


In the United States Court of Federal Claims

OFFICE OF SPECIAL MASTERS

No. 18-1795V

UNPUBLISHED


Petitioner,
v.
SECRETARY OF HEALTH AND HUMAN SERVICES,
Respondent.

Chief Special Master Corcoran

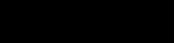
Filed: April 28, 2020

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.

Lynn Christina Schlie, U.S. Department of Justice, Washington, DC, for respondent.

DECISION AWARDING DAMAGES¹

On November 20, 2018,  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 right Shoulder Injury Related to Vaccine Administration (SIRVA) as a result of an influenza (“flu”) vaccine administered to her on October 24, 2017. Petition at 1. The case was assigned to the Special Processing Unit of the Office of Special Masters.

On December 13, 2019, a ruling on entitlement was issued, finding Petitioner entitled to compensation for a right SIRVA. On April 28, 2020, Respondent filed a proffer on award of compensation (“Proffer”) indicating Petitioner should be awarded \$100,779.97. Proffer at 1. The award is comprised of the following: \$95,000.00 for pain

¹ Because this unpublished decision contains a reasoned explanation for the action in this case, I am required to post it on the United States Court of Federal Claims' website in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).

and suffering and \$5,779.97 for unreimbursable out of pocket expenses. *Id.* In the Proffer, Respondent represented 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 \$100,779.97 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.

**IN THE UNITED STATES COURT OF FEDERAL CLAIMS
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SERVICES,)
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No. 18-1795V
Chief Special Master Corcoran
ECF

RESPONDENT’S PROFFER ON AWARD OF COMPENSATION

On December 5, 2019, respondent conceded that entitlement to compensation was appropriate under the terms of the Vaccine Act. ECF No. 23. Thereafter, on December 13, 2019, Chief Special Master Corcoran issued a Ruling on Entitlement, finding that petitioner was entitled to vaccine compensation for her Shoulder Injury Related to Vaccine Administration (“SIRVA”). ECF No. 24.

I. Items of Compensation

Based upon the evidence of record, respondent proffers that petitioner should be awarded \$100,779.97. The award is comprised of the following: \$95,000.00 for pain and suffering and \$5,779.97 for unreimbursable out of pocket expenses. This amount represents all elements of compensation to which petitioner would be entitled under 42 U.S.C. § 300aa-15(a). Petitioner agrees.

II. Form of the Award

The parties recommend that compensation provided to petitioner should be made through a lump sum payment of **\$100,779.97**, in the form of a check payable to petitioner. Petitioner

agrees.

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

Respectfully submitted,

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Dated: April 28, 2020