

In the United States Court of Federal Claims

OFFICE OF SPECIAL MASTERS

No. 16-1212V

Filed: December 27, 2016

UNPUBLISHED

DIANE GIBSON,

*

*

Petitioner,

*

v.

*

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

SECRETARY OF HEALTH
AND HUMAN SERVICES,

*

*

Respondent.

*

*

*Michael G. McLaren, Black McLaren, et al., P.C., Memphis, TN, for petitioner.
Daniel Anthony Principato, U.S. Department of Justice, Washington, DC, for
respondent.*

DECISION AWARDING DAMAGES¹

Dorsey, Chief Special Master:

On September 27, 2016, Diane Gibson (“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 shoulder injury related to vaccine administration (“SIRVA”) as a result of an influenza (“flu”) vaccine she received on January 14, 2016. Petition at 1. The case was assigned to the Special Processing Unit of the Office of Special Masters.

On December 27, 2016, a ruling on entitlement was issued, finding petitioner entitled to compensation for SIRVA. On December 22, 2016, respondent filed a Rule 4 report which included a proffer on award of compensation (“Proffer”) indicating petitioner should be awarded \$80,000.00. Rule 4 Report/Proffer at 3-4. In the Proffer,

¹ Because this unpublished decision contains a reasoned explanation for the action in this case, the undersigned intends to post it on the United States Court of Federal Claims'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

respondent represented that petitioner agrees with the proffered award. Based on the record as a whole, the undersigned finds that petitioner is entitled to an award as stated in the Proffer.

Pursuant to the terms stated in the attached Proffer, **the undersigned awards petitioner a lump sum payment of \$80,000.00, in the form of a check payable to petitioner, Diane Gibson**. This amount represents 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.