

In the United States Court of Federal Claims

OFFICE OF SPECIAL MASTERS

No. 15-0771V

Filed: March 30, 2016

UNPUBLISHED

CARRIE PAYNE,

Petitioner,

SECRETARY OF HEALTH
AND HUMAN SERVICES,

Respondent.

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

Lawrence R. Cohan, Anapol Weiss, Philadelphia, PA, for petitioner.

Christine Mary Becer, U.S. Department of Justice, Washington, DC, for respondent.

DECISION AWARDING DAMAGES¹

Dorsey, Chief Special Master:

On July 23, 2015, Carrie Payne (“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”). Petitioner alleges that she suffered a left rotator cuff injury as a result of an influenza (“flu”) vaccine she received on October 14, 2014. Petition at 3. The case was assigned to the Special Processing Unit of the Office of Special Masters.

On October 26, 2015, a ruling on entitlement was issued finding petitioner entitled to compensation. On March 30, 2016, respondent filed a proffer on award of compensation (“Proffer”) stating that petitioner should be awarded a lump sum of \$100,000.00, for petitioner’s actual and projected pain and suffering, and \$3,793.34, to satisfy the State of Pennsylvania Medicaid lien. Proffer at 1. In the Proffer, respondent represented that petitioner agrees with the proffered award. Based on the record as a

¹ Because this unpublished decision contains a reasoned explanation for the action in this case, the undersigned intends to post it on the United States Court of Federal Claims'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

whole, the undersigned finds that petitioner is entitled to an award as stated in the Proffer (attached as Appendix A).

Pursuant to the terms stated in the attached Proffer, **the undersigned awards petitioner the following:**

- (1) A lump sum payment of \$100,000.00, in the form of a check payable to petitioner, Carrie Payne, and**
- (2) A lump sum payment of \$3,793.34, representing compensation for satisfaction of the State of Pennsylvania Medicaid lien, payable jointly to petitioner and the Department of Human Services:**

**Karen H. Peterson
Claims Investigation Agent
Commonwealth of Pennsylvania
Bureau of Program Integrity
Division of Third Party Liability
Recovery Section
P.O. Box 8486
Harrisburg, PA 17105-8486**

Petitioner agrees to endorse this payment to Pennsylvania Medicaid.

These amounts represent 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

IT IS SO ORDERED.

**s/Nora Beth Dorsey
Nora Beth Dorsey
Chief Special Master**

³ 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.

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

CARRIE PAYNE,)	
)	
Petitioner,)	
)	
v.)	No. 15-771V
)	Chief Special Master Dorsey
)	ECF
SECRETARY OF HEALTH AND)	
HUMAN SERVICES,)	
)	
Respondent.)	

RESPONDENT’S PROFFER ON AWARD OF COMPENSATION

Respondent hereby submits the following proffer for the award on compensation.

I. Items of Compensation

A. Pain and Suffering

Respondent proffers that petitioner should be awarded a lump sum of \$100,000.00 for petitioner’s actual and projected pain and suffering as provided under the Vaccine Act, 42 U.S.C. § 300aa-15(a)(4).¹ Petitioner agrees.

B. Medicaid Lien

Respondent proffers that petitioner should be awarded funds to satisfy the State of Pennsylvania Medicaid lien in the amount of \$3,793.34, which represents full satisfaction of any right of subrogation, assignment, claim, lien, or cause of action the State of Pennsylvania may have against any individual as a result of any Medicaid payments the State of Pennsylvania has made to or on behalf of petitioner from the date of her eligibility for benefits through the date of

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, future lost earnings, and future pain and suffering.

judgment in this case as a result of her vaccine-related injury suffered on or about October 14, 2014, under Title XIX of the Social Security Act.

II. Form of the Award

The parties recommend that the compensation provided to petitioner should be made through a lump sum payment of \$100,000.00 in the form of a check payable to petitioner. In addition, a lump sum payment should be made of \$3,793.34, representing compensation for satisfaction of the State of Pennsylvania Medicaid lien, payable jointly to petitioner and Department of Human Services:

Karen H. Peterson
Claims Investigation Agent
Commonwealth of Pennsylvania
Bureau of Program Integrity
Division of Third Party Liability
Recovery Section
P.O. Box 8486
Harrisburg, PA 17105-8486

Petitioner agrees to endorse this payment to Pennsylvania Medicaid.

Respectfully submitted,

BENJAMIN C. MIZER
Principal Deputy Assistant Attorney General

RUPA BHATTACHARYYA
Director
Torts Branch, Civil Division

VINCENT J. MATANOSKI
Deputy Director
Torts Branch, Civil Division

HEATHER L. PEARLMAN
Senior Trial Attorney
Torts Branch, Civil Division

s/Christine Mary Becer
CHRISTINE MARY BECER
Trial Attorney
Torts Branch, Civil Division
U.S. Department of Justice
P.O. Box 146
Benjamin Franklin Station
Washington, D.C. 20044-0146

Date: March 30, 2016