

Raid on the Injured Patients & Families Compensation Fund

Frequently Asked Questions

Q. What is the Injured Patients and Families Compensation Fund?

A. The Injured Patients and Families Compensation Fund was created in 1975 to pay medical liability claims that exceed the primary layer of medical liability insurance coverage Wisconsin health care professionals are required to maintain by law.

Today, most Wisconsin physicians, some certified registered nurse anesthetists, hospitals, some nursing homes and a few other health care professionals are required to participate in the Fund. By law, they must have their own primary layer of medical liability insurance coverage and they must pay an annual assessment to the Fund. There are no taxpayer dollars in the Fund.

Q. What happened to the Fund?

A. In order to balance Wisconsin's budget during the last biennium, the Governor recommended the raid and the State approved the illegal transfer of \$200 million from the Fund. On October 29, 2007, the Wisconsin Medical Society filed suit in Dane County Circuit Court to challenge the legality of the raid and to restore to the Fund all monies taken, plus interest. The Fund's assets are **not** general revenue. These dollars are held in a trust that may only be used for the benefit of injured patients, their families and contributing health care professionals.

Q. What is the status of the lawsuit?

A. Nearly four months after hearing oral arguments in the case, on December 19, 2008, Circuit Court Judge Michael Nowakowski issued a decision granting summary judgment to the State. The Society has filed an appeal in the case and believes that the appellate court should protect the integrity of the Fund by reversing the trial court's decision and ordering the return of the \$200 million, along with accrued interest.

Q. Why is the Fund important to maintaining high-quality health care?

A. The Fund is a stabilizing influence in the recruitment and retention of quality health care professionals. As such, it is critical to maintaining the high quality of Wisconsin's health care system.

Q. Why is the Fund important to injured patients and families?

A. According to the Fund's 2007 Functional and Progress Report, from July 1, 1975, through December 31, 2007, 5,461 claims were filed in which the Fund was named a party. Of that total, the Fund paid 646 claims totaling \$666,085,017. Fund payouts cover economic damages, as well as some noneconomic damages.

Q. Who should be concerned about this raid?

A. Patients, their families and anyone who values fairness and high quality health care.

Q. How can I help?

A. Help educate your colleagues, patients, local media and community members about the Fund. Help prevent future raids by talking to or writing to your legislators or sending a letter to the editor.

Make a contribution to the lawsuit's legal fund. Any donation to this restricted fund will be used to help offset costs associated with the lawsuit, which is projected to take up to 5 years and \$1.5 million before it is resolved—likely in the Wisconsin Supreme Court. Contributions are not deductible and are nonrefundable.

Visit www.wisconsinmedicalsociety.org for more information.



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