

In the United States Court of Federal Claims

OFFICE OF SPECIAL MASTERS

No. 14-867V

Filed: June 12, 2015

Unpublished

CARMEL MCDOWELL,

Petitioner,

SECRETARY OF HEALTH
AND HUMAN SERVICES,

Respondent.

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Damages Decision Based on Proffer;
Influenza Vaccine (“Flu”); Shoulder
Injury Related to Vaccine Administration
 (“SIRVA”); Special Processing Unit
 (“SPU”)

William E. Cochran, Jr., Black McLaren Jones Ryland & Griffee, Memphis, TN, for petitioner.

Adriana Ruth Teitel, U.S. Department of Justice, Washington, DC, for respondent.

DECISION AWARDING DAMAGES¹

Vowell, Chief Special Master:

On September 18, 2014, Carmel McDowell filed a petition for compensation under the National Vaccine Injury Compensation Program, 42 U.S.C. §300aa-10, *et seq.*,² [the “Vaccine Act” or “Program”]. Petitioner alleges that she suffered a shoulder injury related to vaccine administration [“SIRVA”] as a result of an influenza [“flu”] vaccination on October 1, 2013. Petition at 1. The case was assigned to the Special Processing Unit of the Office of Special Masters.

On January 22, 2015, I issued a ruling on entitlement, finding petitioner entitled to compensation for a shoulder injury related to vaccine administration [“SIRVA”]. On

¹ Because this unpublished decision contains a reasoned explanation for the action in this case, I intend to post it on the United States Court of Federal Claims' website, in accordance with the E-Government Act of 2002, Pub. L. No. 107-347, § 205, 116 Stat. 2899, 2913 (codified as amended at 44 U.S.C. § 3501 note (2006)). 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, I agree that the identified material fits within this definition, I will redact such material from public access.

² 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 (2006).

June 11, 2015, respondent filed a proffer on award of compensation ["Proffer"] detailing compensation in the amount of \$128,500.00. Proffer at 1.

Pursuant to the terms stated in the attached Proffer, **I award petitioner a lump sum payment of \$128,500.00 in the form of a check payable to petitioner, Carmel McDowell.** 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.³

s/Denise K. Vowell
Denise K. Vowell
Chief Special Master

³ Pursuant to Vaccine Rule 11(a), entry of judgment can be expedited by each party filing a notice renouncing the right to seek review.

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

CARMEL MCDOWELL,

Petitioner,

v.

SECRETARY OF HEALTH AND
HUMAN SERVICES,

Respondent.

No. 14-867V
Chief Special Master Vowell
ECF

PROFFER ON AWARD OF COMPENSATION¹

I. Items of Compensation

Based upon the evidence of record, respondent proffers that petitioner should be awarded \$128,500.00, which represents all elements of compensation to which petitioner would be entitled under 42 U.S.C. § 300aa-15(a). Petitioner agrees

II. Form of the Award

Respondent recommends that the compensation provided to petitioner should be made through a lump sum payment of \$128,500.00, in the form of a check payable to petitioner. Petitioner agrees.

Respectfully submitted,

BENJAMIN C. MIZER
Principal Deputy Attorney General

RUPA BHATTACHARYYA
Director
Torts Branch, Civil Division

¹ This proffer does not include attorneys' fees and costs, which the parties intend to discuss after the Damages Decision is issued.

VINCENT J. MATANOSKI
Deputy Director
Torts Branch, Civil Division

LINDA S. RENZI
Senior Trial Counsel
Torts Branch, Civil Division

/s/ Adriana Teitel
ADRIANA TEITEL
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Date: June 11, 2015