

In the United States Court of Federal Claims

OFFICE OF SPECIAL MASTERS

No. 19-66V

UNPUBLISHED

HEATHER GELDBACH,
Personal Representative of the
ESTATE OF WENDY G.
STRICKLAND,

Petitioner,

v.

SECRETARY OF HEALTH AND
HUMAN SERVICES,

Respondent.

Chief Special Master Corcoran

Filed: October 29, 2020

Special Processing Unit (SPU);
Damages Decision Based on Proffer;
Influenza (Flu) Vaccine; Guillain-
Barre Syndrome (GBS)

Nancy Routh Meyers, Turning Point Litigation, Greensboro, NC, for petitioner.

Debra A. Filteau Begley, U.S. Department of Justice, Washington, DC, for respondent.

DECISION AWARDING DAMAGES¹

On January 15, 2019, 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 Ms. Strickland suffered Guillain-Barre Syndrome (“GBS”) as a result of an influenza (“flu”) vaccine administered on October 13, 2017. Petition at 1. Petitioner further alleges that Ms. Strickland’s death was directly and proximately caused by the flu vaccination. *Id.* at 5. The case was assigned to the Special Processing Unit of the Office of Special Masters.

¹ Because this unpublished decision contains a reasoned explanation for the action in this case, I am required to post it on the United States Court of Federal Claims' website in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).

On February 14, 2020, a ruling on entitlement was issued, finding Petitioner entitled to compensation. On October 27, 2020, Respondent filed a proffer on award of compensation ("Proffer"). In the Proffer, Respondent represented that Petitioner agrees with the proffered award. Proffer at 2. 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. A lump sum payment of \$453,024.75 representing the statutory death benefit (\$250,000.00), past pain and suffering (\$200,000.00), and past unreimbursed out-of-pocket medical expenses (\$3,024.75), in the form of a check payable to Petitioner.**
- B. A lump sum payment of \$39,677.65, representing compensation for satisfaction of an unpaid and unreimbursed past out-of-pocket medical expense, in the form of a check payable to Petitioner and PruittHealth-Neuse, and mailed to:**

Weltman, Weinberg, and Ries Co., LPA
Claim #04387391
965 Keynote Circle
Brooklyn Heights, OH 44131

Petitioner agrees to endorse this payment to PruittHealth-Neuse.

- C. A lump sum payment of \$8,530.07, in the form of a check payable jointly to Petitioner and Division of Health Benefits and mailed to:**

Division of Health Benefits
Office of the Controller
2022 Mail Service Center
Raleigh, NC 27699-2022
ID #: 953021281K

Petitioner agrees to endorse this payment to Division of Health Benefits.

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

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.

IT IS SO ORDERED.

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

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

HEATHER GELDBACH, personal *
representative of the estate of WENDY *
G. STRICKLAND, *

Petitioner, *

No. 19-66V
Chief Special Master Corcoran

v. *

SECRETARY OF HEALTH AND *
HUMAN SERVICES, *

Respondent. *

RESPONDENT’S PROFFER ON AWARD OF COMPENSATION

On February 13, 2020, respondent filed a Rule 4(c) Report, conceding that petitioner’s claim meets the Table criteria for a Guillain-Barré Syndrome (“GBS”) injury after an influenza vaccine administered to Wendy G. Strickland, deceased, on October 13, 2017. The next day, on February 14, 2020, the Court issued a Ruling on Entitlement finding petitioner entitled to compensation under the Vaccine Act.

I. Items of Compensation

Based upon the evidence of record, respondent proffers that petitioner, as the administrator of the Estate of Wendy G. Strickland, be awarded the following amounts of compensation:

- A. A payment of **\$250,000.00**, which represents compensation the statutory death benefit, see 42 U.S.C. § 300aa-15(a)(2);
- B. A payment of **\$200,000.00**, which represents compensation for past pain and suffering, see 42 U.S.C. § 300aa-15(a)(4);
- C. A payment of **\$3,024.75**, which represents compensation for past out-of-pocket unreimbursed medical expenses, see 42 U.S.C. § 300aa-15(a)(1);

- D. A payment of **\$39,677.07**, which represents compensation for an unpaid and unreimbursed past out-of-pocket medical expense currently owed to PruittHealth-Neuse, see **42 U.S.C. § 300aa-15(a)(1)**; and
- E. A payment of **\$8,530.07**, which represents full satisfaction of any right of subrogation, assignment, claim, lien, or cause of action the State of North Carolina may have against any individual as a result of any Medicaid payments the North Carolina Program has made to or on behalf of Wendy G. Strickland from the date of her eligibility for benefits through the date of her death as a result of her vaccine-related injury suffered on or about October 13, 2017, under Title XIX of the Social Security Act, see **42 U.S.C. § 300aa-15** (g-h).

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

II. Form of the Award

The vaccine-injured person in this case, Wendy G. Strickland, is deceased. Petitioner, Heather Geldbach, provided respondent with Letters of Administration from the State of North Carolina that document her appointment as the administrator of the Estate of Wendy G. Strickland. All payments to petitioner should be issued to her as the administrator of Wendy G. Strickland's Estate.

If petitioner is not authorized by a court of competent jurisdiction to serve as administrator of the Estate of Wendy G. Strickland at the time payment is to be made, any such payment shall be made to the party or parties appointed by a court of competent jurisdiction to serve as administrator of Wendy G. Strickland's estate, upon submission of written document of such appointment to the Secretary

Respondent recommends the Chief Special Master's decision and the Court's judgment award the following:

- A. A lump sum payment of **\$453,024.75** representing the statutory death benefit (\$250,000.00), past pain and suffering (\$200,000.00), and past unreimbursed out-of-pocket medical expenses (\$3,024.75), in the form of a check payable to petitioner.

- B. A lump sum payment of **\$39,677.65**, representing compensation for satisfaction of an unpaid and unreimbursed past out-of-pocket medical expense, in the form of a check payable to petitioner and PruittHealth-Neuse, and mailed to:

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Respectfully submitted,

JEFFREY BOSSERT CLARK
Acting Assistant Attorney General

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

CATHARINE E. REEVES
Deputy Director
Torts Branch, Civil Division

DARRYL R. WISHARD
Assistant Director
Torts Branch, Civil Division

/s/ DEBRA A. FILTEAU BEGLEY
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Dated: October 27, 2020