

In the United States Court of Federal Claims

OFFICE OF SPECIAL MASTERS

██████████
as Personal Representative
of the Estate of ██████████ ██████████

Petitioner,

v.

SECRETARY OF HEALTH
AND HUMAN SERVICES,

Respondent.

No. 16-1476V

Special Master Christian J. Moran

Filed: October 23, 2017

Damages; decision based on proffer;
Influenza (“flu”) vaccine;
Guillain-Barre syndrome (“GBS”)

Amber D. Wilson, Maglio Christopher and Toale, PA, Washington, DC, for
Petitioner;
Voris Johnson, United States Department of Justice, Washington, DC, for
Respondent.

UNPUBLISHED DECISION AWARDING DAMAGES¹

On November 8, 2016, ██████████ ██████████ filed a petition for compensation under the National Childhood Vaccine Injury Act, 42 U.S.C. §§ 300aa-1 to 34 (2012). Ms. ██████████ alleges that she suffered Guillain-Barre syndrome (“GBS”) as a result of a DTaP vaccine administered on January 3, 2015, and an influenza vaccine administered on January 5, 2015. Following Ms. ██████████ passing on May 13, 2017, her personal representative, ██████████ ██████████ was appointed and continued to pursue her vaccine claim. Order, issued July 11, 2017. On October

¹ The E-Government Act, 44 § 3501 note (2012) (Federal Management and Promotion of Electronic Government Services), requires that the Court post this decision on its website. Pursuant to Vaccine Rule 18(b), the parties have 14 days to file a motion proposing redaction of medical information or other information described in 42 U.S.C. § 300aa-12(d)(4). Any redactions ordered by the special master will appear in the document posted on the website.

17, 2017, the undersigned ruled, based on respondent's indication that he will not contest entitlement in regard to the influenza vaccine causing Ms. [REDACTED] GBS, see Respondent's Rule 4(c) report, filed October 2, 2017, that petitioner is entitled to compensation for Ms. [REDACTED] GBS under the Vaccine Act.

On October 20, 2017, respondent filed a Proffer on Award of Compensation, to which petitioner agrees. Based upon the record as a whole, the special master finds the Proffer reasonable and that petitioner is entitled to an award as stated in the Proffer. Pursuant to the attached Proffer the court awards petitioner:

A lump sum payment of \$328,638.63 in the form of a check payable to petitioner, as the legal representative/administrator of [REDACTED] estate. This amount represents compensation for all damages that would be available under 42 U.S.C. §300aa-15(a)

In the absence of a motion for review filed pursuant to RCFC, Appendix B, the clerk is directed to enter judgment in case 16-1476V according to this decision and the attached proffer.²

Any questions may be directed to my law clerk, Andrew Schick, at (202) 357-6360.

IT IS SO ORDERED.

s/Christian J. Moran
Christian J. Moran
Special Master

² Pursuant to Vaccine Rule 11(a), the parties can expedite entry of judgment by each party filing a notice renouncing the right to seek review by a United States Court of Federal Claims judge.

[REDACTED]
as Personal Representative of the Estate of
[REDACTED] [REDACTED]

Petitioner,

v.

SECRETARY OF HEALTH
AND HUMAN SERVICES,

Respondent.

No. 16-1476V (ECF)
Special Master Moran

On October 2, 2017, respondent, the Secretary of Health and Human Services, filed his Rule 4(c) Report indicating that he would not contest entitlement to compensation in this matter, and on October 17, 2017, the Court entered its Ruling on Entitlement, finding petitioner [REDACTED] [REDACTED] as personal representative of the estate of his deceased wife, [REDACTED] [REDACTED] entitled to Vaccine Act compensation. Respondent now proffers that petitioner receive a compensation award consisting of the following:

Based on evidence provided by petitioner, respondent proffers that the appropriate award for [REDACTED] [REDACTED] past lost earnings is \$138,510.00. Petitioner agrees.

Based on evidence of record, respondent proffers that the appropriate award for [REDACTED] past pain and suffering is \$175,000.00. See 42 U.S.C. § 300aa-15(a)(4). Petitioner agrees.

C. Past Unreimbursable Expenses

Based on evidence provided by petitioner, respondent proffers that petitioner should be awarded compensation for past unreimbursable expenses in the amount of \$15,128.63.

Petitioner agrees.

D. Medicaid Lien

Petitioner represents that there are no outstanding Medicaid liens related to [REDACTED]

[REDACTED] vaccine-related injury.

Based on the foregoing, respondent now proffers that petitioner receive an award of a lump sum of **\$328,638.63** in the form of a check payable to petitioner, as the legal representative/administrator of [REDACTED] [REDACTED] estate. This amount represents compensation for all elements of compensation under 42 U.S.C. § 300aa-15(a) to which petitioner, as legal representative/administrator of [REDACTED] [REDACTED] estate, is entitled.

No payment shall be made until petitioner provides respondent with documentation establishing that he has been appointed as legal representative/administrator of [REDACTED] [REDACTED] estate. If petitioner is not authorized by a court of competent jurisdiction to serve as legal representative/administrator of [REDACTED] [REDACTED] estate, any such payment shall be made to the party or parties appointed by a court of competent jurisdiction to serve as legal representative/administrator of [REDACTED] [REDACTED] estate, upon submission of written documentation of such appointment to the Secretary.

Petitioner agrees with the proffered award of \$328,638.63.¹

¹ This proffer does not include any award for attorneys' fees and costs that may be awarded pursuant to 42 U.S.C. § 300aa-15(e).

Respectfully submitted,

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Dated: October 20, 2017