

07 March 2023

Denise Astill
denise@facsnz.com

Kia ora Denise

Your Official Information Act request, reference: GOV-023199

Thank you for your email of 7 February 2023, asking for the following information under the Official Information Act (the Act):

Can you please provide me with the following statistical information on claims that have been assessed/processed for Fetal Valproate Syndrome, Fetal Valproate Spectrum Disorder, Fetal Carbamazepine Syndrome, Fetal Hydantoin Syndrome, or Fetal Anticonvulsant Syndrome (or other classifications ACC may have e.g. exposure to sodium valproate in utero):

1. *Financial year*
2. *New claims*
3. *Active claims*
4. *Total cost broken down into categories: Compensation, Treatment and Rehabilitation*
5. *Region*
6. *Accepted and declined claims*
7. *Ethnicity*
8. *Accepted claims broken down into 18 years and over, and under 18 years*
9. *Total cost of those on Loss of Potential Earnings*
10. *How many individuals with FACS, or the respective individual syndromes, have been allocated a Risk of Harm, or Severity Assessment Code which has been reported?*
11. *What has happened to these reports?*

For ease, foetal valproate syndrome/foetal carbamazepine syndrome will be simply referenced as foetal valproate syndrome in this response.

A treatment injury is a personal injury caused as a result of seeking or receiving medical treatment from a registered health professional

In order to fulfil the criteria for cover, the person must have suffered a personal injury and there must be a clear causal link between the treatment and the injury, and the injury must not be a necessary part or ordinary consequence of the treatment.

When considering treatment injury data, it is important to note that not all occurrences of injury during treatment are lodged with ACC.

Notes about the data provided

- A financial year is 1 July to 30 June.
- The following treatment injury data was extracted on 20 February 2023 and includes claims decided between 1 July 2005 and 18 February 2023. Please note the data may change if extracted again at a later date.

Claim counts fewer than four

Some of the values in the tables provided only indicate that the claim count is fewer than 4 (denoted as <4) to limit the potential for particular individuals, or matters specific to certain individuals, from being identified. This decision has been made under section 9(2)(a) of the Act. In doing so, we considered the

public interest in making the information available and determined that it does not outweigh the need to protect our clients' privacy.

Claims

ACC has made 69 cover decisions for treatment injury claims for foetal valproate syndrome. Of the 69 claims, 49 have been accepted for cover and 20 have been declined. All accepted claims involved the maternal use of sodium valproate or carbamazepine that resulted in injury to the foetus – foetal valproate syndrome.

Claim count, claims paid, and costs by financial year for foetal valproate syndrome injuries, decided between 1 July 2005 and 18 February 2023

ACC has made payments for all 49 accepted foetal valproate syndrome claims, totalling \$20.9 million (excluding GST). The table below provides a breakdown, by financial year, of claims, costs paid, and the number of claims paid in the year ('active' claims) for foetal valproate syndrome injuries.

Financial Year	New accepted claims	Active claims paid	Cost (excluding GST)
2007/08	0	4	\$800
2008/09	5	5	\$19,862
2009/10	<4	9	\$128,396
2010/11	<4	8	\$178,251
2011/12	0	8	\$177,499
2012/13	0	9	\$326,526
2013/14	4	13	\$415,107
2014/15	<4	14	\$591,705
2015/16	6	20	\$670,580
2016/17	5	22	\$1,272,425
2017/18	<4	25	\$1,280,207
2018/19	6	31	\$1,745,368
2019/20	11	40	\$2,583,486
2020/21	<4	47	\$4,543,033
2021/22	<4	48	\$4,038,922
2022/23 YTD*	<4	44	\$2,990,573
Total	49	49	\$20,962,740

*Up until 18 February 2023

Accepted foetal valproate claims by ethnicity

The ethnicity data is provided based on a single ethnicity registered for each client. Clients can select any number of ethnicities when making a claim. However, in ACC's data, clients who select Māori regardless of other ethnicities selected are identified as Māori; Pacific peoples with any other response other than Māori are identified as Pacific; Asian peoples with not including Māori and Pacific are identified as Asian; Other ethnicity regardless of any other response other than Māori, Asian or Pacific are identified as Other. Those that listed European and did not list Māori, Pacific, Asian or Other are identified as European.

