

In the United States Court of Federal Claims

OFFICE OF SPECIAL MASTERS

No. 14-653V

Filed: January 9, 2015

Not for Publication

██████████ on behalf of
██████████, a minor child

Petitioner,

v.

SECRETARY OF HEALTH
AND HUMAN SERVICES,

Respondent.

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Damages Decision Based on Proffer;
Rotavirus; Intussusception

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

DECISION AWARDING DAMAGES¹

Vowell, Chief Special Master:

On July 24, 2014, ██████████ 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”] on behalf of her minor daughter, ██████████. The petition alleges that as a result of the administration of a rotavirus vaccination on December 3, 2013, ██████████ suffered an intussusception which required surgical intervention. (Petition (ECF No. 1) at pp. 1-2.)

On October 28, 2014, I issued a ruling on entitlement, finding petitioner entitled to compensation. (See Ruling on Entitlement (ECF No. 17).) On January 7, 2015, respondent filed a proffer on award of compensation (“Proffer”) detailing compensation

¹ Because this unpublished decision contains a reasoned explanation for the action in this case, it will be posted on the United States Court of Federal Claims' website, in accordance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 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 (2006).

for [REDACTED] actual and projected pain and suffering, past unreimbursable expenses related to [REDACTED] vaccine-related injury, and a Medicaid lien. According to respondent's Proffer, petitioner agrees to the proposed award of compensation.³ Pursuant to the terms stated in the attached Proffer, I award petitioner:

1. A lump sum payment of \$35,000.00 in the form of a check payable to petitioner, [REDACTED], as guardian/conservator of [REDACTED], for the benefit of [REDACTED], representing compensation [REDACTED] pain and suffering⁴;
2. A lump sum payment of \$119.04 in the form of a check payable to petitioner, [REDACTED], representing compensation for past unreimbursable expenses; and
3. A lump sum payment of \$7,990.74 in the form of a check payable jointly to petitioner, [REDACTED], and

AMERIGROUP
Attn: Cost Containment Unit
P.O. Box 62509
Virginia Beach, VA 23466,

representing compensation for satisfaction of the State of Louisiana Medicaid lien.⁵

These amounts represent compensation for all damages that would be available under § 300aa-15(a).

The clerk of the court is directed to enter judgment in accordance with this decision.⁶

IT IS SO ORDERED.

s/Denise K. Vowell
Denise K. Vowell
Chief Special Master

³ Petitioner's agreement was also confirmed via e-mail to petitioner's counsel by the staff attorney managing this case on January 8, 2015.

⁴ Per the terms of the proffer "no payments shall be made until petitioner provides respondent with documentation establishing that she has been appointed as guardian/conservator of MC's estate."

⁵ Petitioner agrees to endorse this payment to AMERIGROUP.

⁶ Pursuant to Vaccine Rule 11(a), entry of judgment can be expedited by each party filing a notice renouncing the right to seek review.