

In the United States Court of Federal Claims

OFFICE OF SPECIAL MASTERS

No. 18-0355V

Filed: September 5, 2019

UNPUBLISHED

DESIREA TYLER,

Petitioner,

v.

SECRETARY OF HEALTH AND
HUMAN SERVICES,

Respondent.

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

Ronald Craig Homer, Conway, Homer, P.C., Boston, MA, for petitioner.

Camille Michelle Collett, U.S. Department of Justice, Washington, DC, for respondent.

DECISION AWARDING DAMAGES¹

Dorsey, Chief Special Master:

On March 7, 2018, 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 developed a shoulder injury related to vaccine administration (“SIRVA”) resulting from an influenza vaccine she received on September 28, 2016. Petition at 1. The case was assigned to the Special Processing Unit of the Office of Special Masters.

On April 19, 2019, a ruling on entitlement was issued, finding petitioner entitled to compensation for her SIRVA. On September 4, 2019, respondent filed a proffer on award of compensation (“Proffer”) indicating petitioner should be awarded \$56,783.48 (including \$54,000.00 for pain and suffering, \$2,729.63 in out-of-pocket expenses, and \$53.85 in medical mileage). Proffer at 1. In the Proffer, respondent represented that

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 Because this unpublished decision contains a reasoned explanation for the action in this case, undersigned is required to post it on the United States Court of Federal Claims' website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

petitioner agrees with the proffered award. *Id.* 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 \$56,783.48** (including \$54,000.00 for pain and suffering, \$2,729.63 in out-of-pocket expenses, and \$53.85 in medical mileage **in the form of a check payable to petitioner, Desirea Tyler**). 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/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

DESIREA TYLER,)	
)	
Petitioner,)	No. 18-355V
)	Chief Special Master
v.)	Nora Beth Dorsey
)	ECF
)	
SECRETARY OF HEALTH)	
AND HUMAN SERVICES,)	
)	
Respondent.)	
)	

RESPONDENT’S PROFFER ON AWARD OF COMPENSATION

On April 12, 2019, respondent filed her Rule 4(c) Report, in which she conceded entitlement. On April 19, 2019, the Court issued a Ruling on Entitlement, finding that petitioner is entitled to compensation for her left Shoulder Injury Related to Vaccine Administration (“SIRVA”) as a result of an influenza vaccination. Based on the evidence in the record, respondent proffers that petitioner receive an award of a lump sum of \$56,783.48 (including \$54,000.00 for pain and suffering, \$2,729.63 in out-of-pocket expenses, and \$53.85 in medical mileage) 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.

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.

Respectfully submitted,

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s/Camille M. Collett
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Dated: September 4, 2019