

In the United States Court of Federal Claims

OFFICE OF SPECIAL MASTERS

No. 20-1661V

UNPUBLISHED

TAMMY SWEENEY,

Petitioner,

v.

SECRETARY OF HEALTH AND
HUMAN SERVICES,

Respondent.

Chief Special Master Corcoran

Filed: April 27, 2022

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

Nancy Routh Meyers, Turning Point Litigation, Greensboro, NC, for Petitioner.

Christine Mary Becer, U.S. Department of Justice, Washington, DC, for Respondent.

DECISION AWARDING DAMAGES¹

On November 23, 2020, Tammy Sweeney 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 she suffered a shoulder injury related to vaccine administration (“SIRVA”) as a result of an influenza (“flu”) vaccine that was administered to her on October 24, 2019. Petition at 1. The case was assigned to the Special Processing Unit of the Office of Special Masters.

On February 25, 2022, a ruling on entitlement was issued, finding Petitioner entitled to compensation for SIRVA. On April 25, 2022, Respondent filed a proffer on award of compensation (“Proffer”) indicating Petitioner should be awarded \$81,918.89 (comprised of \$75,000.00 in pain and suffering, \$208.38 in past unreimbursable expenses, and \$6,710.51 in past lost wages). Proffer at 2. In the Proffer, Respondent

¹ Because this unpublished Decision contains a reasoned explanation for the action in this case, I am required to post it on the United States Court of Federal Claims' website in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

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 a lump sum payment of \$81,918.89 (comprised of \$75,000.00 in pain and suffering, \$208.38 in past unreimbursable expenses, and \$6,710.51 in past lost wages) 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.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**

TAMMY SWEENEY,)	
)	
Petitioner,)	
)	
v.)	No. 20-1661V
)	Chief Special Master Corcoran
)	ECF
SECRETARY OF HEALTH AND)	
HUMAN SERVICES,)	
)	
Respondent.)	

PROFFER ON AWARD OF COMPENSATION¹

I. Procedural History

On November 23, 2020, Tammy Sweeney (“petitioner”) filed a petition for compensation under the National Childhood Vaccine Injury Act. *See* 42 U.S.C. §§ 300aa-1 to -34 (“Vaccine Act” or “Act”). Petitioner alleges that she suffered from a right shoulder injury as a result of receiving the influenza (“flu”) vaccine on October 24, 2019. Petition at 1. On February 25, 2022, respondent filed his Vaccine Rule 4(c) report, concluding that petitioner suffered from SIRVA as defined by the Vaccine Injury Table, within the Table timeframe. *See* ECF No. 25. That same day, Chief Special Master Corcoran issued a ruling on entitlement, finding that petitioner was entitled to compensation for a SIRVA Table injury. *See* ECF No. 26.

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

II. Items of Compensation

A. Pain and Suffering

Respondent proffers that petitioner should be awarded \$75,000.00 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 of \$208.38. *See* 42 U.S.C. § 300aa-15(a)(1)(B).

Petitioner agrees.

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 \$6,710.51. *See* 42 U.S.C. § 300aa-15(a)(3)(A). Petitioner agrees.

The above amounts represent all elements of compensation to which petitioner would be 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 following²: a lump sum payment of \$81,918.89, in the form of a check payable to petitioner.

² Should petitioner die prior to entry of judgment, the parties reserve the right to move the

IV. Summary of Recommended Payments Following Judgment

Lump sum payable to petitioner, Tammy Sweeney: **\$81,918.89**

Respectfully submitted,

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Acting Director
Torts Branch, Civil Division

HEATHER L. PEARLMAN
Deputy Director
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s/Christine Mary Becer
CHRISTINE MARY BECER
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Date: April 25, 2022

Court for appropriate relief. In particular, respondent would oppose any award for future pain and suffering.