

In the United States Court of Federal Claims  
OFFICE OF SPECIAL MASTERS  
No. 16-1092V  
(Not to be published)

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DARLA SHAFFER,

Petitioner,

v.

SECRETARY OF HEALTH  
HUMAN SERVICES

Respondent.

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Filed: July 21, 2017

Decision by Proffer; Vaccine Act  
Entitlement; Damages; Influenza  
Vaccine; Complex Regional Pain  
Syndrome (CRPS)

*Kenneth R. Behrend, Pittsburgh, PA, for Petitioner*  
*Douglass Ross, U.S. Department of Justice, Washington, D.C., for Respondent.*

**DECISION<sup>1</sup>**

**HASTINGS, Special Master.**

This is an action seeking an award under the National Vaccine Injury Compensation Program<sup>2</sup> on account of an injury suffered by Darla Shaffer. On July 20, 2017, Respondent filed a “Proffer on Award of Compensation.” That proffer represents that Petitioner’s counsel, Kenneth Behrend, agrees that the amount of the proffered award is a reasonable measure of Petitioner’s damages.

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<sup>1</sup> Because this unpublished decision contains a reasoned explanation for the action in this case, I intend to post this Decision on the United States Court of Federal Claims' website. Therefore, this document will be made available to the public unless the Petitioner files, within fourteen days, an objection to the disclosure of any material in the Decision that would constitute, “medical files and similar files the disclosure of which would constitute a clearly unwarranted invasion of privacy.” See 42 U.S.C. § 300aa—12(d)(4)(B); Vaccine Rule 18(b).

<sup>2</sup> The applicable statutory provisions defining the Program are found at 42 U.S.C. § 300aa—10 *et seq.* (2012). Hereinafter, for ease of citation, all “§” references will be to 42 U.S.C. (2012). I will also sometimes refer to the Act of Congress that created the Program as the “Vaccine Act.”

I have reviewed the file, and based on that review, I conclude that the Respondent's Proffer appears to be an appropriate one, pursuant to § 300aa-15(b). (I have attached a copy of the Proffer to this decision.) I order that Respondent make a lump sum payment as described below.

- Respondent shall make a total lump sum payment of \$227,018.33, in the form of a check payable to Petitioner, representing compensation for all damages that would be available under 42 U.S.C. §300aa-15(a).

Under the statute governing the Program, as well as the "Vaccine Rules" adopted by this court, the special master must now enter a decision endorsing that Proffer, and the clerk must enter judgment, in order to authorize payment of the award. See § 300aa-12(d)(3)(A) and (e)(3); § 300aa-13(a); Vaccine Rules 10(a), 11(a).<sup>3</sup>

Darla Shaffer is entitled to an award under the Vaccine Act to provide compensation for her injury. The award shall be in the form of a lump sum payment, as provided above.

In the absence of a timely-filed motion for review of this Decision, the clerk shall enter judgment in accord with this Decision.

**IT IS SO ORDERED.**

/s/ George L. Hastings, Jr.  
George L. Hastings, Jr.  
Special Master

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<sup>3</sup> The "Vaccine Rules of the United States Court of Federal Claims" are found in Appendix B of the Rules of the United States Court of Federal Claims.

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

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**DARLA SHAFFER,** \*  
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Petitioner, \*  
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v. \*  
\*  
**SECRETARY OF HEALTH** \*  
**AND HUMAN SERVICES,** \*  
\*  
Respondent. \*  
\*\*\*\*\*

**No. 16-1092V (ECF)**  
SPECIAL MASTER HASTINGS

**RESPONDENT’S PROFFER ON AWARD OF COMPENSATION**

In his March 10, 2017 damages order, the Special Master noted that the parties had commenced the process of settling damages in this case. The parties have now addressed the amount of compensation to be awarded.

**I. Compensation**

Based upon the evidence of record, respondent proffers that a lump sum of \$227,018.33 should be awarded petitioner. This amount is comprised of: a) \$28,077.62 for life care items (including medical co-pays, prescriptions, YMCA membership, and medical mileage), reduced to net present value; b) \$45,482.43 in lost earnings, reduced to net present value; c) \$150,000.00 for actual and projected pain and suffering; and d) \$3,458.28 for past expenses. This lump sum amount represents all elements of compensation to which petitioner would be entitled under 42 U.S.C. § 300aa-15(a).<sup>1</sup> Petitioner agrees.

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<sup>1</sup> 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.

**II. Form of the Award**

The parties recommend that the compensation provided should be made in the form of a check for \$227,018.33, payable to petitioner.

Respectfully submitted,

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Acting Assistant Attorney General

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Acting Director  
Torts Branch, Civil Division

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DATE: July 20, 2017