

In the United States Court of Federal Claims

OFFICE OF SPECIAL MASTERS

No. 15-0386V

Filed: September 14, 2015

Unpublished

[Redacted]

Petitioner,

v.

SECRETARY OF HEALTH
AND HUMAN SERVICES,

Respondent.

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

*Amber D. Wilson, Maglio Christopher and Toale, PA, Washington, DC, for petitioner.
Justine E. Walter, U.S. Department of Justice, Washington, DC, for respondent.*

DECISION AWARDING DAMAGES¹

Vowell, Special Master:

On April 16, 2015, [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" or "Program"]. The petition alleged that as a result of an influenza ("flu") vaccination on November 1, 2013, petitioner suffered a shoulder injury related to vaccine administration ("SIRVA"). Petition at ¶¶2, 14-15. The case was assigned to the Special Processing Unit ("SPU") of the Office of Special Masters.

On June 30, 2015, I issued a ruling on entitlement, finding petitioner entitled to compensation. On September 14, 2015, respondent filed a proffer on award of compensation ("Proffer") detailing compensation for all elements of compensation to

¹ Because this unpublished decision contains a reasoned explanation for the action in this case, I intend to post this decision on the United States Court of Federal Claims' website, in accordance with the E-Government Act of 2002, Pub. L. No. 107-347, 116 Stat. 2899, 2913 (Dec. 17, 2002). In accordance with Vaccine Rule 18(b), petitioners have 14 days to identify and move to delete 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 delete 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).

which petitioner would be entitled under §15(a). According to respondent's Proffer, petitioner agrees to the proposed award of compensation.

Pursuant to the terms stated in the attached Proffer, **I award petitioner a lump sum payment of \$122,390.25 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/Denise K. Vowell
Denise K. Vowell
Special Master

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

IN THE UNITED STATES COURT OF FEDERAL CLAIMS
OFFICE OF SPECIAL MASTERS

[REDACTED])	
)	
Petitioner,)	
)	No. 15-386V
v.)	Special Master Vowell
)	ECF
SECRETARY OF HEALTH AND)	SPU
HUMAN SERVICES,)	
)	
Respondent.)	
)	

RESPONDENT’S PROFFER ON AWARD OF COMPENSATION

On April 16, 2015, petitioner, [REDACTED] filed a petition for compensation under the National Childhood Vaccine Injury Act, 42 U.S.C. §§ 300aa-10 to -34 (“Vaccine Act”), alleging that she suffered from a right shoulder injury as a result of receiving an influenza vaccination in her right arm on November 1, 2013. On June 29, 2015, respondent filed her Rule 4(c) Report stating that petitioner’s right arm injury is consistent with a shoulder injury related to vaccine administration (“SIRVA”). Respondent conceded that petitioner’s SIRVA is compensable under the Vaccine Act. Accordingly, on June 30, 2015, Special Master Vowell issued a Ruling on Entitlement finding that petitioner is entitled to compensation for SIRVA. For the purposes of this proffer, the term “vaccine-related” is as described in Respondent’s Rule 4(c) Report filed on June 29, 2015.

I. Items of Compensation

Based upon the evidence of record, respondent proffers that petitioner should be awarded \$122,390.25, which represents all elements of compensation to which petitioner is entitled under 42 U.S.C. § 300aa-15(a).¹ Petitioner agrees.

II. Form of the Award

The parties recommend that the compensation provided to petitioner should be made through a lump sum payment of \$122,390.25 in the form of a check payable to petitioner. Petitioner agrees.

Respectfully submitted,

BENJAMIN C. MIZER
Principal Deputy Assistant Attorney General

RUPA BHATTACHARYYA
Director
Torts Branch, Civil Division

VINCENT J. MATANOSKI
Deputy Director
Torts Branch, Civil Division

GLENN A. MACLEOD
Senior Trial Counsel
Torts Branch, Civil Division

s/ Justine Walters
JUSTINE WALTERS
Trial Attorney
Torts Branch, Civil Division
U.S. Department of Justice
P.O. Box 146, Benjamin Franklin Station
Washington, D.C. 20044-0146
Tel.: (202) 307-6393

DATE: September 14, 2015

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.