

In the United States Court of Federal Claims
OFFICE OF SPECIAL MASTERS
No. 20-1788V

SARA J. WHITE,

Petitioner,

v.

SECRETARY OF HEALTH AND
HUMAN SERVICES,

Respondent.

Chief Special Master Corcoran

Filed: July 1, 2024

Brian L. Cinelli, Schiff macher, Cinelli, Adoff, LLP, Buffalo, NY, for Petitioner.

Benjamin Rex Eisenberg, U.S. Department of Justice, Washington, DC, for Respondent.

DECISION AWARDING DAMAGES¹

On December 7, 2020, Sara J. White 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 left shoulder injury related to vaccine administration (“SIRVA”), a defined Table injury, or in the alternative a caused-in-fact injury, after receiving an influenza (“flu”) vaccine on September 30, 2018. Petition at ¶¶ 1, 41, 50. The case was assigned to the Special Processing Unit of the Office of Special Masters.

On April 23, 2024, I issued a ruling on entitlement, finding Petitioner had satisfied the severity requirement – necessary for all Program claims, as well as the requirements for a Table SIRVA, and thus, was entitled to compensation for her SIRVA. On July 1, 2024, Respondent filed a proffer on award of compensation (“Proffer”) indicating

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).

Petitioner should be awarded \$43,800.09, representing \$43,000.00 for pain and suffering and \$800.09 for past unreimbursable expenses. Proffer at 1-2. 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.

Pursuant to the terms stated in the attached Proffer, **I award Petitioner a lump sum payment of \$43,800.09, representing \$43,000.00 for pain and suffering and \$800.09 for actual unreimbursable 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 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.

**THE UNITED STATES COURT OF FEDERAL CLAIMS
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SARA WHITE,

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SECRETARY OF HEALTH AND
HUMAN SERVICES,

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No. 20-1788V

Chief Special Master Corcoran
ECF

RESPONDENT’S PROFFER ON AWARD OF COMPENSATION

On December 7, 2020, Sara White (“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 a seasonal influenza vaccine she received on September 30, 2018. Petition at 3. On April 23, 2024, the Chief Special Master issued a Ruling on Entitlement finding petitioner entitled to compensation. ECF No. 38.

On June 3, respondent made a proffer representing its calculation of the full value of damages in this case. On July 1, petitioner accepted this proffer. Although respondent submits this filing, petitioner has reviewed and agrees with this filing.

I. Items of Compensation

A. Pain and Suffering

Respondent proffers that petitioner should be awarded \$43,000.00 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 in the amount of \$800.09. *See* 42 U.S.C. § 300aa-15(a)(1)(B). 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 a lump sum payment as described below and requests that the Chief Special Master's decision and the Court's judgment award the following: a lump sum payment of \$43,800.09, in the form of a check payable to petitioner.¹

III. Summary of Recommended Payments Following Judgment

Lump sum payable to petitioner: **\$43,800.09.**

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

/s/ Benjamin Eisenberg
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