

In the United States Court of Federal Claims

OFFICE OF SPECIAL MASTERS

No. 10-161V

Filed: October 2, 2012

Not for Publication



Petitioner,

v.

SECRETARY OF HEALTH
AND HUMAN SERVICES,

Respondent.

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Damages decision based on stipulation; meningococcal vaccine; Hepatitis A vaccine; Varicella vaccine; Human Papillomavirus vaccine; Guillain-Barré syndrome; chronic headache

F. John Caldwell, Sarasota, FL, for petitioner.

Debra A. Filteau Begley, Washington, DC, for respondent.

MILLMAN, Special Master

DECISION AWARDING DAMAGES¹

On October 2, 2012, the parties filed the attached stipulation in which they agreed to settle this case and described the settlement terms. Petitioner alleges that [REDACTED] suffered from Guillain-Barré syndrome (“GBS”) and chronic headaches that were caused in fact by her May 11, 2009, receipt of the meningococcal, Hepatitis A, Varicella, and Human Papillomavirus vaccines. Petitioner further alleges that [REDACTED] experienced residual effects of these injuries for more than six months. Respondent denies that [REDACTED]’s GBS and chronic headaches were

¹ Because this unpublished decision contains a reasoned explanation for the special master's action in this case, the special master intends to post this unpublished decision on the United States Court of Federal Claims's website, in accordance with the E-Government Act of 2002, Pub. L. No. 107-347, 116 Stat. 2899, 2913 (Dec. 17, 2002). Vaccine Rule 18(b) states that all decisions of the special masters will be made available to the public unless they contain trade secrets or commercial or financial information that is privileged and confidential, or medical or similar information whose disclosure would constitute a clearly unwarranted invasion of privacy. When such a decision is filed, petitioner has 14 days to identify and move to redact such information prior to the document's disclosure. If the special master, upon review, agrees that the identified material fits within the banned categories listed above, the special master shall redact such material from public access.

caused in fact by her meningococcal, Hepatitis A, Varicella, and Human Papillomavirus vaccines and denies that [REDACTED] experienced the residual effects of these injuries for more than six months. Nonetheless, the parties agreed to resolve this matter informally.

The court finds the terms to be reasonable, hereby adopts the parties' stipulation, and awards compensation in the amount and on the terms set forth therein. Pursuant to the stipulation, the court awards a lump sum of **\$25,000.00**, representing compensation for all damages that would be available under 42 U.S.C. § 300aa-15(a). The award shall be in the form of a check made payable to petitioner as guardian/conservator of [REDACTED]'s estate.

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.²

IT IS SO ORDERED.

Dated: October 2, 2012

/s/ Laura D. Millman
Laura D. Millman
Special Master

² Pursuant to Vaccine Rule 11(a), entry of judgment can be expedited by each party's filing a notice renouncing the right to seek review.

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No. 10-161V
SPECIAL MASTER
GARY J. GOLKIEWICZ

STIPULATION

The parties hereby stipulate to the following matters:

1. On behalf of her daughter,  petitioner filed a petition for vaccine compensation under the National Vaccine Injury Compensation Program, 42 U.S.C. §300aa-10 to 34 (the "Vaccine Program"). The petition seeks compensation for injuries allegedly related to Alyssa's receipt of meningococcal ("Menactra"), Hepatitis A ("Hep. A"), Varicella, and Human Papillomavirus ("HPV") vaccinations, which vaccines are contained in the Vaccine Injury Table (the "Table"), 42 C.F.R. § 100.3 (a).
2.  received her Menactra, Hep. A, Varicella, and HPV vaccinations on May 11, 2009.
3. These vaccines were administered within the United States.
4. Petitioner alleges that  developed Gullian Barré Syndrome ("GBS") and chronic headaches that were caused-in-fact by her Menactra, Hep. A, Varicella, and HPV

vaccines. She further alleges that [REDACTED] experienced residual effects of these injuries for more than six months.

5. Petitioner represents that there has been no prior award or settlement of a civil action for damages on behalf of [REDACTED] as a result of her condition.

6. Respondent denies that [REDACTED]'s GBS and chronic headaches were caused-in-fact by her Menactra, Hep. A, Varicella, and HPV vaccinations and denies that Alyssa experienced the residual effects of these injuries for more than six months.

7. Maintaining their above-stated positions, the parties nevertheless now agree that the issues between them shall be settled and that a decision should be entered awarding the compensation described in paragraph 8 of this Stipulation.

