

In the United States Court of Federal Claims

OFFICE OF SPECIAL MASTERS

No. 20-0590V

UNPUBLISHED

DAVID VAUGHN,

Petitioner,

v.

SECRETARY OF HEALTH AND
HUMAN SERVICES,

Respondent.

Chief Special Master Corcoran

Filed: December 7, 2021

Special Processing Unit (SPU);
Damages Decision Based on Proffer;
Tetanus Diphtheria acellular
Pertussis (Tdap) Vaccine; Brachial
Neuritis

Isaiah Kalinowski, Maglio Christopher & Toale, PA, Washington, DC, for Petitioner.

Mark Hellie, U.S. Department of Justice, Washington, DC, for Respondent.

DECISION AWARDING DAMAGES¹

On May 12, 2020, David Vaughn 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 experienced brachial neuritis after receiving a Tdap vaccination in his left arm on June 21, 2017. Petition at ¶¶ 3, 8. The case was assigned to the Special Processing Unit of the Office of Special Masters.

On August 16, 2021, a ruling on entitlement was issued, finding Petitioner entitled to compensation for brachial neuritis. ECF 27. On December 7, 2021, Respondent filed a proffer on award of compensation (“Proffer”) indicating Petitioner should be awarded \$128,724.58. Proffer at 2. In the Proffer, Respondent represented that Petitioner agrees with the proffered award. *Id.* Based on the record as a whole, I find that Petitioner is entitled to an award as stated in the Proffer.

¹ Because this unpublished Decision contains a reasoned explanation for the action in this case, I am required to post it on the United States Court of Federal Claims' website in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

Pursuant to the terms stated in the attached Proffer, **I award Petitioner a lump sum payment of \$128,724.58 in the form of a check payable to Petitioner.** The award is comprised of the following: (1) \$75,000.00 for pain and suffering; (2) \$1,362.43 for unreimbursed, out-of-pocket medical expenses; and (3) \$52,362.15 for lost wages. *Id.* at 1.

These amounts represent compensation for all damages that would be available under Section 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.

In the United States Court of Federal Claims
OFFICE OF SPECIAL MASTERS

DAVID VAUGHN,

Petitioner,

v.

SECRETARY OF HEALTH
AND HUMAN SERVICES,

Respondent.

Case No. 20-590V (ECF)
CHIEF SPECIAL MASTER
CORCORAN

RESPONDENT’S PROFFER ON AWARD OF COMPENSATION

I. Procedural History

On August 16, 2021, respondent filed a Vaccine Rule 4(c) report concluding that David Vaughan (“petitioner”) suffered an injury that is compensable under the National Childhood Vaccine Injury Act of 1986, as amended, 42 U.S.C. §§ 300aa-10 to -34 (“the Act”). Accordingly, on August 16, 2021, the Chief Special Master issued a Ruling on Entitlement, finding that petitioner was entitled to compensation under the Act.

II. Items of Compensation and Form of the Award

Based upon the evidence of record, respondent proffers that petitioner should be awarded a lump sum of \$128,724.58. The award is comprised of the following: \$75,000.00 for pain and suffering; \$1,362.43 for unreimbursed, out-of-pocket medical expenses; and \$52,362.15 for lost wages. This amount represents all elements of compensation to which petitioner would be entitled under 42 U.S.C. § 300aa-15(a)

regarding his June 21, 2017, tetanus, diphtheria, and acellular pertussis vaccination.

Petitioner agrees.¹

III. Form of the Award

The parties recommend that compensation provided to petitioner should be made through a lump sum payment of \$128,724.58, 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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¹ 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 medical expenses, future lost earnings, and future pain and suffering.

s/ Mark K. Hellie

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