

In the United States Court of Federal Claims
OFFICE OF SPECIAL MASTERS
No. 22-535V



Petitioner

v.

SECRETARY OF HEALTH
AND HUMAN SERVICES,

Respondent.

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Chief Special Master Corcoran

Filed: October 18, 2023

Leah VaSahnja Durant, Law Offices of Leah V. Durant, PLLC, Washington, DC, for Petitioner.

Katherine Carr Esposito, U.S. Dep’t of Justice, Washington, DC, for Respondent.

DECISION AWARDING DAMAGES¹

On May 13, 2022, [REDACTED] filed a petition on behalf of her minor child, [REDACTED] seeking compensation under the National Vaccine Injury Compensation Program (the “Vaccine Program”).² Petition (ECF No. 1) (“Pet.”) at 1. Petitioner alleged that [REDACTED] suffered from a Table Idiopathic thrombocytopenic purpura (“ITP”) injury after he received the measles, mumps, and rubella (“MMR”) vaccination on May 28, 2021. *Id.*

Thereafter, on May 10, 2023, Respondent filed his Rule 4(c) Report and acknowledged that Petitioner’s claim is compensable under the Act. *See* Respondent’s Report, dated May 10,

¹ Under Vaccine Rule 18(b), each party has fourteen (14) days within which to request redaction “of any information furnished by that party: (1) that is a trade secret or commercial or financial in substance and is privileged or confidential; or (2) that includes medical files or similar files, the disclosure of which would constitute a clearly unwarranted invasion of privacy.” Vaccine Rule 18(b). Otherwise, the whole Decision will be available to the public in its present form. *Id.*

² The Vaccine Program comprises Part 2 of the National Childhood Vaccine Injury Act of 1986, Pub. L. No. 99-660, 100 Stat. 3758, codified as amended at 42 U.S.C. §§ 300aa-10 through 34 (2012) (“Vaccine Act” or “the Act”). Individual section references hereafter will be to § 300aa of the Act (but will omit that statutory prefix).

2023 (ECF No. 24). Respondent specifically indicated that medical personnel at the Division of Injury Compensation Programs (“DICP”), Department of Health and Human Services, have reviewed the petition and accompanying documents filed in this case, as well as the relevant medical records, and Respondent has concluded that Petitioner has met her burden of proof in connecting the vaccination that ■■■ received to his condition as required for entitlement under the Vaccine Act. *Id.* Respondent conceded that the evidence shows that Petitioner suffered ITP as a result of the MMR vaccine, and that the onset occurred within the appropriate timeframe. *Id.* Accordingly, Respondent concluded that Petitioner is entitled to an award of damages. *Id.* at 8–9. I subsequently issued an entitlement decision on May 11, 2023. *See* Ruling, dated May 11, 2023 (ECF No. 25).

On October 18, 2023, Respondent filed a proffer proposing an award of compensation. ECF No. 31. I have reviewed the file, and based upon that review I conclude that the Respondent’s proffer (as attached hereto) is reasonable. I therefore adopt it as my decision in awarding damages on the terms set forth therein.

The proffer awards:

- A lump sum payment of **\$50,000.00**, for the benefit of ■■■ in the form of a check payable to Petitioner as ■■■’s guardian/conservator (with the proffer specifying confirmation of Petitioner’s guardianship capacity before payment is made); and
- A lump sum payment of **\$1,510.72**, representing compensation for past unreimbursable expenses, in the form of a check payable to Petitioner.

Proffer at II. These amounts represent compensation for all elements of compensation under 42 U.S.C. § 300aa-15(a) to which Petitioner is entitled.

I approve a Vaccine Program award in the requested amount set forth above to be made to Petitioner. In the absence of a motion for review filed pursuant to RCFC Appendix B, the Clerk of the Court is directed to enter judgment herewith.³

³ Pursuant to Vaccine Rule 11(a), the parties may expedite entry of judgment by each filing (either jointly or separately) a notice renouncing their right to seek review.

IT IS SO ORDERED.

/s/ Brian H. Corcoran
Brian H. Corcoran
Chief Special Master