

In the United States Court of Federal Claims

OFFICE OF SPECIAL MASTERS

No. 17-1267V

Filed: June 21, 2019

UNPUBLISHED

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

Linda Sara Renzi, U.S. Department of Justice, Washington, DC, for respondent.

DECISION AWARDING DAMAGES¹

Dorsey, Chief Special Master:

On September 15, 2017, petitioner 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 shoulder injury related to vaccine administration ("SIRVA") as a result of her November 1, 2016 influenza ("flu") vaccination. Petition at 1. The case was assigned to the Special Processing Unit of the Office of Special Masters.

On May 29, 2019, a ruling on entitlement was issued, finding petitioner entitled to compensation for her shoulder injury. On June 18, 2019, respondent filed a proffer on award of compensation ("Proffer") indicating petitioner should be awarded \$129,719.89 (constituting \$125,000.00 in pain and suffering, and \$4,719.89 in past unreimbursed

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 Because this unpublished decision contains a reasoned explanation for the action in this case, undersigned is required to post it on the United States Court of Federal Claims' website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

² National Childhood Vaccine Injury Act of 1986, Pub. L. No. 99-660, 100 Stat. 3755.

expenses).³ Proffer at 1 (ECF No. 36). In the Proffer, respondent represented that petitioner agrees with the proffered award. *Id.* Based on the record as a whole, the undersigned finds that petitioner is entitled to an award as stated in the Proffer.

Pursuant to the terms stated in the attached Proffer, **the undersigned awards petitioner a lump sum payment of \$129,719.89 (constituting \$125,000.00 in pain and suffering, and \$4,719.89 in past unreimbursed expenses), in the form of a check payable to petitioner, [REDACTED].** 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.⁴

IT IS SO ORDERED.

s/Nora Beth Dorsey

Nora Beth Dorsey
Chief Special Master

³ Respondent originally filed a proffer on June 13, 2019, ECF No. 44, but then moved to strike that proffer to correct a typographical error.

⁴ 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
OFFICE OF SPECIAL MASTERS**

[REDACTED],)	
Petitioner,)	No. 17-1267V
v.)	Chief Special Master
SECRETARY OF HEALTH AND HUMAN SERVICES,)	Nora Beth Dorsey
Respondent.)	ECF

RESPONDENT'S PROFFER ON AWARD OF COMPENSATION

I. Compensation for Vaccine Injury-Related Items

On May 28, 2019, respondent filed an Amended Rule 4 (c) Report conceding entitlement in this case. On May 29, 2019, the Chief Special Master issued a Ruling on Entitlement finding that petitioner was entitled to vaccine compensation for her Shoulder Injury Related to Vaccine Administration ("SIRVA"). Respondent proffers that based on the evidence of record, petitioner should be awarded \$129,719.89 (constituting \$125,000.00 in pain and suffering, and \$4,719.89 in past unreimbursed expenses). This amount represents all elements of compensation to which petitioner would be entitled under 42 U.S.C. § 300aa-15(a)(1); 15(a)(3)(A); and 15(a)(4). Petitioner agrees.

II. Form of the Award

The parties recommend that the compensation provided to petitioner should be made through a lump sum payment as described below, and request that the Chief Special Master's decision and the Court's judgment award the following:¹

¹ Should petitioner die prior to 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.

A lump sum payment of \$129,719.89, in the form of a check payable to petitioner, [REDACTED]. This amount accounts for all elements of compensation under 42 U.S.C. § 300aa-15(a) to which petitioner would be entitled.

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

Respectfully submitted,

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/s/ Linda S. Renzi
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Dated: June 18, 2019
