

In the United States Court of Federal Claims
OFFICE OF SPECIAL MASTERS
No. 17-913V
(Not to be published)

MARIE SCHMIDT,

Petitioner,

v.

SECRETARY OF HEALTH
AND HUMAN SERVICES,

Respondent.

* Special Master Corcoran
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* Filed: April 30, 2019
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* Decision by Proffer; Damages;
* Conceded; Guillain-Barré Syndrome;
* Influenza Vaccine.
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Joseph P. Shannon, Shannon Law Group, PC, Woodbridge, IL, for Petitioner.

Camille M. Collett, U.S. Dep’t of Justice, Washington, DC, for Respondent.

DECISION AWARDING DAMAGES¹

On July 6, 2017, Marie Schmidt filed a petition seeking compensation under the National Vaccine Injury Compensation Program.² ECF No. 1. Petitioner first alleged that she developed Guillain-Barré syndrome (“GBS”) as a result of the pneumococcal vaccine she received on October 6, 2015. *Id.* at 1. Subsequently, she amended her claim to state that her GBS was caused-in-fact by the influenza (“flu”) vaccine she also received on October 6, 2015. ECF No. 14 at 1.

¹ Although not formally designated for publication, this Decision will be posted on the United States Court of Federal Claims website in accordance with the E-Government Act of 2002, 44 U.S.C. § 3501 (2012). **This means the Decision will be available to anyone with access to the internet.** As provided by 42 U.S.C. § 300aa-12(d)(4)(B), however, the parties may object to the published Decision’s inclusion of certain kinds of confidential information. Specifically, under Vaccine Rule 18(b), each party has fourteen 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.” Vaccine Rule 18(b). Otherwise, the whole Decision will be available to the public in its current form. *Id.*

² The Vaccine Program comprises Part 2 of the National Childhood Vaccine Injury Act of 1986, Pub. L. No. 99-660, 100 Stat. 3758, codified as amended at 42 U.S.C. §§ 300aa-10 through 34 (2012) (“Vaccine Act” or “the Act”). Individual section references hereafter will be to § 300aa of the Act (but will omit that statutory prefix).

On March 30, 2018, Respondent filed his Rule 4(c) Report, in which he acknowledged that, based on her claim of GBS following the flu vaccine, Petitioner has satisfied the requirements for a Vaccine Injury Table claim and is entitled to compensation. ECF No. 17 at 5. I subsequently issued a ruling finding entitlement (ECF No. 18, dated April 2, 2018) and an Order directing the parties to confer regarding an appropriate damages award (ECF No. 19, dated April 2, 2018).

After more than a year of damages negotiations, Respondent filed a proffer proposing an award of compensation. ECF No. 29. I have reviewed the file, and based upon that review, I conclude that Respondent's Proffer (as attached hereto) is reasonable. I therefore adopt it as my decision in awarding damages on the terms set forth therein.

The Proffer proposes:

- A lump sum payment of \$137,610.48, representing compensation for pain and suffering (\$135,000.00) and past out-of-pocket expenses (\$2,610.48), in the form of a check payable to Petitioner.

Proffer at 1. These amounts represent compensation for all elements of compensation under Vaccine Act Section 15(a) to which Petitioner is entitled.

I approve a Vaccine Program award in the requested amount set forth above to be made to Petitioner. 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.³

IT IS SO ORDERED.

/s/ Brian H. Corcoran
Brian H. Corcoran
Special Master

³ Pursuant to Vaccine Rule 11(a), the parties may expedite entry of judgment by each filing (either jointly or separately) a notice renouncing their right to seek review.

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

MARIE SCHMIDT,)	
)	
Petitioner,)	
)	
v.)	No. 17-913V
)	Special Master Corcoran
)	ECF
SECRETARY OF HEALTH AND HUMAN)	
SERVICES,)	
)	
Respondent.)	
)	

RESPONDENT’S PROFFER ON AWARD OF COMPENSATION

On March 30, 2018, respondent filed her Rule 4(c) Report, in which she conceded entitlement. On April 2, 2018, the Court issued a Ruling on Entitlement, finding that petitioner is entitled to compensation for her Guillain-Barre Syndrome. Based on the evidence in the record, respondent proffers that petitioner receive an award of a lump sum of \$137,610.48 (consisting of \$135,000.00 in pain and suffering and \$2,610.48 in past out-of-pocket expenses) in the form of a check payable to petitioner. This amount represents compensation for all elements of compensation under 42 U.S.C. § 300aa-15(a) to which petitioner is entitled.¹ Petitioner agrees.

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

Respectfully submitted,

JOSEPH H. HUNT
Assistant Attorney General

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

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Dated: April 29, 2019