no action for compensation for a vaccine-related injury may be filed against any person unless that person was named as a respondent in a claim filed pursuant to this section and unless the claim was filed within the applicable time period set forth in G.S. 130A-429.

(b) In all claims filed pursuant to this Article, the claimant or the person in whose behalf the claim is made shall file with the Commission a verified petition in duplicate, setting forth the following information:

- (1) The name and address of the claimant;
- (2) The name and address of each respondent;
- (3) The amount of compensation in money and services sought to be recovered;
- (4) The time and place where the injury occurred;
- (5) A brief statement of the facts and circumstances surrounding the injury and giving rise to the claim; and
- (6) Supporting documentation and a statement of the claim that the claimant or the person in whose behalf the claim is made suffered a vaccine-related injury and has not previously collected an award or settlement of a civil action for damages for this injury. This supporting documentation shall include all available medical records pertaining to the alleged injury, including autopsy reports, if any, and if the injured person was under two years of age at the time of injury, all prenatal, obstetrical, and pediatric records of care preceding the injury, and an identification of any unavailable records known to the claimant or the person in whose behalf the claim is made.
- (7) Documentation to show that the claimant has filed an election pursuant to Section 2121 of the Public Health Service Act, P.L. 99-660, permitting such claimant to file a civil action for damages for a vaccine-related injury or death or documentation to show that such claimant is otherwise permitted by federal law to file an action against a vaccine manufacturer.

(c) Upon receipt of this verified petition in duplicate, the Commission shall enter the case upon its hearing docket and shall determine the matter in the county where the injury occurred unless the parties agree or the Commission directs that the case may be heard in some other county. All parties shall be given reasonable notice of the date when and the place where the claim will be heard. Immediately upon receipt of the claim, the Commission shall serve a copy of the verified petition on each respondent by registered or certified mail. The Commission shall also send a copy of the verified petition to the Secretary, who shall be a party to all proceedings involving the claim, and to the Attorney General who shall represent the State's interest in all the proceedings involving the claim.

(d) The Commission shall adopt rules necessary to govern the proceedings required by this Article. The Rules of Civil Procedure as contained in G.S. 1A-1 **et seq.** and the General Rules of Practice for the Superior and District Courts as authorized by G.S. 7A-34 apply to claims filed with the Industrial Commission under this Article. The Commission shall keep a record of all proceedings conducted under this Article, and has the right to subpoena any persons and records it considers necessary in making its determinations. The Commission may require all persons called as witnesses to testify under oath or affirmation, and any member of the Commission may administer oaths. If any persons refuse to comply with any subpoena issued pursuant to this Article or to testify with respect to any matter relevant to proceedings conducted under this Article, the Superior Court of Wake County, on application of the Commission, may issue an order requiring the person to comply with the subpoena and to

testify. Any failure to obey any such order may be punished by the court as for contempt. (1985 (Reg. Sess., 1986), c. 1008, s. 1; 1987, c. 215, s. 3; 1989, c. 727, s. 150; 1991, c. 410, s. 2.)