

In the United States Court of Federal Claims

OFFICE OF SPECIAL MASTERS

No. 16-97V

Filed: June 20, 2016

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JACKIE EVANS,

Petitioner,

v.

SECRETARY OF HEALTH AND
HUMAN SERVICES,

Respondent.

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UNPUBLISHED

Special Master Hamilton-Fieldman

Decision on Proffer; Influenza
("Flu") Vaccine; Shoulder Injury
Related to Vaccine Administration
("SIRVA").

Jeffrey S. Pop, Jeffrey S. Pop, Attorney at Law, Beverly Hills, CA, for Petitioner.
Douglas Ross, United States Department of Justice, Washington, D.C., for Respondent.

DECISION AWARDING DAMAGES¹

On January 19, 2016, Jackie Evans ("Petitioner") filed a petition for compensation under the National Vaccine Injury Compensation Program ("the Program").² Petitioner alleged that an influenza ("flu") vaccination administered on September 28, 2013³ caused her to suffer from a shoulder injury related to vaccine administration ("SIRVA"). On April 18, 2016, the undersigned ruled that Petitioner is entitled to compensation for her injury.

¹ Because this unpublished decision contains a reasoned explanation for the undersigned's action in this case, the undersigned intends to post this decision on the United States Court of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, § 205, 116 Stat. 2899, 2913 (codified as amended at 44 U.S.C. § 3501 note (2012)). As provided by Vaccine Rule 18(b), each party has 14 days within which to request redaction "of any information furnished by that party: (1) that is a trade secret or commercial or financial in substance and is privileged or confidential; or (2) that includes medical files or similar files, the disclosure of which would constitute a clearly unwarranted invasion of privacy." Otherwise, "the entire" decision will be available to the public. *Id.*

² The Program comprises Part 2 of the National Childhood Vaccine Injury Act of 1986, 42 U.S.C. §§ 300aa-10 *et seq.* (hereinafter "Vaccine Act" or "the Act"). Hereafter, individual section references will be to 42 U.S.C. § 300aa of the Act.

³ The attached Proffer identifies the date of vaccination as September 18, 2013. However, the petition, Respondent's Rule 4(c) Report, and the entitlement ruling identify the date of vaccination as September 28, 2013.

On June 17, 2016, Respondent filed a Proffer on Award of Compensation (“Proffer”), attached hereto as Appendix A. In the Proffer, Respondent represents that Petitioner agrees with the proffered award. The undersigned finds the Proffer reasonable and adopts it as the decision of the Court in awarding damages, on the terms set forth therein.

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

A lump sum payment of **\$2,647.30**, in the form of a check jointly payable to Petitioner and to

Illinois Department of Healthcare and Family Services
Bureau of Collections
Technical Recovery System
PO Box 19174
Springfield, Illinois 62794-9174
Case No. 03-108-0000007716

Petitioner agrees to endorse the payment to the appropriate state agency;
and

A lump sum payment of **\$55,000.00**, in the form of a check payable solely to Petitioner.

Proffer Section II.

The undersigned approves the requested amount for Petitioner’s compensation. 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.⁴

IT IS SO ORDERED.

s/Lisa D. Hamilton-Fieldman
Lisa D. Hamilton-Fieldman
Special Master

⁴ Pursuant to Vaccine Rule 11(a), entry of judgment is expedited by the parties’ joint filing of notice renouncing the right to seek review.

petitioner would be entitled under 42 U.S.C. § 300aa-15(a).¹ Petitioner agrees.

II. Form of the Award

The parties recommend that the compensation provided should be made through lump sum payments as follows:

- a) in the form of a check for \$2,647.30, payable jointly to petitioner and to:

Illinois Department of Healthcare and Family Services
Bureau of Collections
Technical Recovery Section
PO Box 19174
Springfield, Illinois 62794-9174
Case No. 03-108-0000007716

Petitioner agrees to endorse the payment to the appropriate state agency; AND

- b) in the form of a check for \$55,000.00, payable to petitioner.

Respectfully submitted,

BENJAMIN C. MIZER
Principal Deputy Assistant Attorney General

RUPA BHATTACHARYYA
Director
Torts Branch, Civil Division

CATHARINE E. REEVES
Acting Deputy Director
Torts Branch, Civil Division

GLENN A. MACLEOD
Senior Trial Counsel
Torts Branch, Civil Division

¹ Should petitioner die prior to entry of judgment, respondent would oppose any award for future medical expenses, future lost earnings, and future pain and suffering, and the parties reserve the right to move the Court for appropriate relief.

/s/ DOUGLAS ROSS

DOUGLAS ROSS

Trial Attorney

Torts Branch, Civil Division

U.S. Department of Justice

P.O. Box 146, Benjamin Franklin Station

Washington, D.C. 20044-0146

Tel.: (202) 616-3667

DATE: June 17, 2016