8. As soon as practicable after an entry of judgment reflecting a decision consistent with the terms of this Stipulation, and after petitioner has filed an election to receive compensation pursuant to 42 U.S.C. § 300aa-21(a)(1), the Secretary of Health and Human Services will issue the following vaccine compensation payment:

A lump sum of \$25,000.00 in the form of a check payable to petitioner as guardian/conservator of Alyssa's estate. This amount represents compensation for all damages that would be available under 42 U.S.C. §300aa-15(a).

9. As soon as practicable after the entry of judgment on entitlement in this case, and after petitioner has filed both a proper and timely election to receive compensation pursuant to 42 U.S.C. § 300aa-21(a)(1), and an application, the parties will submit to further proceedings before the special master to award reasonable attorneys' fees and costs incurred in proceeding upon this petition.

10. Petitioner and her attorney represent that compensation to be provided pursuant to this Stipulation is not for any items or services for which the Program is not primarily liable

under 42 U.S.C. § 300aa-15(g), to the extent that payment has been made or can reasonably be expected to be made under any State compensation programs, insurance policies, Federal or State health benefits programs (other than Title XIX of the Social Security Act (42 U.S.C. § 1396 et seq.)), or by entities that provide health services on a pre-paid basis.

11. Payment made pursuant to paragraph 8 and any amounts awarded pursuant to paragraph 9 of this Stipulation will be made in accordance with 42 U.S.C. § 300aa-15(i), subject to the availability of sufficient statutory funds.

12. The parties and their attorneys further agree and stipulate that, except for any award for attorneys' fees and litigation costs, the money provided pursuant to this Stipulation, will be used solely for the benefit of Alyssa as contemplated by a strict construction of 42 U.S.C. § 300aa-15(a) and (d), and subject to the conditions of 42 U.S.C. § 300aa-15(g) and (h).

13. Petitioner represents that she presently is, or within 90 days of the date of judgment will become, duly authorized to serve as guardian/conservator of ██████'s estate under the laws of the State of North Carolina. No payments pursuant to this Stipulation shall be made until petitioner provides the Secretary with documentation establishing her appointment as guardian/conservator of Alyssa's estate. If petitioner is not authorized by a court of competent jurisdiction to serve as guardian/conservator of the estate of ██████ at the time a payment pursuant to this Stipulation is to be made, any such payment shall be paid to the party or parties appointed by a court of competent jurisdiction to serve as guardian/conservator of the estate of Alyssa Alyxandria Satterfield upon submission of written documentation of such appointment to the Secretary.

14. In return for the payments described in paragraphs 8 and 9, petitioner, in her individual capacity and as legal representative of ██████ on behalf of herself, ██████ and her

heirs, executors, administrators, successors or assigns, does forever irrevocably and unconditionally release, acquit and discharge the United States and the Secretary of Health and Human Services from any and all actions or causes of action (including agreements, judgments, claims, damages, loss of services, expenses and all demands of whatever kind or nature) that have been brought, could have been brought, or could be timely brought in the Court of Federal Claims, under the National Vaccine Injury Compensation Program, 42 U.S.C. § 300aa-10 et seq., on account of, or in any way growing out of, any and all known or unknown, suspected or unsuspected personal injuries to or death of [REDACTED] resulting from, or alleged to have resulted from, the Menactra, Hep. A, Varicella, and HPV vaccinations administered on May 11, 2009, as alleged by petitioner in a petition for vaccine compensation filed on or about March 15, 2010, in the United States Court of Federal Claims as petition No. 10-161V.

15. If [REDACTED] should die prior to entry of judgment, this agreement shall be voidable upon proper notice to the Court on behalf of either or both of the parties.

16. If the special master fails to issue a decision in complete conformity with the terms of this Stipulation or if the Court of Federal Claims fails to enter judgment in conformity with a decision that is in complete conformity with the terms of this Stipulation, then the parties' settlement and this Stipulation shall be voidable at the sole discretion of either party.


17. This Stipulation expresses a full and complete negotiated settlement of liability and damages claimed under the National Childhood Vaccine Injury Act of 1986, as amended, except as otherwise noted in paragraph 9 above. There is absolutely no agreement on the part of the parties hereto to make any payment or to do any act or thing other than is herein expressly stated and clearly agreed to. The parties further agree and understand that the award described in this Stipulation may reflect a compromise of the parties' respective positions as to liability and/or

Respectfully submitted,


PETITIONER:



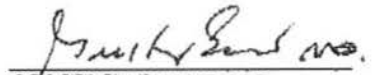
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Dated: 10/2/12