

\$5,021.75 in addition to an amount sufficient to purchase an annuity contract as described in Proffer Section I.C. Petitioner agrees with the amounts set forth in the Proffer. See Notice, filed July 10, 2014.

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 the following:

A lump sum payment of \$1,021.75.00, in the form of a check payable to petitioner;

A lump sum payment of \$4,000.00, in the form of a check payable to petitioner as guardian/ conservator of T.W.'s estate;³ and

An amount sufficient to purchase the annuity contract described in the Proffer's Section I.C.

Proffer ¶ II.

In the absence of a motion for review filed pursuant to RCFC Appendix B, the clerk of the court **SHALL ENTER JUDGMENT** herewith.⁴

IT IS SO ORDERED.

s/Nora Beth Dorsey
Nora Beth Dorsey
Special Master

³ Pursuant to Proffer Section I.A., the lump sum of \$4,000.00 “shall not be paid until petitioner provides respondent with documentation establishing that she has been appointed as guardian/ conservator of T.W.'s estate. If petitioner is not authorized by a court of competent jurisdiction to serve as guardian/ conservator of the Estate of T.W., any such payment shall be made to the party or parties appointed by a court of competent jurisdiction to serve as guardian/ conservator of the Estate of T.W. upon submission of written documentation of such appointment to the Secretary.”

⁴ Pursuant to Vaccine Rule 11(a), entry of judgment is expedited by the parties' joint filing of notice renouncing the right to seek review.

I. Items of Compensation and Form of the Award¹

A. Future Medical Care Expenses

Respondent proffers that based on the evidence of record, T.W. should be awarded a lump sum of \$4,000.00 for projected unreimbursable medical care expenses incurred from the date of judgment, as provided under the Vaccine Act, 42 U.S.C. § 300aa-15(a)(1)(A). The lump sum should be paid to Michelle Wilton, petitioner, as guardian/conservator of the Estate of T.W. The lump sum shall not be paid until petitioner provides respondent with documentation establishing that she has been appointed as guardian/conservator of T.W.'s estate. If petitioner is not authorized by a court of competent jurisdiction to serve as guardian/conservator of the Estate of T.W., any such payment shall be made to the party or parties appointed by a court of competent jurisdiction to serve as guardian/conservator of the Estate of T.W. upon submission of written documentation of such appointment to the Secretary. Petitioner agrees.

B. Lost Earnings

Respondent proffers that based upon the evidence of record, T.W. is not likely to suffer a loss of earnings as a result of his vaccine injury. Accordingly, T.W. should not be awarded lost earnings as provided under the Vaccine Act, 42 U.S.C. § 300aa-15(a)(3)(B). Petitioner agrees.

C. Pain and Suffering

Respondent proffers that compensation for actual and projected pain and suffering, as provided under the Vaccine Act, 42 U.S.C. § 300aa-15(a)(4), should be provided to T.W. through respondent's purchase of an annuity contract in an amount sufficient to provide future payments to T.W. as follows:

¹ Should T.W. 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 and future pain and suffering.

- (1) On January 17, 2027, a guaranteed lump sum payment of \$24,250.00;
- (2) On January 17, 2028, a guaranteed lump sum payment of \$24,250.00;
- (3) On January 17, 2029, a guaranteed lump sum payment of \$24,250.00; and
- (4) On January 17, 2030, a guaranteed lump sum payment of \$24,250.00.

The amount sufficient to purchase an annuity contract to provide lump sum payments to T.W. as described above will be paid to the life insurance company² from which the annuity contract will be purchased.³ Should T.W. predecease the remittance of the guaranteed lump sum payments set forth above, the remaining guaranteed payments shall be made to his estate.⁴ Petitioner agrees.

D. Past Unreimbursable Expenses

Evidence supplied by petitioner documents her expenditure of past unreimbursable expenses related to T.W.'s vaccine-related injury. Respondent proffers that petitioner should be awarded past unreimbursable expenses in the amount of \$1,021.75, made payable in a lump sum payment to Michelle Wilton, petitioner. Petitioner agrees.

² The Life Insurance Company must have a minimum of \$250,000,000 capital and surplus, exclusive of any mandatory security valuation reserve. The Life Insurance Company must have one of the following ratings from two of the following rating organizations:

- a. A.M. Best Company: A++, A+, A+g, A+p, A+r, or A+s;
- b. Moody's Investor Service Claims Paying Rating: Aa3, Aa2, Aa1, or Aaa;
- c. Standard and Poor's Corporation Insurer Claims-Paying Ability Rating: AA-, AA, AA+, or AAA;
- d. Fitch Credit Rating Company, Insurance Company Claims Paying Ability Rating: AA-, AA, AA+, or AAA.

³ Petitioner authorizes the disclosure of certain documents filed by the petitioner in this case consistent with the Privacy Act and the routine uses described in the National Vaccine Injury Compensation Program System of Records, No. 09-15-0056.

⁴ Written notice to the Secretary of Health and Human Services and to the Life Insurance Company shall be provided within twenty (20) days of T.W.'s death.

E. Medicaid Lien

Petitioner represents that there are no outstanding Medicaid liens related to T.W.'s vaccine-related injury.

II. Summary of Recommended Payments Following Judgment

- A. Lump sum paid to petitioner, Michelle Wilton, as compensation for past unreimbursable medical expenses: \$1,021.75;
- B. Lump sum paid to petitioner, Michelle Wilton, as guardian/conservator of T.W.'s estate: \$4,000.00; and
- C. An amount sufficient to purchase the annuity contract described above in section I.C.

Respectfully submitted,

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