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State of Wisconsin  
Department of Workforce Development

**WORKER'S COMPENSATION**  
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January 16, 2003

WALHDAB  
LaCrosse County Health Department  
Attn: Douglas Mormann  
300 4<sup>th</sup> Street North  
LaCrosse, WI 54601-3299

Dear Mr. Mormann:

Thank you for your letter concerning worker's compensation coverage related to small pox vaccination reactions.

Usually in worker's compensation cases, the issue of compensability is determined by whether the condition is related to the employment. Therefore, if an employer requires workers to receive inoculations, any verifiable reaction is compensable. In situations where the employer actively encourages and recommends, but does not require the vaccination, there is strong argument for compensability.

If someone has an adverse reaction to a vaccination, it would need to be medically verifiable as such to be compensable. Additional factors to be considered are whether the employee was in pay status when receiving or providing the inoculation and whether the employer provided reimbursement for the cost of the inoculation. In occupations where employees have a high risk of coming in contact with patients with small pox, such as health care occupations, employees may have a stronger argument for compensability even though the employer did not require or encourage the vaccination. There is a high likelihood that those claims would be paid.

On December 11, 2002, the topic of adverse reactions to the small pox vaccination was discussed at the Worker's Compensation Advisory Council (WCAC) meeting. The 13-member council, consisting of five representatives of employers, five representatives of employees and three non-voting representatives of insurers, makes recommendations to the Legislature for statutory changes. The Council is in agreement with the Department's position as set forth above.

I hope this satisfactorily responds to your correspondence.

Sincerely,

Roberta Gassman  
Secretary

Cc: Dennis J. Tomczyk  
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