

# In the United States Court of Federal Claims

OFFICE OF SPECIAL MASTERS

No. 16-1627V

Filed: September 27, 2018

UNPUBLISHED

[REDACTED]

Petitioner,

v.

SECRETARY OF HEALTH AND  
HUMAN SERVICES,

Respondent.

Special Processing Unit (SPU);  
Damages Decision Based on Proffer;  
Influenza (Flu) Vaccine; Guillain-  
Barre Syndrome (GBS)

*Joseph Alexander Vuckovich, Maglio Christopher & Toale, PA, Washington, DC, for petitioner.*

*Traci R. Patton, U.S. Department of Justice, Washington, DC, for respondent.*

## **DECISION AWARDING DAMAGES**<sup>1</sup>

**Dorsey**, Chief Special Master:

On December 8, 2016, petitioner filed a petition for compensation under the National Vaccine Injury Compensation Program, 42 U.S.C. §300aa-10, *et seq.*,<sup>2</sup> (the “Vaccine Act”). Petitioner alleges that he suffered Guillain-Barre Syndrome (“GBS”) as a result of an influenza vaccination he received on January 15, 2014. Petition at 1. The case was assigned to the Special Processing Unit of the Office of Special Masters.

On August 9, 2017, a ruling on entitlement was issued, finding petitioner entitled to compensation for GBS. On September 26, 2018, respondent filed a proffer on award of compensation (“Proffer”) indicating petitioner should be awarded \$180,000.00, representing \$170,000.00 for pain and suffering and \$10,000.00 for past and future medical expenses. Proffer at 1. In the Proffer, respondent represented that petitioner

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<sup>1</sup> Because this unpublished decision contains a reasoned explanation for the action in this case, the undersigned intends to post it on the United States Court of Federal Claims' website,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). 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.

<sup>2</sup> 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).

agrees with the proffered award. 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 \$180,000.00, representing \$170,000.00 for petitioner's pain and suffering and \$10,000.00 for past and future medical expenses, in the form of a check payable to petitioner, [REDACTED]** This amount represents 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.<sup>3</sup>

**IT IS SO ORDERED.**

**s/Nora Beth Dorsey**  
Nora Beth Dorsey  
Chief Special Master

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<sup>3</sup> 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**

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[REDACTED]	)	
	)	
Petitioner,	)	
v.	)	No. 16-1627V
	)	Chief Special Master Dorsey
SECRETARY OF HEALTH AND HUMAN	)	ECF
SERVICES,	)	
	)	
Respondent.	)	

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**RESPONDENT’S PROFFER ON AWARD OF COMPENSATION**

Petitioner filed his petition for compensation on December 8, 2016, alleging that he suffered Guillain-Barre Syndrome (“GBS”) as the result of an influenza vaccination. On August 9, 2017, respondent filed a Rule 4(c) Report, stating that respondent would not contest entitlement in this case because petitioner had satisfied the criteria set forth in the revised Vaccine Injury Table and the Qualifications and Aids to Interpretation.<sup>1</sup> On the same day, Chief Special Master Dorsey issued a Ruling on Entitlement, finding that petitioner was entitled to vaccine compensation for his GBS.

**I. Compensation for Vaccine Injury-Related Items**

Based on the evidence of record, respondent proffers that petitioner should be awarded **\$180,000.00**. The \$180,000.00 is comprised of \$170,000.00 for pain and suffering and \$10,000.00 for past and future medical expenses, and it represents all elements of compensation to which petitioner would be entitled under 42 U.S.C. § 300aa-15(a). Petitioner agrees.

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<sup>1</sup> The revised Table only governs petitions filed on or after March 21, 2017.

## II. Form of the Award

Respondent recommends that the compensation provided to petitioner be made through a lump sum payment of **\$180,000.00**, in the form of a check payable to petitioner.<sup>2</sup> Petitioner agrees.

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

Respectfully submitted,

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Assistant Attorney General

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Acting Director  
Torts Branch, Civil Division

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s/ Traci R. Patton  
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Dated: September 26, 2018

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<sup>2</sup> 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 lost earnings and future pain and suffering.