

In the United States Court of Federal Claims

OFFICE OF SPECIAL MASTERS

No. 18-13V

Filed: September 16, 2022

UNPUBLISHED

SUSAN GROSSMANN,

Petitioner,

v.

SECRETARY OF HEALTH AND
HUMAN SERVICES,

Respondent.

Special Master Horner

Damages Decision Based on Proffer;
Influenza (Flu) Vaccine; Shoulder
Injury Related to Vaccine
Administration (SIRVA)

Leah VaSahnja Durant, Law Offices of Leah V. Durant, PLLC, Washington, DC, for petitioner.

Alexa Roggenkamp, U.S. Department of Justice, Washington, DC, for respondent.

DECISION AWARDING DAMAGES¹

On January 2, 2018, Susan Grossmann 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”). (ECF No. 1.)

On February 15, 2022, a ruling on entitlement was issued, finding petitioner entitled to compensation for her SIRVA. (ECF No. 76.) On September 16, 2022, Respondent filed a proffer on award of compensation (“Proffer”) indicating Petitioner should be awarded \$120,000.00 in actual pain and suffering and \$7,148.08 in past unreimbursable expenses, for a total of \$127,148.08. (ECF No. 87.) In the Proffer, Respondent represented that Petitioner agrees with the proffered award. (*Id.*) Based on the record as a whole, I find that Petitioner is entitled to an award as stated in the Proffer.

¹ Because this unpublished decision contains a reasoned explanation for the action in this case, I am required to post it on the United States Court of Federal Claims' website in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). **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, I agree that the identified material fits within this definition, I will redact such material from public access.

² National Childhood Vaccine Injury Act of 1986, Pub. L. No. 99-660, 100 Stat. 3755.

Pursuant to the terms stated in the attached Proffer, **I award Petitioner a lump sum of \$127,148.08, including \$120,000.00 in compensation for actual pain and suffering and \$7,148.08 in compensation for past unreimbursable expense, in the form of a check payable to Petitioner.** This amount represents compensation for all damages that would be available under § 15(a).

The clerk of the court is directed to enter judgment in accordance with this decision.³

IT IS SO ORDERED.

s/Daniel T. Horner

Daniel T. Horner
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**

SUSAN GROSSMANN,

Petitioner,

v.

SECRETARY OF HEALTH AND
HUMAN SERVICES,

Respondent.

No.18-13V
Special Master Horner
ECF

RESPONDENT’S PROFFER ON AWARD OF COMPENSATION

On January 2, 2018, Susan Grossmann (“petitioner”), filed a Petition for compensation under the National Childhood Vaccine Injury Act of 1986, as amended (“the Vaccine Act” or “the Act”), 42 U.S.C. §§ 300aa-1 to -34, alleging that she suffered a shoulder injury related to vaccine administration (“SIRVA”) as a result of a flu vaccine administered on October 21, 2016. Petition at 1. On February 15, 2022, Special Master Horner issued a Ruling on Entitlement finding petitioner entitled to compensation. ECF No. 76.

I. Items of Compensation

A. Pain and Suffering

Respondent proffers that petitioner should be awarded \$120,000.00 in actual pain and suffering. *See* 42 U.S.C. § 300aa-15(a)(4). Petitioner agrees.

B. Past Unreimbursable Expenses

Evidence supplied by petitioner documents that she incurred past unreimbursable expenses related to her vaccine-related injury. Respondent proffers that petitioner should be

awarded past unreimbursable expenses in the amount of \$7,148.08. *See* 42 U.S.C. § 300aa-15(a)(1)(B). Petitioner agrees.

These amounts represent all elements of compensation to which petitioner is entitled under 42 U.S.C. § 300aa-15(a). Petitioner agrees.¹

II. Form of the Award

Petitioner is a competent adult. Evidence of guardianship is not required in this case. Respondent recommends that the compensation provided to petitioner be made through a lump sum payment as described²: a lump sum payment of \$127,148.08, in the form of a check payable to petitioner, Susan Grossmann.

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

Respectfully submitted,

BRIAN M. BOYNTON
Principal Deputy Assistant Attorney General

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

HEATHER L. PEARLMAN
Deputy Director
Torts Branch, Civil Division

LARA A. ENGLUND
Assistant Director
Torts Branch, Civil Division

¹ The parties have no objection to the amount of the proffered award of damages. Assuming the Special Master issues a damages decision in conformity with this proffer, the parties waive their right to seek review of such damages decision. However, respondent reserves his right, pursuant to 42 U.S.C. § 300aa-12(e), to seek review of the Special Master’s February 15, 2022 entitlement decision.

² Should petitioner die prior to entry of judgment, the parties reserve the right to move the Court for appropriate relief. In particular, respondent would oppose any award for future lost earnings and future pain and suffering.

/s/ Alexa Roggenkamp
ALEXA ROGGENKAMP
Trial Attorney
Torts Branch, Civil Division
U.S. Department of Justice
P.O. Box 146
Benjamin Franklin Station
Washington, D.C. 20044-0146
(202) 616-4179
alex.roggenkamp@usdoj.gov

DATED: September 16, 2022