

award as stated in the Proffer.² Pursuant to the attached Proffer, the court awards petitioner:

- A. A lump sum payment of \$5,395.00, representing compensation for past unreimbursable vaccine-related medical expenses, in the form of a check payable to petitioner, Jodi K. Hupe.**
- B. An amount sufficient to purchase an annuity contract, paid to the life insurance company from which the annuity will be purchased, subject to the conditions described in the attached Proffer (Appendix A), that will provide payments to B.A.H. as set forth below:**
 - 1. Beginning October 17, 2015, \$20,000.00 payable annually for six (6) years certain only.**
 - 2. On October 17, 2022, a certain lump sum of \$10,156.21.**

This amount represents all remaining elements of compensation to which B.A.H. would be entitled under 42 U.S.C. § 300aa-15(a).

In the absence of a motion for review filed pursuant to RCFC Appendix B, the clerk of the court is directed to enter judgment herewith.

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

IT IS SO ORDERED.

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

² Respondent previously filed a proffer for award on December 22, 2014. The undersigned issued a decision based on this proffer on December 30, 2014, and later granted petitioner's joint motion to vacate his decision allowing the parties to amend the form of the award. See order, issued Jan 14, 2015.

The undersigned issued a second decision on February 12, 2015, based on respondent's February 10, 2015 proffer and later granted a motion to vacate that decision to correct for an error in the award not in accordance with the proffer. See order, issued June 23, 2015.

I. Items of Compensation

A. Future Medical Care Expenses

Respondent proffers that based on the evidence of record, petitioner is entitled to an award for projected unreimbursable medical care expenses as provided under the Vaccine Act, 42 U.S.C. § 300aa-15(a)(1)(A), in the amount of \$77,040.38. Petitioner agrees.

B. Lost Future Earnings

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

C. Pain and Suffering

Respondent proffers that petitioner should be awarded a lump sum of \$50,000.00 for B.A.H.'s actual pain and suffering as provided under the Vaccine Act, 42 U.S.C. § 300aa-15(a)(4). Petitioner agrees.

D. Past Unreimbursable Expenses

Evidence supplied by petitioner documents her expenditure of past unreimbursable expenses related to B.A.H.'s vaccine-related injury. Respondent proffers that petitioner should be awarded past unreimbursable expenses in the amount of \$5,395.00. Petitioner agrees.

E. Medicaid Lien

Petitioner represents that there are no outstanding Medicaid liens related to B.A.H.'s vaccine-related injury.

II. Form of the Award

The parties recommend that the compensation provided to petitioner, to be received on behalf of B.A.H., should be made through a combination of a lump sum payment and future annuity payments as described below, and request that the special master's decision and the Court's judgment award the following:¹

A. A lump sum payment of \$5,395.00, representing compensation for past unreimbursable vaccine-related medical expenses, in the form of a check payable to petitioner.

B. An amount sufficient to purchase an annuity contract,² paid to the life insurance company³ from which the annuity will be purchased,⁴ subject to the conditions described below, that will provide payments to B.A.H. as set forth below:

1. Beginning October 17, 2015, \$20,000.00 payable annually for six (6) years certain only.
2. On October 17, 2022, a certain lump sum of \$10,156.21.

¹ Should B.A.H. 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.

² In respondent's discretion, respondent may purchase one or more annuity contracts from one or more life insurance companies.

³ 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.

⁴ 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.

This amount represents all remaining elements of compensation to which B.A.H. would be entitled under 42 U.S.C. § 300aa-15(a).

Petitioner agrees.⁵ Should B.A.H. predecease any of the certain payments set forth above, said payments shall be made to her estate. Written notice to the Secretary of Health and Human Services and to the Life Insurance Company shall be provided within twenty (20) days of B.A.H.'s death.

Respectfully submitted,

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Dated: February 10, 2015

⁵ At the time payment is received, B.A.H. will be an adult, and thus guardianship is not required.