

In the United States Court of Federal Claims
OFFICE OF SPECIAL MASTERS

SANDRA HERZIG, * No. 18-218V
* Special Master Christian J. Moran
Petitioner, *

v. * Filed: February 13, 2019
*

SECRETARY OF HEALTH * Damages; influenza vaccine (“flu”);
AND HUMAN SERVICES, * Guillain-Barré syndrome (“GBS”)
*
Respondent. *

Ronald C. Homer, Conway, Homer, P.C., Boston, MA, for Petitioner;
Julia M. Collison, U.S. Department of Justice, Washington, DC, for Respondent.

UNPUBLISHED DECISION AWARDING DAMAGES¹

On February 13, 2018, Sandra Herzig filed a petition seeking compensation under the National Vaccine Injury Compensation Program, 42 U.S.C. §§ 300aa – 1 through 34, alleging that the influenza vaccination caused her to suffer Guillain-Barré syndrome (GBS) and chronic inflammatory demyelinating polyneuropathy (CIDP). On December 10, 2018, the undersigned ruled, based upon respondent’s concession, see Respondent’s Report, filed December 6, 2018, that Ms. Herzig is entitled to compensation under the Vaccine Act for her GBS injury.

On February 12, 2019, respondent filed a Proffer on Award of Compensation, to which petitioner agrees. Based upon the record as a whole, the special master finds the proffer reasonable and that petitioner is entitled to an award of pain and suffering damages and past unreimbursable expenses as stated in

¹ The E-Government Act, 44 § 3501 note (2012) (Federal Management and Promotion of Electronic Government Services), requires that the Court post this decision on its website. Pursuant to Vaccine Rule 18(b), the parties have 14 days to file a motion proposing redaction of medical information or other information described in 42 U.S.C. § 300aa-12(d)(4). Any redactions ordered by the special master will appear in the document posted on the website.

the Proffer. Pursuant to the attached Proffer, the following is awarded to petitioner:

A lump sum payment of \$150,150.58, in the form of a check payable to petitioner, Sandra Herzig. This amount represents compensation for all damages that would be available under 42 U.S.C. §300aa-15(a).

In the absence of a motion for review filed pursuant to RCFC, Appendix B, the clerk is directed to enter judgment in case 18-218V according to this decision and the attached proffer.²

Any questions may be directed to my law clerk, Andrew Schick, at (202) 357-6360.

IT IS SO ORDERED.

s/Christian J. Moran
Christian J. Moran
Special Master

² Pursuant to Vaccine Rule 11(a), the parties can expedite entry of judgment by each party filing a notice renouncing the right to seek review by a United States Court of Federal Claims judge.

suffering has been reduced to net present value. *See* 42 U.S.C. § 300aa-15(a)(4). Petitioner agrees.

B. Past Unreimbursable Expenses

Evidence supplied by petitioner documents Sandra Herzig's expenditure of past unreimbursable expenses as a result of her vaccine injury. Respondent proffers that petitioner should be awarded past unreimbursable expenses in the amount of \$150.58, as provided under the Vaccine Act, 42 U.S.C. § 300aa-15(a)(1)(B). Petitioner agrees.

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 Sandra Herzig should be made through a lump sum payment as described below and requests that the Special Master's decision and the Court's judgment award the following¹: a lump sum payment of \$150,150.58, representing compensation for pain and suffering (\$150,000.00), and past unreimbursable expenses (\$150.58), in the form of a check payable to petitioner, Sandra Herzig.

III. Summary of Recommended Payments Following Judgment

Lump sum payable to petitioner, Sandra Herzig:	\$150,150.58
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Respectfully submitted,

JOSEPH H. HUNT
Assistant Attorney General

¹ 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.

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Dated: February 12, 2019