

# In the United States Court of Federal Claims

## OFFICE OF SPECIAL MASTERS

No. 20-1404V

UNPUBLISHED

MICHAEL ANTKOWIAK,

Petitioner,

v.

SECRETARY OF HEALTH AND  
HUMAN SERVICES,

Respondent.

Chief Special Master Corcoran

Filed: December 22, 2021

Special Processing Unit (SPU);  
Damages Decision Based on Proffer;  
Influenza (Flu) Vaccine; Guillain-  
Barre Syndrome (GBS)

*Brian L. Cinelli, Marcus & Cinelli, LLP, Williamsville, NY, for Petitioner.*

*Tyler King, U.S. Department of Justice, Washington, DC, for Respondent.*

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

On October 16, 2020, Michael Antkowiak 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 he suffered Guillain-Barré Syndrome (“GBS”) which meets the Table definition for GBS or which, in the alternative, was caused in fact by the influenza vaccine he received on October 18, 2017. Petition at ¶ 1. The case was assigned to the Special Processing Unit of the Office of Special Masters.

On July 27, 2021, a ruling on entitlement was issued, finding Petitioner entitled to compensation for his GBS. On December 22, 2021, Respondent filed a proffer on award of compensation (“Proffer”) indicating Petitioner should be awarded \$197,222.44, representing compensation in the amounts of \$195,000.00 for his pain and suffering and \$2,222.44 for his out-of-pocket expenses. Proffer at 1-2. In the Proffer, Respondent

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 Because this unpublished Decision contains a reasoned explanation for the action in this case, I am required to post it on the United States Court of Federal Claims' website in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

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 \$197,222.44, representing compensation in the amounts of \$195,000.00 for his pain and suffering and \$2,222.44 for his out-of-pocket expenses 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 the 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**

MICHAEL ANTKOWIAK,

Petitioner,

v.

SECRETARY OF HEALTH AND  
HUMAN SERVICES,

Respondent.

No. 20-1404V

Chief Special Master Corcoran  
ECF

**RESPONDENT’S PROFFER ON AWARD OF COMPENSATION<sup>1</sup>**

**I. Procedural History**

On October 16, 2020 Michael Antkowiak (“petitioner”) filed a petition for compensation (“petition”) under the National Childhood Vaccine Injury Act of 1986, 42 U.S.C. §§ 300aa-1 to -34, *as amended*. He alleges that, as a result of receiving the influenza vaccine on October 18, 2017, he suffered from Guillain-Barré Syndrome (GBS). *See* Petition. On July 27, 2021, respondent filed his Vaccine Rule 4(c) report, concluding that petitioner suffered GBS as defined by the Vaccine Injury Table, within the Table timeframe. ECF No. 18. On July 27, 2021, the Chief Special Master issued a ruling on entitlement, finding that petitioner was entitled to compensation for a GBS Table injury. ECF No. 20.

**II. Items of Compensation**

Based upon the evidence of record, respondent proffers that petitioner should be awarded a lump sum of \$197,222.44, for all damages, including \$195,000.00 representative of pain and suffering, and \$2,222.44 representative of out-of-pocket medical and related

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<sup>1</sup> This Proffer does not include attorneys’ fees and costs, which the parties intend to address after the Damages Decision is issued.

expenses. This amount represents all elements of compensation to which petitioner is entitled under 42 U.S.C. § 300aa-15(a). Petitioner agrees.

**III. 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>2</sup>: a lump sum payment of \$197,222.44, in the form of a check payable to petitioner.

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

Lump sum payable to petitioner, Michael Antkowiak: **\$197,222.44**

Respectfully submitted,

BRIAN M. BOYNTON  
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Acting Director  
Torts Branch, Civil Division

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Deputy Director  
Torts Branch, Civil Division

ALEXIS B. BABCOCK  
Assistant Director  
Torts Branch, Civil Division

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<sup>2</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 pain and suffering.

s/ Tyler C. King  
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Dated: December 22, 2021