

In the United States Court of Federal Claims
OFFICE OF SPECIAL MASTERS
No. 20-0353V

LISA BLUNT,

Petitioner,

v.

SECRETARY OF HEALTH AND
HUMAN SERVICES,

Respondent.

Chief Special Master Corcoran

Filed: October 19, 2023

Heather Varney Menezes, Shaheen & Gordon, P.A., Manchester, NH, for Petitioner.

Mallori Browne Openchowski, U.S. Department of Justice, Washington, DC, for Respondent.

DECISION AWARDING DAMAGES¹

On March 27, 2020, Lisa Blunt 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 alleged that she suffered a shoulder injury related to vaccine administration (“SIRVA”), a defined Table Injury, after receiving the influenza (“flu”) vaccine on September 28, 2018. Petition at 1, ¶ 3, ECF No. 1. The case was assigned to the Special Processing Unit of the Office of Special Masters.

On July 22, 2021, a ruling on entitlement was issued, finding Petitioner entitled to compensation for her SIRVA. On October 19, 2023, Respondent filed a proffer on award of compensation (“Proffer”) indicating Petitioner should be awarded \$125,000.00 for pain

¹ Because this Decision contains a reasoned explanation for the action taken in this case, it must be made publicly accessible and will be posted on the United States Court of Federal Claims’ website, and/or at <https://www.govinfo.gov/app/collection/uscourts/national/cofc>, in accordance with the E-Government Act of 2002. 44 U.S.C. § 3501 note (2018) (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 section references to the Vaccine Act will be to the pertinent subparagraph of 42 U.S.C. § 300aa (2018).

and suffering.³ 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 \$125,000.00, for pain and suffering, in the form of a check payable to Petitioner.** This amount represents compensation for all damages that would be available under Section 15(a).

The Clerk of 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

³ The Proffer does not specify whether this total amount was for past pain and suffering or involved a portion awarded for future pain and suffering.

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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SECRETARY OF HEALTH AND
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Chief Special Master Corcoran
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RESPONDENT’S PROFFER ON AWARD OF COMPENSATION

I. Procedural History and Items of Compensation

On April 5, 2021, the Chief Special Master issued a Fact Ruling, finding that the onset of petitioner’s alleged shoulder injury occurred within the 48-hour Table time frame for a Shoulder Injury Related to Vaccine Administration (“SIRVA”). ECF No. 24. On July 14, 2021, respondent filed his Vaccine Rule 4(c) report, and requested that the Court issue a ruling on the record. Thereafter, on July 22, 2021, the Chief Special Master issued a Ruling on Entitlement finding that petitioner was entitled to vaccine compensation for her right Shoulder Injury Related to Vaccine Administration (“SIRVA”). ECF Nos. 30, 32. Based on the evidence of record, respondent proffers that petitioner should be awarded \$125,000.00, which is comprised of

damages for pain and suffering.¹ This amount represents all elements of compensation to which petitioner would be entitled under 42 U.S.C. § 300aa-15(a).² Petitioner agrees.

II. Form of the Award

The parties recommend that compensation provided to petitioner should be made through a lump sum payment of \$125,000.00, in the form of a check payable to petitioner. Petitioner agrees.

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

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
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Torts Branch, Civil Division

¹ The parties have no objection to the amount of the proffered award of damages. However, respondent reserves his right, pursuant to 42 U.S.C. § 300aa-12(e), to seek review of the Chief Special Master’s July 22, 2021 entitlement decision, incorporating the April 5, 2021 Fact Ruling.

² 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.

s/ Mallori B. Openchowski
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DATED: October 19, 2023