

CORRECTED

In the United States Court of Federal Claims

OFFICE OF SPECIAL MASTERS

No. 18-1111V

UNPUBLISHED

SALVADOR MONARREZ,

Petitioner,

v.

SECRETARY OF HEALTH AND
HUMAN SERVICES,

Respondent.

Chief Special Master Corcoran

Filed: May 8, 2020

Special Processing Unit (SPU);
Damages Decision Based on Proffer;
Tetanus Diphtheria acellular
Pertussis (Tdap) Vaccine; Shoulder
Injury Related to Vaccine
Administration (SIRVA)

Bridget Candace McCullough, Muller Brazil, LLP, Dresher, PA, for petitioner.

Adriana Ruth Teitel, U.S. Department of Justice, Washington, DC, for respondent.

DECISION AWARDING DAMAGES¹

On July 30, 2018, Salvador Monarrez 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 he suffered a shoulder injury related to vaccine administration (“SIRVA”) as a result of a Tetanus Diphtheria acellular Pertussis (“Tdap”) vaccination administered on October 6, 2016. Petition at 1. The case was assigned to the Special Processing Unit of the Office of Special Masters.

On September 16, 2019, a ruling on entitlement was issued, finding Petitioner entitled to compensation for SIRVA. On May 7, 2020, Respondent filed a proffer on award of compensation (“Proffer”) indicating Petitioner should be awarded \$67,500.00. Proffer at 1. In the Proffer, Respondent represented that Petitioner agrees with the

¹ Because this unpublished decision contains a reasoned explanation for the action in this case, I am required to post it on the United States Court of Federal Claims' website in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. Hereinafter, for ease of citation, all “§” references to the Vaccine Act will be to the pertinent subparagraph of 42 U.S.C. § 300aa (2012).

proffered award. *Id.* Based on the record as a whole, I find that Petitioner is entitled to an award as stated in the Proffer.

Pursuant to the terms stated in the attached Proffer, **I award Petitioner a lump sum payment of \$67,500.00 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/Brian H. Corcoran
Brian H. Corcoran
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.

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No. 18-1111V

Chief Special Master Corcoran (SPU)
ECF

RESPONDENT'S PROFFER ON AWARD OF COMPENSATION

I. Compensation for Vaccine Injury-Related Items

On September 13, 2019, respondent filed a Rule 4(c) Report concluding that petitioner sustained an injury that is compensable under the National Childhood Vaccine Injury Act of 1986, as amended, **42 U.S.C. §§ 300aa-10** to -34, that is, a Shoulder Injury Related to Vaccine Administration ("SIRVA"), as defined in the Vaccine Injury Table, following receipt of a Tdap vaccination administered on October 6, 2016. Accordingly, on September 16, 2019, a Ruling on Entitlement, adopting respondent's recommendation, was issued.

Based upon the evidence of record, respondent proffers that petitioner should be awarded \$67,500.00.¹ This is comprised of pain and suffering, and represents all elements of compensation to which petitioner would be entitled under **42 U.S.C. § 300aa-15(a)**. Petitioner agrees.

¹ Should Petitioner die prior to entry of judgment, the parties reserve the right to move the Court for appropriate relief.

II. Form of the Award

Respondent recommends that the compensation provided to petitioner should be made through:

a lump sum of **\$67,500.00** in the form of a check payable to petitioner. This amount represents compensation for all damages that would be available under **42 U.S.C. § 300aa-15(a)**.

Petitioner agrees. Petitioner is a competent adult, therefore evidence of guardianship is not required in this case.

Respectfully submitted,

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Dated: May 7, 2020