

In the United States Court of Federal Claims

OFFICE OF SPECIAL MASTERS

No. 15-448V

Filed: July 27, 2016

UNPUBLISHED

ELLEN GUYER,

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Petitioner,

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v.

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Attorneys' Fees and Costs;

SECRETARY OF HEALTH

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Special Processing Unit ("SPU")

AND HUMAN SERVICES,

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Respondent.

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Ronald Homer, Conway, Homer & Chin-Caplan, P.C., Boston, MA, for petitioner.

Amy Kokot, U.S. Department of Justice, Washington, DC for respondent.

DECISION ON ATTORNEYS' FEES AND COSTS¹

Dorsey, Chief Special Master:

On May 4, 2015, Ellen Guyer ("petitioner") 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 alleged that she suffers from a shoulder injury resulting from vaccine administration ("SIRVA") as a result of her October 11, 2013 influenza ("flu") vaccination. Petition at 1. On March 18, 2016, the undersigned issued a decision awarding compensation to petitioner based on respondent's proffer to which petitioner agreed. (ECF No. 29).

On July 11, 2016, petitioner filed a motion for attorneys' fees and costs, seeking a total of \$22,213.52. (ECF No. 34). In compliance with General Order #9, petitioner

¹ Because this unpublished decision contains a reasoned explanation for the action in this case, the undersigned intends to post it on the United States Court of Federal Claims'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

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 (2012).

has filed a signed statement indicating she incurred \$41.74 in out-of-pocket expenses. (ECF No. 35). On July 27, 2016, petitioner filed an amended unopposed motion for attorneys' fees and costs. (ECF No. 36).³ Petitioner requests attorneys' fees and costs in the amount of \$20,958.26 and petitioner's out-of-pocket costs in the amount of \$41.74 for a total amount of \$21,000.00.

The Vaccine Act permits an award of reasonable attorneys' fees and costs. § 15(e). Based on the reasonableness of petitioner's request and the lack of opposition from respondent, the undersigned **GRANTS** petitioner's motion for attorneys' fees and costs.

Accordingly, the undersigned awards the total of \$21,000.00⁴ as follows:

- **A lump sum of \$20,958.26, representing reimbursement for attorneys' fees and costs, in the form of a check payable jointly to petitioner and petitioner's counsel, Conway, Homer, & Chin-Caplan, P.C.; and**
- **A lump sum of \$41.74, representing reimbursement for petitioner's costs, in the form of a check payable to petitioner.**

The clerk of the court shall enter judgment in accordance herewith.⁵

IT IS SO ORDERED.

s/Nora Beth Dorsey

Nora Beth Dorsey
Chief Special Master

³ The motion was filed as an unopposed motion and specifically state that respondent has no objection.

⁴ This amount is intended to cover all legal expenses incurred in this matter. This award encompasses all charges by the attorney against a client, "advanced costs" as well as fees for legal services rendered. Furthermore, § 15(e)(3) prevents an attorney from charging or collecting fees (including costs) that would be in addition to the amount awarded herein. See generally *Beck v. Sec'y of Health & Human Servs.*, 924 F.2d 1029 (Fed. Cir.1991).

⁵ 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.