

In the United States Court of Federal Claims

OFFICE OF SPECIAL MASTERS

No. 18-1306V

UNPUBLISHED

<p>[REDACTED],</p> <p>Petitioner,</p> <p>v.</p> <p>SECRETARY OF HEALTH AND HUMAN SERVICES,</p> <p>Respondent.</p>

Chief Special Master Corcoran

Filed: March 31, 2020

Special Processing Unit (SPU);
Damages Decision Based on Proffer;
Influenza (Flu) Vaccine; Shoulder
Injury Related to Vaccine
Administration (SIRVA)

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

Camille Michelle Collett, U.S. Department of Justice, Washington, DC, for respondent.

DECISION AWARDING DAMAGES¹

On August 28, 2018, [REDACTED] filed a petition for compensation under the National Vaccine Injury Compensation Program, 42 U.S.C. §300aa-10, *et seq.*,² (the “Vaccine Act”). Petitioner alleges that she suffered a left shoulder injury as a result of an influenza (“flu”) vaccine administered to her on September 27, 2017. Petition at 1. The case was assigned to the Special Processing Unit of the Office of Special Masters.

On November 8, 2019, a ruling on entitlement was issued, finding Petitioner entitled to compensation. On March 30, 2020, Respondent filed a proffer on award of compensation (“Proffer”) indicating Petitioner should be awarded \$97,361.29, comprised of \$90,000.00 for past and future pain and suffering and \$7,361.29 in unreimbursed medical expenses. Proffer at 1. In the Proffer, Respondent represented

¹ Because this unpublished decision contains a reasoned explanation for the action in this case, I am required to post it on the United States Court of Federal Claims' website in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, I agree that the identified material fits within this definition, I will redact such material from public access.

² National Childhood Vaccine Injury Act of 1986, Pub. L. No. 99-660, 100 Stat. 3755. Hereinafter, for ease of citation, all “§” references to the Vaccine Act will be to the pertinent subparagraph of 42 U.S.C. § 300aa (2012).

that Petitioner agrees with the proffered award. *Id.* Based on the record as a whole, I find that Petitioner is entitled to an award as stated in the Proffer.

Pursuant to the terms stated in the attached Proffer, **I award Petitioner a lump sum payment of \$97,361.29 (comprised of \$90,000.00 for past and future pain and suffering and \$7,361.29 in unreimbursed medical expenses) in the form of a check payable to Petitioner.** This amount represents compensation for all damages that would be available under § 15(a).

The clerk of the court is directed to enter judgment in accordance with this decision.³

IT IS SO ORDERED.

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

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

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OFFICE OF SPECIAL MASTERS

[REDACTED],)	
)	
Petitioner,)	No. 18-1306V
)	Chief Special Master
v.)	Brian H. Corcoran
)	ECF
)	
SECRETARY OF HEALTH)	
AND HUMAN SERVICES,)	
)	
Respondent)	
)	

RESPONDENT’S PROFFER ON AWARD OF COMPENSATION

On November 7, 2019, respondent filed his Rule 4(c) Report, in which he conceded entitlement. On November 8, 2019, the Court issued a Ruling on Entitlement, finding that petitioner is entitled to compensation for her Shoulder Injury Related to Vaccine Administration (“SIRVA”). Respondent now proffers that petitioner receive an award of a lump sum of \$97,361.29 in the form of a check payable to petitioner. The award is comprised of the following: \$90,000.00 for past and future pain and suffering, and \$7,361.29 in unreimbursed medical expenses. This amount represents compensation for all elements of compensation under 42 U.S.C. § 300aa-15(a) to which petitioner is entitled.¹ Petitioner agrees.

Petitioner is a competent adult. Evidence of guardianship is not required in this case.

¹ Should petitioner die prior to the entry of judgment, the parties reserve the right to move the Court for appropriate relief. In particular, respondent would oppose any award for future medical expenses, future lost earnings, and future pain and suffering.

Respectfully submitted,

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Dated: March 30, 2020