

In the United States Court of Federal Claims

OFFICE OF SPECIAL MASTERS

No. 20-1929V

UNPUBLISHED

JENNIFER A. CLASEN,

Petitioner,

v.

SECRETARY OF HEALTH AND
HUMAN SERVICES,

Respondent.

Chief Special Master Corcoran

Filed: July 7, 2022

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

Scott B. Taylor, Urban & Taylor, S.C., Milwaukee, WI, for Petitioner.

Jennifer A. Shah, U.S. Department of Justice, Washington, DC, for Respondent.

DECISION AWARDING DAMAGES¹

On December 21, 2020, Jennifer A. Clasen 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 that she suffered a shoulder injury related to vaccine administration (“SIRVA”) as a result of an influenza vaccine received on or about October 17, 2018. Petition at 1. Petitioner further alleges that the vaccine was administered in the United States, she has suffered residual effects for more than six months, and she has never received compensation in the form of an award or settlement, or filed a civil action, for her vaccine-related injuries. Petition at ¶¶ 2, 21, 24. The case was assigned to the Special Processing Unit of the Office of Special Masters.

¹ Because this unpublished Decision contains a reasoned explanation for the action in this case, I am required to post it on the United States Court of Federal Claims' website in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

On June 23, 2022, a ruling on entitlement was issued, finding Petitioner entitled to compensation for SIRVA. On July 7, 2022, Respondent filed a proffer on award of compensation. Proffer at 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 \$70,000.00 (consisting entirely of pain and suffering) 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.

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JENNIFER CLASEN,

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SECRETARY OF HEALTH AND
HUMAN SERVICES,

Respondent.

No. 20-1929V
Chief Special Master Corcoran
SPU

RESPONDENT’S PROFFER ON AWARD OF COMPENSATION

On December 12, 2020, Jennifer Clasen (“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 (“Vaccine Act” or “Act”). Petitioner alleges that she suffered a left Shoulder Injury Related to Vaccine Administration (“SIRVA”) that was caused-in-fact by an influenza (“flu”) vaccine administered on October 17, 2018. Pet. at 1-2.

On June 23, 2022, respondent filed his Vaccine Rule 4(c) report, recommending that compensation be awarded. ECF No. 36. The same day, this Court issued a Ruling on Entitlement finding petitioner entitled to compensation. ECF No. 37.

I. Items of Compensation

Respondent proffers that petitioner should be awarded **\$70,000.00**, consisting entirely of compensation for pain and suffering. This represents all elements of compensation to which petitioner would be 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 the Chief Special Master's decision and the Court's judgment award the following¹: a lump sum payment of **\$70,000.00**, representing compensation for all elements of economic and noneconomic damages, in the form of a check payable to petitioner, Jennifer Clasen.

III. Summary of Recommended Payment Following Judgment

Lump sum payable to petitioner, Jennifer Clasen: **\$70,000.00.**

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 lost earnings and future pain and suffering.

s/ Jennifer A. Shah

Jennifer A. Shah

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Dated: July 7, 2022