

In the United States Court of Federal Claims
OFFICE OF SPECIAL MASTERS
No. 21-1750V

MONIQUE COOMBES,

Petitioner,

v.

SECRETARY OF HEALTH AND
HUMAN SERVICES,

Respondent.

Chief Special Master Corcoran

Filed: November 14, 2024

Laura Levenberg, Muller Brazil, LLP, Dresher, PA, for Petitioner.

Parisa Tabassian, U.S. Department of Justice, Washington, DC, for Respondent.

DECISION AWARDING DAMAGES¹

On August 24, 2021, Monique Coombes 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”) resulting from an influenza (“flu”) vaccine received on October 23, 2019. Petition at 1. The case was assigned to the Special Processing Unit of the Office of Special Masters.

On October 18, 2024, a ruling on entitlement was issued, finding Petitioner entitled to compensation for SIRVA. On November 13, 2024, Respondent filed a proffer on award of compensation (“Proffer”) indicating Petitioner should be awarded \$121,133.63.³ Proffer

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).

³ Respondent states that he reserves the right to seek review of my September 24, 2024 fact ruling, and maintains that compensation would not be appropriate if the fact ruling were vacated or reversed.

at 3. 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 \$121,133.63 (comprised of \$120,000.00 in pain and suffering and \$1,133.63 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.⁴

IT IS SO ORDERED.

s/Brian H. Corcoran

Brian H. Corcoran
Chief Special Master

⁴ 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**

MONIQUE COOMBES,

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v.

SECRETARY OF HEALTH AND
HUMAN SERVICES,

Respondent.

No. 21-1750V

Chief Special Master Brian H. Corcoran
ECF

RESPONDENT’S PROFFER

On August 24, 2021, Monique Coombes (“petitioner”) filed a petition for compensation under the National Childhood Vaccine Injury Act of 1986, as amended, 42 U.S.C. §§ 300aa-1 *et seq.* (“Vaccine Act”). She alleges that an influenza (“flu”) vaccination administered in her left shoulder on October 23, 2019, caused a Table¹ shoulder injury related to vaccine administration (“SIRVA”). Petition at 1. On July 12, 2023, the Secretary of Health and Human Services (“respondent”) filed his combined Rule 4(c) Report and Motion to Dismiss, recommending against compensation and to dismiss for a failure to satisfy the statutory severity requirement. ECF No. 33. Petitioner filed a response on October 24, 2023. ECF No. 35.

On September 24, 2024, Chief Special Master Corcoran issued a decision concluding that petitioner has established by preponderant evidence that she “suffered the residual effects of her injury for more than six months.” Fact Ruling, ECF No. 36 (“Fact Ruling”). Recognizing the Chief Special Master’s factual finding regarding proof of severity, respondent advises that he will not defend the case on other grounds during further proceedings before the Office of Special

¹ The Vaccine Injury Table and the Qualifications and Aids to Interpretation (“QAI”) for SIRVA following a flu vaccination are found at 42 C.F.R. § 100.3(a)(XIV)(B), (c)(10).

Masters.² In light of that decision, on October 18, 2024, respondent filed an Amended Rule 4(c) Report, submitting that petitioner had otherwise satisfied the criteria set forth in the Table and the QAI for SIRVA and deferring to the Court to rule on petitioner's entitlement to compensation. *See* 42 C.F.R §§ 100.3(a)(XIV) and (c)(10); ECF No. 37. That same day, the Chief Special Master issued a Ruling on Entitlement finding petitioner entitled to compensation. ECF No. 38. Respondent now files this proffer regarding the amount of damages to be awarded.

I. Items of Compensation

A. Pain and Suffering

Respondent proffers that petitioner should be awarded \$120,000.00 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 \$1,133.63. *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

² Respondent reserves his right to a potential appeal of this Fact Ruling and maintains that a finding of entitlement to compensation cannot be sustained if the Fact Ruling is vacated or overturned on appeal.

the Court's judgment award the following³: a lump sum payment of \$121,133.63, in the form of a check payable to petitioner.

III. Summary of Recommended Payments Following Judgment

Lump sum payable to petitioner, Monique Coombes: **\$121,133.63**

Respectfully submitted,

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Dated: November 13, 2024

³ 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.