

In the United States Court of Federal Claims

OFFICE OF SPECIAL MASTERS

Originally Filed: August 31, 2022

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Petitioner,

v.

SECRETARY OF HEALTH
AND HUMAN SERVICES,

Respondent.

* * * * *

* UNPUBLISHED

* No. 17-126V

* Special Master Dorsey

* Decision Based on Stipulation; Table Claim;

* Tetanus-Diphtheria-Acellular Pertussis

* (“Tdap”); Brachial Neuritis.

* *

Leah VaSahnja Durant, Law Offices of Leah V. Durant, PLLC, Washington, DC, for Petitioner.
Colleen Clemons Hartley, U.S. Department of Justice, Washington, DC, for Respondent.

DECISION BASED ON STIPULATION¹

On January 27, 2017, ██████████ (“Petitioner”) filed a petition in the National Vaccine Injury Program² alleging that as the result of a Tetanus-diphtheria-acellular pertussis (“Tdap”) vaccine administered on March 29, 2016, she suffered brachial neuritis. Petition at Preamble (ECF No. 1).

On August 30, 2022, the parties filed a stipulation recommending an award of compensation to Petitioner. Stipulation (ECF No. 144). On August 3, 2017, Respondent filed

¹ Because this Decision contains a reasoned explanation for the action in this case, the undersigned is required to post it on the United States Court of Federal Claims’ website in accordance with the E-Government Act of 2002. 44 U.S.C. § 3501 note (2012) (Federal Management and Promotion of Electronic Government Services). **This means the Decision will be available to anyone with access to the Internet.** In accordance with Vaccine Rule 18(b), petitioner has 14 days to identify and move to redact medical or other information, the disclosure of which would constitute an unwarranted invasion of privacy. If, upon review, the undersigned agrees that the identified material fits within this definition, the undersigned will redact such material from public access.

² The National Vaccine Injury Compensation Program is set forth in Part 2 of the National Childhood Vaccine Injury Act of 1986, Pub. L. No. 99-660, 100 Stat. 3755, codified as amended, 42 U.S.C. §§ 300aa-10 to -34 (2012) (“Vaccine Act” or “the Act”). All citations in this Decision to individual sections of the Vaccine Act are to 42 U.S.C.A. § 300aa.

his Rule 4(c) report noting that Petitioner sustained the onset of brachial neuritis within the time period set forth in the Table following administration of the Tdap vaccine, and experienced the residual effects of her injury for more than six months. Stipulation at ¶ 4. There is not a preponderance of the evidence demonstrating that Petitioner's brachial neuritis and its residual effects were due to a factor unrelated to the Tdap vaccine. Id. at ¶ 5. Accordingly, Petitioner is entitled to compensation under the terms of the Vaccine Program for her Table injury. Id. at ¶ 7. The parties agree to the joint stipulation, attached hereto as Appendix A. The undersigned finds the stipulation reasonable and adopts it as the decision of the Court in awarding damages, on the terms set forth therein.

The parties stipulate that Petitioner shall receive the following compensation:

- (1) A lump sum of \$1,067,510.17, which amount represents compensation for first year life care expenses (\$16,656.05), lost earnings (\$850,000.00), pain and suffering (\$200,000.00), and past unreimbursable expenses (\$854.12), in the form of a check payable to Petitioner, and**
- (2) An amount sufficient to purchase the annuity contract described in paragraph 10 of the stipulation, paid to the life insurance company from which the annuity will be purchased (the "Life Insurance Company").**

Stipulation at ¶ 8. These amounts represent compensation for all damages that are available under 42 U.S.C. § 300aa-15(a).

The undersigned approves the requested amount for Petitioner's compensation. Accordingly, an award should be made consistent with the stipulation.

In the absence of a motion for review filed pursuant to RCFC Appendix B, the Clerk of Court **SHALL ENTER JUDGMENT** in accordance with the terms of the parties' stipulation.³

IT IS SO ORDERED.

s/Nora B. Dorsey

Nora B. Dorsey

Special Master

³ Pursuant to Vaccine Rule 11(a), entry of judgment is expedited by the parties' joint filing of notice renouncing the right to seek review.