

# In the United States Court of Federal Claims

## OFFICE OF SPECIAL MASTERS

No. 20-1294V

UNPUBLISHED

ALEJANDRA FAJARDO,

Petitioner,

v.

SECRETARY OF HEALTH AND  
HUMAN SERVICES,

Respondent.

Chief Special Master Corcoran

Filed: November 14, 2022

Special Processing Unit (SPU);  
Damages Decision Based on Proffer;  
Influenza (Flu) Vaccine; Shoulder  
Injury Related to Vaccine  
Administration (SIRVA)

*Ronald Craig Homer, Conway, Homer, P.C., Boston, MA, for Petitioner.*

*Emilie Williams, U.S. Department of Justice, Washington, DC, for Respondent.*

### **DECISION AWARDING DAMAGES<sup>1</sup>**

On September 30, 2020, Alejandro Fajardo filed a petition for compensation under the National Vaccine Injury Compensation Program, 42 U.S.C. §300aa-10, *et seq.*<sup>2</sup> (the “Vaccine Act”). Petitioner alleges that she suffered a left shoulder injury related to vaccine administration (“SIRVA”) as a result of an influenza (“flu”) vaccine received on November 9, 2018. Petition at 1-2. Petitioner further alleges she received the flu vaccine in the United States, she suffered the residual effects of her injury for more than six months, and no lawsuits have been filed or settlements or awards accepted by anyone, including Petitioner, due to her vaccine-related injury. Petition at ¶¶ 17-19. The case was assigned to the Special Processing Unit of the Office of Special Masters.

On March 14, 2022, a ruling on entitlement was issued, finding Petitioner entitled to compensation for SIRVA. On November 14, 2022, Respondent filed a proffer on award

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 Because this unpublished Decision contains a reasoned explanation for the action in this case, I am required to post it on the United States Court of Federal Claims' website in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

<sup>2</sup> 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).

of compensation (“Proffer”) indicating Petitioner should be awarded compensation totaling \$117,500.00 in pain and suffering, \$6,318.28 in past unreimbursable expenses (divided as set forth below), and \$5,740.11 in lost wages. Proffer at 1-3. 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.

Pursuant to the terms stated in the attached Proffer, **I award Petitioner the following:**

- **A lump sum payment of \$127,383.10 (comprised of \$117,500.00 in pain and suffering, \$4,142.99 in past unreimbursable expenses, and \$5,740.11 in lost wages) in the form of a check payable to Petitioner; and**
- **A lump sum payment of \$2,175.29 (relating to past unreimbursable vaccine-related expenses) in the form of a check payable jointly to Petitioner and**

**Link Revenue Resources  
4887 Ronson Ct., Ste. A  
San Diego, CA 92111**

**Petitioner agrees to endorse the check for satisfaction of her debt to Link Revenue Resources.**

These amounts represent 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.<sup>3</sup>

**IT IS SO ORDERED.**

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

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<sup>3</sup> 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**

ALEJANDRA FAJARDO,	)	
	)	
Petitioner,	)	No. 20-1294V ECF
	)	
v.	)	Chief Special Master
	)	Brian H. Corcoran
SECRETARY OF HEALTH	)	
AND HUMAN SERVICES,	)	
	)	
Respondent.	)	

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

On September 30, 2020, Alejandra Fajardo (“petitioner”) filed a petition for compensation under the National Childhood Vaccine Injury Act of 1986, 42 U.S.C. §§ 300aa-1 to -34 (“Vaccine Act” or “Act”), alleging that she suffered a Shoulder Injury Related to Vaccine Administration (“SIRVA”), as defined in the Vaccine Injury Table, following administration of an influenza vaccine she received on November 9, 2018. Petition at 1. On March 11, 2022, the Secretary of Health and Human Services (“respondent”) filed a Rule 4(c) Report indicating that this case is appropriate for compensation under the terms of the Act for a SIRVA Table injury, and on March 14, 2022, the Chief Special Master issued a Ruling on Entitlement finding petitioner entitled to compensation. ECF No. 44; ECF No. 45.

**I. Items of Compensation**

A. Pain and Suffering

Respondent proffers that petitioner should be awarded \$117,500.00 in pain and suffering.

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

B. Past Unreimbursable Expenses

Evidence supplied by petitioner documents that she incurred past unreimbursable expenses related to her vaccine-related injury. Respondent proffers that petitioner should be awarded past unreimbursable expenses in the amount of \$6,318.28. *See* 42 U.S.C. § 300aa-15(a)(1)(B). \$2,175.29 of the proffered compensation for past unreimbursable expenses is for petitioner's debt incurred for vaccine-related expenses, and a check in this amount should be made jointly payable to petitioner and Link Revenue Resources.

C. Lost Wages

Evidence supplied by petitioner documents that she incurred past lost wages related to her vaccine-related injury. Respondent proffers that petitioner should be awarded past lost wages in the amount of \$5,740.11. *See* 42 U.S.C. § 300aa-15(a)(3)(A). Petitioner agrees.

These amounts represent 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 two lump sum payments as described below and requests that the Chief Special Master's decision and the Court's judgment award the following<sup>1</sup>:

- A. A lump sum payment of \$127,383.10 in the form of a check payable to petitioner; and
- B. A lump sum payment of \$2,175.29 in the form of a check payable jointly to petitioner and:

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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, unreimbursed expenses, future lost earnings and future pain and suffering.

Link Revenue Resources  
4887 Ronson Ct., Ste. A  
San Diego, CA 92111

Petitioner agrees to endorse the check for satisfaction of her debt to Link Revenue Resources.

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

Lump sum payable to petitioner:	<b>\$127,383.10</b>
Lump sum payable jointly to petitioner and Link Revenue Resources:	<b>\$2,175.29</b>

Respectfully submitted,

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Principal Deputy Assistant Attorney General

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Director  
Torts Branch, Civil Division

HEATHER L. PEARLMAN  
Deputy Director  
Torts Branch, Civil Division

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/s/ Emilie F. Williams  
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DATED: November 14, 2022