



resolution of entitlement in one “test case,” the results of which could then be applied to the related cases. In April 2024, I ruled in favor of the test case petitioner, finding that the administration of the influenza vaccine had caused him to experience a right shoulder skin abscess associated with a bacterial infection. *See generally Silvers v. Sec’y of Health & Hum. Servs.*, No. 20-1V, 2024 WL 2799285 (Fed. Cl. Spec. Mstr. Apr. 25, 2024).

On October 23, 2024, Respondent filed a Rule 4(c) Report in this action. *See* Respondent’s Report (ECF No. 34) (“Report”). Having reviewed the evidence in this case and taking into account the *Silvers* decision, Respondent elected not to defend the case, requesting instead a ruling on the record. Report at 1-2. In view of Respondent’s position, and after my own review of the record, I found Petitioner was entitled to an award of damages. *See Atkins v. Sec’y of Health & Hum. Servs.*, No. 20-333V, 2024 WL 5297983 (Fed. Cl. Spec. Mstr. Nov. 20, 2024).

On January 7, 2025, Respondent filed a proffer proposing an award of compensation. Proffer (ECF No. 36) (“Proffer”). I have reviewed the filing and based upon that review, I conclude that Respondent’s proffer (as attached hereto) is reasonable. I therefore adopt it as my Decision in awarding damages on the terms set forth therein.

The proffer awards:

- A lump sum payment of **\$10,000.00**, representing compensation for pain and suffering, in the form of a check payable to Petitioner.

Proffer at 2. This amount represents all elements of compensation to which Petitioner is entitled under 42 U.S.C. § 300aa-15(a). *Id.*

I approve a Vaccine Program award in the requested amount set forth above to be made to Petitioner. In the absence of a motion for review filed pursuant to RCFC Appendix B, the Clerk of the Court is directed to enter judgment herewith.<sup>3</sup>

**IT IS SO ORDERED.**

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

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*Health and Human Services* (No. 20-22V), and *Williams v. Secretary of Health and Human Services* (No. 20-1120V).

<sup>3</sup> Pursuant to Vaccine Rule 11(a), the parties may expedite entry of judgment by each filing (either jointly or separately) a notice renouncing their right to seek review.

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

_____	)	
BRIAN “LARRY” ATKINS,	)	
	)	
Petitioner,	)	
	)	No. 20-333V
v.	)	Chief Special Master Brian H. Corcoran
	)	ECF
SECRETARY OF HEALTH AND	)	
HUMAN SERVICES,	)	
	)	
Respondent.	)	
_____	)	

**RESPONDENT’S PROFFER ON AWARD OF COMPENSATION**

On June 30, 2020, Brian “Larry” Atkins (“petitioner”) filed an amended petition for compensation under the National Childhood Vaccine Injury Act of 1986, as amended (“the Vaccine Act” or “the Act”), 42 U.S.C. §§ 300aa-1 to -34, alleging an influenza (“flu”) vaccination he received on October 15, 2018, caused adverse effects, including a “mass on the left deltoid.” *See* Amended Petition (“Am. Pet.”) at 1; Petitioner’s Exhibit 10 at 1-2. On October 23, 2024, the Secretary of Health and Human Services (“respondent”) filed a Rule 4(c) Report electing not to defend and requesting a ruling on the record regarding petitioner’s entitlement to compensation. ECF No. 34. On November 20, 2024, the Chief Special Master issued a Ruling on Entitlement, finding that petitioner was entitled to vaccine compensation. ECF No. 35.

**I. Items of Compensation**

A. Pain and Suffering

Respondent proffers that petitioner should be awarded \$10,000.00 in pain and suffering.

*See* 42 U.S.C. § 300aa-15(a)(4). Petitioner agrees.

This amount represents all elements of compensation to which petitioner is entitled under 42 U.S.C. § 300aa-15(a). 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 petitioner should be made through a lump sum payment as described below and requests that the Chief Special Master’s decision and the Court’s judgment award the following<sup>1</sup>: a lump sum payment of \$10,000.00, in the form of a check payable to petitioner.

**III. Summary of Recommended Payments Following Judgment**

Lump sum payable to petitioner, Brian “Larry” Atkins: **\$10,000.00**

Respectfully submitted,

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Principal Deputy Assistant Attorney General

C. SALVATORE D’ALESSIO  
Director  
Torts Branch, Civil Division

HEATHER L. PEARLMAN  
Deputy Director  
Torts Branch, Civil Division

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<sup>1</sup> 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.

VORIS E. JOHNSON  
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/s James V. Lopez  
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Date: January 7, 2025