

In the United States Court of Federal Claims

OFFICE OF SPECIAL MASTERS

No. 17-0609V

Filed: February 14, 2019

UNPUBLISHED

EVANGELINA SALINAS,

Petitioner,

v.

SECRETARY OF HEALTH AND
HUMAN SERVICES,

Respondent.

Special Processing Unit (SPU);
Damages Decision Based on Proffer;
Pneumococcal Conjugate Vaccine;
Cellulitis; Sepsis

Nancy Routh Meyers, Ward Black Law, Greensboro, NC, for petitioner.

Amy Paula Kokot, U.S. Department of Justice, Washington, DC, for respondent.

DECISION AWARDING DAMAGES¹

Dorsey, Chief Special Master:

On May 5, 2017, 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 from sepsis as a result of left arm cellulitis caused by her July 22, 2016 Prevnar 13 pneumococcal conjugate vaccination. Petition at 1-2. The case was assigned to the Special Processing Unit of the Office of Special Masters.

On September 4, 2018, a ruling on entitlement was issued, finding petitioner entitled to compensation for cellulitis and sepsis. On February 14, 2019, respondent filed a proffer on award of compensation (“Proffer”) indicating petitioner should be awarded \$45,000.00, as well as \$96.05 to satisfy a Medicaid lien. Proffer at 1. In the Proffer, respondent represented that petitioner agrees with the proffered award. Based

¹ The undersigned intends to post this decision on the United States Court of Federal Claims' website. **This means the decision will be available to anyone with access to the internet.** 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. Because this unpublished decision contains a reasoned explanation for the action in this case, undersigned is required to post it on the United States Court of Federal Claims' website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).

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).

on the record as a whole, the undersigned finds that petitioner is entitled to an award as stated in the Proffer. *Id.*

Pursuant to the terms stated in the attached Proffer, **the undersigned awards the following compensation, which** represents compensation for all damages that would be available under § 15(a):

1. **A lump sum payment of \$45,000.00 in the form of a check payable to petitioner, Evangelina Salinas; and**
2. **A lump sum payment of \$96.05**, representing compensation for satisfaction of the State of North Carolina Medicaid lien, payable jointly to petitioner and to:

North Carolina Division of Medical Assistance
Office of the Controller
2022 Mail Service Center
Raleigh, NC 27699-2022
Case Number: 296151

Petitioner agrees to endorse this payment to the North Carolina Division of Medical Assistance.

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**

_____)	
EVANGELINA SALINAS,)	
)	
Petitioner,)	
)	No. 17-609V (ECF)
v.)	Chief Special Master Dorsey
)	
SECRETARY OF HEALTH AND)	
HUMAN SERVICES,)	
)	
Respondent.)	
_____)	

RESPONDENT’S PROFFER ON AWARD OF COMPENSATION

I. Compensation for Vaccine Injury-Related Items

On August 31, 2018, respondent filed his Rule 4(c) Report conceding entitlement in the above-captioned case. Chief Special Master Dorsey issued a Ruling on Entitlement on September 4, 2018, finding that petitioner was entitled to vaccine compensation for cellulitis in her left arm and sepsis. Based on the evidence of record, respondent proffers that petitioner should be awarded \$45,000.00. This amount represents all elements of compensation to which petitioner would be entitled under 42 U.S.C. § 300aa-15(a). Petitioner agrees.

Respondent further proffers that petitioner, Evangelina Salinas, should be awarded funds to satisfy a State of North Carolina Medicaid lien in the amount of \$96.05, which represents full satisfaction of any right of subrogation, assignment, claim, lien, or cause of action the State of North Carolina may have against any individual as a result of any Medicaid payments that the State of North Carolina has made to or on behalf of Evangelina Salinas 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 July 22, 2016, under Title XIX of the Social Security Act. Petitioner agrees.

II. Form of the Award

Respondent recommends that the compensation provided to petitioner be made through two lump sum payments as described below:

- (1) A lump sum payment of **\$45,000.00** in the form of a check payable to petitioner.¹
- (2) A lump sum payment of **\$96.05**, representing compensation for satisfaction of the State of North Carolina Medicaid lien, payable jointly to petitioner and to:

North Carolina Division of Medical Assistance
Office of the Controller
2022 Mail Service Center
Raleigh, NC 27699-2022
Case Number: 296151

Petitioner agrees to endorse this payment to the North Carolina Division of Medical Assistance.

Petitioner is a competent adult. Evidence of guardianship is not required in this case.

Respectfully submitted,

JOSEPH H. HUNT
Assistant Attorney General

C. SALVATORE D'ALESSIO
Acting Director
Torts Branch, Civil Division

CATHARINE E. REEVES
Deputy Director
Torts Branch, Civil Division

HEATHER L. PEARLMAN
Assistant Director
Torts Branch, Civil Division

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

s/Amy P. Kokot
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Dated: February 14, 2019