

In the United States Court of Federal Claims

OFFICE OF SPECIAL MASTERS

No. 15-1098V

Filed: January 19, 2016

UNPUBLISHED

CARLETTA BOBER,	*	
	*	
Petitioner,	*	Damages Decision Based on Proffer;
	*	Diphtheria-Tetanus-Acellular Pertussis
	*	("Dtap") Vaccine; Shoulder Injury
SECRETARY OF HEALTH	*	Related to Vaccine Administration
AND HUMAN SERVICES,	*	("SIRVA"); Special Processing Unit
	*	("SPU")
Respondent.	*	
	*	

John Robert Howie, Jr., Howie Law, P.C., Dallas, TX, for petitioner.
Althea Walker Davis, U.S. Department of Justice, Washington, DC, for respondent.

DECISION AWARDING DAMAGES¹

Dorsey, Chief Special Master:

On September 30, 2015, 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 alleged that she suffered a shoulder injury related to vaccine administration ("SIRVA") as a result of a diphtheria-tetanus-acellular pertussis ("Dtap") vaccine she received on December 13, 2013. Petition at 1. The case was assigned to the Special Processing Unit of the Office of Special Masters.

On January 19, 2016, the undersigned issued ruling on entitlement finding petitioner entitled to compensation. In the Rule 4(c) report filed by respondent on January 15, 2016, respondent set forth a proffer on award of compensation stating that petitioner should be awarded \$50,000.00, which represents all elements of compensation which petitioner would be entitled under 42 U.S.C. § 300aa-15(a). Rule 4

¹ Because this unpublished decision contains a reasoned explanation for the action in this case, the undersigned intends to post it on the United States Court of Federal Claims'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

Report at 4-5. Respondent also proffered that petitioner should be awarded funds to satisfy the State of Hawaii Medicaid lien in the amount of \$491.53, which represents full satisfaction of any right of subrogation, assignment, claim, lien, or cause of action the State of Hawaii may have against any individual as a result of any Medicaid payments the State of Hawaii has made to or on behalf of Carletta Bober from the date of her eligibility for benefits through the date of judgment in this case as a result of her vaccine-related injury suffered on or about December 13, 2013, under Title XIX of the Social Security Act. *Id.* In the Rule 4(c) report, respondent represented that petitioner agrees with the proffered award. *Id.* at 4.

Based on the record as a whole, the undersigned finds that petitioner is entitled to an award as stated in the Rule 4(c) report and the Proffer contained within it. Pursuant to the terms stated in the attached Rule 4(c) report and Proffer, **the undersigned awards petitioner the following:**

- A. A lump sum payment of \$50,000.00, in the form of a check payable to petitioner, Carletta Bober.** This amount represents compensation for all damages that would be available under § 300aa-15(a).
- B. A lump sum payment of \$491.53,** representing compensation for satisfaction of the State of Hawaii Medicaid lien, payable jointly to petitioner and

State of Hawaii
Department of Human Services
Med-Quest Division
Finance Office – TPL Unit
1001 Kamokila Blvd., Suite 317
Kapolei, Hawaii 96707
Insured: Carletta Bober (ID: 002001560)
Attn: Gary Ojiri

Petitioner agrees to endorse this payment to the Commonwealth.

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.