

In the United States Court of Federal Claims

OFFICE OF SPECIAL MASTERS

No. 21-1029V

UNPUBLISHED

AARON COOK,

Petitioner,

v.

SECRETARY OF HEALTH AND
HUMAN SERVICES,

Respondent.

Chief Special Master Corcoran

Filed: March 20, 2023

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

*Glen Howard Sturtevant, Jr., Rawls Law Group (Richmond), Richmond, VA, for
Petitioner.*

Madelyn Weeks, U.S. Department of Justice, Washington, DC, for Respondent.

DECISION AWARDING DAMAGES¹

On March 5, 2021, Aaron Cook 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 as a result of receiving the influenza (“flu”) vaccine on October 21, 2020, he suffered a right-sided shoulder injury related to vaccine administration (“SIRVA”) as defined in the Vaccine Injury Table. Petition at 1. The case was assigned to the Special Processing Unit of the Office of Special Masters.

On February 13, 2023, a ruling on entitlement was issued, finding Petitioner entitled to compensation for SIRVA. On March 17, 2023, Respondent filed a proffer on award of compensation (“Proffer”) indicating Petitioner should be awarded \$75,822.85 (comprised of \$75,000.00 in pain and suffering and \$822.85 in past unreimbursable

¹ Because this unpublished Decision contains a reasoned explanation for the action in this case, I am required to post it on the United States Court of Federal Claims' website in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

expenses). 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 \$75,822.85 (comprised of \$75,000.00 in pain and suffering and \$822.85 in past 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
OFFICE OF SPECIAL MASTERS**

AARON COOK,

Petitioner,

v.

SECRETARY OF HEALTH AND
HUMAN SERVICES,

Respondent.

No. 21-1029V

Chief Special Master Brian H. Corcoran

RESPONDENT’S PROFFER ON AWARD OF COMPENSATION

On March 5, 2021, Aaron Cook (“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 he suffered a Shoulder Injury Related to Vaccine Administration (“SIRVA”), as defined in the Vaccine Injury Table, following administration of an influenza vaccine he received on October 21, 2020. Petition at 1, 3. On February 1, 2023, the Secretary of Health and Human Services (“respondent”) filed a Rule 4(c) Report advising that, in light of Chief Special Master Corcoran’s Findings of Fact ruling that the petitioner received the subject influenza vaccine in his right arm, and the medical evidence submitted in this case, respondent did not dispute that petitioner had satisfied all legal prerequisites for compensation under the Vaccine Act. ECF No. 35. On February 13, 2023, the Chief Special Master issued a Ruling on Entitlement, finding that petitioner was entitled to compensation for his SIRVA.¹ ECF No. 37.

¹ Respondent has no objection to the amount of the proffered award of damages set forth herein. Assuming the Chief Special Master issues a damages decision in conformity with this proffer, respondent waives his right to seek review of such damages decision. However, respondent reserves his right, pursuant to 42 U.S.C. 300aa-12(e), to seek review of the Chief Special Master’s February 13, 2023, entitlement decision.

I. 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 in the amount of \$822.85. *See* 42 U.S.C. § 300aa-15(a)(1)(B). Petitioner agrees.

These amounts represent 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 the Chief Special Master's decision and the Court's judgment award the following²: a lump sum payment of \$75,822.85, in the form of a check payable to petitioner.

III. Summary of Recommended Payments Following Judgment

Lump sum payable to petitioner, Aaron Cook:	\$75,822.85
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² 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.

Respectfully submitted,

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s/ MADELYN E. WEEKS
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Dated: March 17, 2023