

In the United States Court of Federal Claims

OFFICE OF SPECIAL MASTERS

Filed: January 13, 2023

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JULIE FINN, M.D.,

Petitioner,

v.

SECRETARY OF HEALTH AND HUMAN SERVICES,

Respondent.

* * * * *

UNPUBLISHED

No. 20-1897V

Special Master Gowen

Decision on Damages; Proffer; SIRVA.

Gary Alan Krochmal, Law Offices of Gary A. Krochmal, PLLC, Farmington Hills, MI, for petitioner.

Meghan Murphy, United States Department of Justice, Washington, DC, for respondent.

DECISION ON DAMAGES¹

On December 18, 2020, Julie Finn, M.D., (“petitioner”) filed a petition for compensation (“Petition”) in the National Vaccine Injury Compensation Program (“the Program”).² Petitioner alleges that she suffered a shoulder injury related to vaccine administration (“SIRVA”) as a result of receiving an intramuscular influenza (“flu”) vaccination on October 14, 2019. Petition (ECF No. 1). On January 11, 2023, the undersigned issued a Ruling on Entitlement, finding that petitioner is entitled to compensation based on respondent’s Rule 4(c) report. Ruling on Entitlement, date Jan. 11, 2023 (ECF No. 47).

On January 12, 2023, respondent filed a Proffer of Award of Compensation, which indicates petitioner’s agreement to compensation on the terms set forth therein. Proffer (ECF No.

¹ Pursuant to the E-Government Act of 2002, see 44 U.S.C. § 3501 note (2012), because this opinion contains a reasoned explanation for the action in this case, I intend to post it on the website of the United States Court of Federal Claims. The court’s website is at <http://www.uscfc.uscourts.gov/aggregator/sources/7>. Before the opinion is posted on the court’s website, each party has 14 days to file a motion requesting redaction “of any information furnished by that party: (1) that is a trade secret or commercial or financial in substance and is privileged or confidential; or (2) that includes medical files or similar files, the disclosure of which would constitute a clearly unwarranted invasion of privacy.” Vaccine Rule 18(b). An objecting party must provide the court with a proposed redacted version of the opinion. Id. If neither party files a motion for redaction within 14 days, the opinion will be posted on the court’s website without any changes. Id.

² The Program comprises Part 2 of the National Childhood Vaccine Injury Act of 1986, 42 U.S.C. §§ 300aa-10 et seq. (hereinafter “Vaccine Act” or “the Act”). Hereafter, individual section references will be to 42 U.S.C. § 300aa of the Act.

48). The proffer is attached hereto as Appendix A and is incorporated into this decision as though set forth in full.

Consistent with the terms stated in the attached Proffer, I hereby award the following in compensation for all damages that would be available under 42 U.S.C. § 300aa-15(a):

- 1) A lump sum payment of \$60,000.00, representing compensation for pain and suffering, in the form of a check payable to petitioner, Julie Finn M.D.**

The Clerk of the Court is directed to **ENTER JUDGMENT** in accordance with this decision. ³

IT IS SO ORDERED.

s/Thomas L. Gowen
Thomas L. Gowen
Special Master

³ Entry of judgment is expedited by each party's filing notice renouncing the right to seek review. Vaccine Rule 11(a).

**IN THE UNITED STATES COURT OF FEDERAL CLAIMS
OFFICE OF SPECIAL MASTERS**

JULIE FINN, M.D.,)	
)	
Petitioner,)	
)	
v.)	No. 20-1897V
)	Special Master Gowen
)	ECF
SECRETARY OF HEALTH AND HUMAN SERVICES,)	
)	
Respondent.)	
)	

RESPONDENT’S PROFFER ON AWARD OF COMPENSATION

On December 18, 2020, Julie Finn, M.D., (“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”), as amended. The petition alleges that as a result of receiving an influenza (“flu”) vaccination on October 14, 2019, petitioner suffered from a left shoulder injury related to vaccine administration (“SIRVA”). *See* Petition at Preamble. On January 11, 2023, the Secretary of Health and Human Services (“respondent”) filed an Amended Rule 4(c) Report indicating that this case is appropriate for compensation under the terms of the Act. ECF No. 46. On January 12, 2023, Special Master Gowen issued a Ruling on Entitlement finding petitioner entitled to compensation. ECF No. 47.

I. Items of Compensation

A. Pain and Suffering

Respondent proffers that petitioner should be awarded \$60,000.00 in pain and suffering. *See* 42 U.S.C. § 300aa-15(a)(4). This amount represents 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 a lump sum payment as described below and requests that Special Master Gowen's decision and the Court's judgment award the following¹: a lump sum payment of \$60,000.00, in the form of a check payable to petitioner.

III. Summary of Recommended Payments Following Judgment

Lump sum payable to petitioner, Julie Finn:	\$60,000.00
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Respectfully submitted,

BRIAN M. BOYNTON
Principal Deputy Assistant Attorney General

C. SALVATORE D'ALESSIO
Director
Torts Branch, Civil Division

HEATHER L. PEARLMAN
Deputy Director
Torts Branch, Civil Division

TRACI R. PATTON
Assistant Director
Torts Branch, Civil Division

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/ Meghan R. Murphy
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DATED: January 12, 2022