

In the United States Court of Federal Claims

OFFICE OF SPECIAL MASTERS

No. 14-553V

December 17, 2014

Not to be Published

MARY DEDON,

Petitioner,

v.

SECRETARY OF HEALTH
AND HUMAN SERVICES,

Respondent.

Todd M. Joffrion, Houma, LA, for petitioner.

Ann D. Martin, Washington, DC, for respondent.

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* Damages decision based on proffer;
* influenza (“flu”) vaccine; shoulder
* injury; complex regional pain
* syndrome (“CRPS”)
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MILLMAN, Special Master

DECISION¹

On June 27, 2014, petitioner filed a petition under the National Childhood Vaccine Injury Act, 42 U.S.C. §§ 300aa-10-34 (2006), alleging that she suffered a left arm injury as a result of the influenza (“flu”) vaccination she received on September 8, 2011. On October 27, 2014, respondent filed her Rule 4(c) Report, conceding that petitioner suffered a left arm injury, complex regional pain syndrome (“CRPS”), that her flu vaccination caused, and recommending compensation.

¹ Because this decision contains a reasoned explanation for the special master’s action in this case, the special master intends to post this decision 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). Vaccine Rule 18(b) states that all decisions of the special masters will be made available to the public unless they contain trade secrets or commercial or financial information that is privileged and confidential, or medical or similar information whose disclosure would constitute a clearly unwarranted invasion of privacy. When such a decision is filed, petitioners have 14 days to identify and move to redact such information prior to the document’s disclosure. If the special master, upon review, agrees that the identified material fits within the categories listed above, the special master shall redact such material from public access.

On December 16, 2014, respondent filed Respondent's Proffer on Award of Compensation. The undersigned finds the terms of the attached proffer to be reasonable. Based on the record as a whole, the undersigned finds that petitioner is entitled to the award as stated in the proffer. Pursuant to the terms stated in the proffer, the court awards the following:

A lump sum payment of \$199,806.21, representing compensation for future medical care expenses (\$56,127.34), pain and suffering (\$140,000.00), and past unreimbursable expenses (\$3,678.87).

The award shall be in the form of a check for **\$199,806.21** made payable to petitioner. This amount covers all damages 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 of the court is directed to enter judgment herewith.²

IT IS SO ORDERED.

December 17, 2014
DATE

/s/ Laura D. Millman
Laura D. Millman
Special Master

² Pursuant to Vaccine Rule 11(a), entry of judgment can be expedited by each party, either separately or jointly, filing a notice renouncing the right to seek review.

IN THE UNITED STATES COURT OF FEDERAL CLAIMS
OFFICE OF SPECIAL MASTERS

_____)	
MARY DEDON,)	
)	
Petitioner,)	
)	No. 14-553V
v.)	Special Master Millman
)	ECF
SECRETARY OF HEALTH AND)	
HUMAN SERVICES,)	
)	
Respondent.)	
_____)	

RESPONDENT’S PROFFER ON AWARD OF COMPENSATION

On June 27, 2014, Mary Dedon (“petitioner”) filed a petition for compensation under the National Childhood Vaccine Injury Act of 1986, as amended (“the Vaccine Act” or “the Act”), 42 U.S.C. §§ 300aa-10 to -34. Petitioner alleges that she received an influenza (“flu”) vaccine on September 8, 2011, and thereafter suffered Reflex Sympathetic Dystrophy (“RSD”)/Complex Regional Pain Syndrome (“CRPS”)” in her left arm that was caused in fact by the vaccine. See Petition at 1-3. Petitioner filed documentation in support of her claim on or about September 22, 2014. See Petitioner’s Exhibits (“Pet. Exs.”) at 1-8.

The Secretary of Health and Human Services (“respondent”) filed a Rule 4(c) Report on October 27, 2014, conceding that the injury to petitioner’s left arm, CRPS, was caused-in-fact by the administration of her September 8, 2011, flu vaccine, and that this injury is not due to factors unrelated to the administration of the flu vaccine. Respondent recommended that petitioner be awarded compensation for CRPS in her left arm. Respondent hereby submits the following proffer regarding the award of compensation. For the purposes of this proffer, the term “vaccine-related” is as described in Respondent’s Rule 4(c) Report.

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 incurred from the date of judgment as provided under the Vaccine Act, 42 U.S.C. § 300aa-15(a)(1)(A), in the amount of \$56,127.34.

Petitioner agrees.

B. Lost Earnings

Respondent proffers that based upon the evidence of record, Petitioner has not and is not likely to suffer a loss of earnings as a result of her vaccine injury. Accordingly, Petitioner should not be awarded lost 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 \$140,000.00 for Petitioner's actual and projected 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 her vaccine-related injury. Respondent proffers that petitioner should be awarded past unreimbursable expenses in the amount of \$3,678.87. Petitioner agrees.

E. Medicaid Lien

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

II. Form of the Award

The parties recommend that the compensation provided to Petitioner should be made through a lump sum payment and request that the special master's decision and the Court's judgment award the following:¹

A lump sum payment of \$199,806.21, payable to Petitioner. This amount represents compensation for future medical care expense (\$56,127.34), pain and suffering (\$140,000.00), and past unreimbursable expenses (\$3,678.87) and covers all damages available under 42 U.S.C. § 300aa-15(a).

III. Summary of Recommended Payments Following Judgment

Lump sum paid to Petitioner: \$199,806.21

Respectfully submitted,

JOYCE R. BRANDA
Acting Assistant Attorney General

RUPA BHATTACHARYYA
Director
Torts Branch, Civil Division

VINCENT J. MATANOSKI
Deputy Director
Torts Branch, Civil Division

MICHAEL P. MILMOE
Senior Trial Counsel
Torts Branch, Civil Division

¹ 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 medical expenses and future pain and suffering.

s/ ANN D. MARTIN
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DATED: December 16, 2014