

In the United States Court of Federal Claims

OFFICE OF SPECIAL MASTERS

No. 19-2012V

UNPUBLISHED

THOMAS JEFFREY MICKLES,

Petitioner,

v.

SECRETARY OF HEALTH AND
HUMAN SERVICES,

Respondent.

Chief Special Master Corcoran

Filed: March 2, 2021

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.

Jennifer Leigh Reynaud, U.S. Department of Justice, Washington, DC, for respondent.

DECISION AWARDING DAMAGES¹

On December 31, 2019, Thomas Jeffrey Mickles 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 Guillain-Barré Syndrome (“GBS”) caused by the influenza vaccine he received on October 16, 2018. Petition at 1, ¶¶ 2, 20. The case was assigned to the Special Processing Unit of the Office of Special Masters.

On November 6, 2020, a ruling on entitlement was issued, finding Petitioner entitled to compensation for GBS. On March 1, 2021, Respondent filed a proffer on award of compensation (“Proffer”) indicating Petitioner should be awarded \$138,620.00, representing \$135,000.00 for his actual and projected pain and suffering³ and \$3,620.00

¹ Because this unpublished decision contains a reasoned explanation for the action in this case, I am required to post it on the United States Court of Federal Claims' website in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

³ In the Proffer, Respondent indicates that the award for projected pain and suffering has been reduced to net present value as required by § 15(a)(4). Proffer at 1.

for his actual unreimbursable expenses. Proffer at 1-2. In the Proffer, Respondent represented that Petitioner agrees with the proffered award. *Id.* 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 lump sum payment of \$138,620.00, representing \$135,000.00 for his actual and projected pain and suffering and \$3,620.00 for his actual unreimbursable expenses 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.⁴

IT IS SO ORDERED.

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

⁴ 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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THOMAS JEFFREY MICKLES,

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v.

SECRETARY OF HEALTH AND
HUMAN SERVICES,

Respondent.

No. 19-2012V

Chief Special Master Corcoran

ECF

PROFFER ON AWARD OF DAMAGES

On December 31, 2019, Thomas Mickles (“petitioner”) filed a petition for compensation (“Petition”) under the National Childhood Vaccine Injury Act of 1986, 42 U.S.C. §§ 300aa-1 to -34 (“Vaccine Act” or “Act”), as amended. Petitioner alleges that he suffered Guillain-Barré syndrome (“GBS”) as a result of an influenza (“flu”) vaccine administered on October 16, 2018. Petition at 1. Respondent conceded that petitioner’s alleged injury satisfies the criteria of the Vaccine Injury Table, and therefore conceded petitioner’s entitlement to compensation in his Rule 4(c) Report filed on October 23, 2020. Based on Respondent’s Rule 4(c) Report the Court found petitioner entitled to compensation.

I. Items of Compensation

A. Pain and Suffering

Respondent proffers that petitioner should be awarded \$135,000.00 in actual and projected pain and suffering. This amount reflects that any award for projected pain and 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 his expenditure of past unreimbursable expenses related to his vaccine-related injury. Respondent proffers that petitioner should be awarded past unreimbursable expenses in the amount of \$3,620.00. Petitioner agrees.

II. Form of the Award

Respondent recommends that the compensation provided to petitioner should be made through a lump sum payment of **\$138,620.00**, in the form of a check made payable to petitioner.

¹ This lump sum payment represents all elements of compensation to which petitioner would be entitled under **42 U.S.C. § 300aa-15(a)**. Petitioner agrees.

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

Respectfully submitted,

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Acting Deputy Director
Torts Branch, Civil Division

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Assistant Director
Torts Branch, Civil Division

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.

s/Jennifer L. Reynaud
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Date: March 1, 2021