ACC reports ethnicity using a different method to Statistics New Zealand. Care must be taken when comparing ACC's ethnicity data with other Government agencies or census data.

European	Māori	Pacific	Asian	Other
38	5	<4	<4	<4

Cost and claims paid count by cost group for foetal valproate syndrome treatment injuries accepted between 1 July 2005 and 18 February 2023

ACC pays for the provision of acute services for injured persons through Public Health Acute Services. These are funded through an annual service agreement between the Minister of Health and the Minister for ACC. Therefore, these costs cannot be attributed to individual claims and have been excluded from this response.

Cost Group	Accepted Claims Paid	Cost (excluding GST)
Compensation	40	\$2,387,697
Rehabilitation	46	\$17,547,680
Treatment	49	\$1,027,363
Total	49	\$20,962,740

Loss of potential earnings

Twelve accepted claims for foetal valproate syndrome injuries had received payments for loss of potential earnings, totalling \$1,624,944 by 18 February 2023.

Regions of accepted claims by 'Te Whatu Ora'

Southern (formerly Southern DHB)	Te Toka Tumai (formerly Auckland DHB)	Te Pae Hauora o Ruahine o Tararua MidCentral (formerly Midcentral DHB)	Waikato (formerly Waikato DHB)	Te Tai o Poutini West Coast (formerly West Coast DHB)	Other locations*
13	11	5	4	4	12

*Claim counts for the remaining Te Whatu Ora locations were all less than four so we grouped these locations together.

Regions of declined claims

Of the 20 declined treatment injury claims for foetal valproate syndrome 4 were from the Te Whatu Ora Southern region. The remaining claims were from several other Te Whatu Ora location regions with fewer than four declined claims.

Serious injury claims

Serious injury is an internal classification used for clients who will have a lifelong relationship with ACC. Of the 49 accepted treatment injury claims for foetal valproate syndrome 32 (65 percent) have been classified as serious injury claims. There are no fatal treatment injury claims for foetal valproate syndrome.

Ages of clients

ACC defines date of injury as the date the client first sought treatment for the claimed injury.

Fewer than four accepted treatment injury claims for foetal valproate syndrome were for clients 18 years or older at date of injury; 31 clients were under the age of one. As of 20 February 2023, 28 clients with

accepted foetal valproate syndrome injury claims are under the age of 18 years, 21 clients are 18 years or over.

Reporting belief of risk of harm

ACC is required to report 'belief of risk of harm to the public', under section 284 of the Accident Compensation Act (the AC Act). The purpose of risk of harm reporting is to provide information to support the prevention of harm to patients in the health sector. Foetal valproate related treatment injuries are reported as part of a regular report we provide to Medsafe on medications.

Of 69 decided treatment injury claims for foetal valproate syndrome, 33 have been reported for a risk of harm. We know that all notifications were sent to the Ministry of Health, the majority to Medsafe and fewer than four have been reported to the Ministry of Health, Medsafe and the Medical Council.

ACC only reports to the authority responsible for patient safety in relation to the treatment that caused the personal injury and does not carry out any investigations of cases that have been notified to the relevant bodies. Therefore, we are refusing to respond to question 11 as we do not hold the information requested. This decision is made under section 18(g) of the Act.

As this information may be of interest to other members of the public

ACC may decide to proactively release a copy of this response on ACC's website. All requester data, including your name and contact details, will be removed prior to release. The released response will be made available www.acc.co.nz/resources/#/category/12.

If you have any questions about this response, please get in touch

You can email me at GovernmentServices@acc.co.nz.

If you are not happy with this response, you can also contact the Ombudsman via info@ombudsman.parliament.nz or by phoning 0800 802 602. Information about how to make a complaint is available at www.ombudsman.parliament.nz.

Ngā mihi



Sara Freitag
Acting Manager Official Information Act Services
Government Engagement