

In the United States Court of Federal Claims  
OFFICE OF SPECIAL MASTERS  
No. 21-1771V

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AMARAH ELZABAD,

Petitioner,

v.

SECRETARY OF HEALTH  
AND HUMAN SERVICES,

Respondent.

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Chief Special Master Corcoran

Filed: September 15, 2023

*Nathaniel Enos*, Conway, Homer, P.C., Boston, MA, for Petitioner.

*Jamica M. Littles*, U.S. Dep’t of Justice, Washington, DC, for Respondent.

**DECISION AWARING DAMAGES<sup>1</sup>**

On August 27, 2021, Amarah Elzabad filed a petition seeking compensation under the National Vaccine Injury Compensation Program (the “Vaccine Program”).<sup>2</sup> Petition (ECF No. 1) (“Pet.”) at 1. Petitioner alleged that she suffered from cellulitis and subsequent scarring in her right deltoid after she received the measles, mumps, and rubella (“MMR”) vaccination on September 9, 2020. *Id.*

Thereafter, on June 9, 2023, Respondent filed his Rule 4(c) Report and acknowledged that Petitioner’s claim is compensable under the Act. *See* Respondent’s Report, dated June 9, 2023 (ECF No. 34). Respondent specifically indicated that medical personnel at the Division of Injury Compensation Programs (“DICP”), Department of Health and Human Services, have reviewed the

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<sup>1</sup> Under Vaccine Rule 18(b), each party has fourteen (14) days within which to request 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). Otherwise, the whole Decision will be available to the public in its present form. *Id.*

<sup>2</sup> The Vaccine Program comprises Part 2 of the National Childhood Vaccine Injury Act of 1986, Pub. L. No. 99-660, 100 Stat. 3758, codified as amended at 42 U.S.C. §§ 300aa-10 through 34 (2012) (“Vaccine Act” or “the Act”). Individual section references hereafter will be to § 300aa of the Act (but will omit that statutory prefix).

petition and accompanying documents filed in this case, as well as the relevant medical records, and Respondent has concluded that Petitioner has met her burden of proof in connecting the vaccination that she received to her condition as required for entitlement under the Vaccine Act. *Id.* Respondent conceded that the evidence shows that Petitioner suffered cellulitis and subsequent scarring in her right deltoid as a result of the MMR vaccine, and that the onset occurred within the appropriate timeframe. *Id.* Accordingly, Respondent concluded that Petitioner is entitled to an award of damages. *Id.* at 8–9. I subsequently issued an entitlement decision on June 15, 2023. *See* Ruling, dated June 15, 2023 (ECF No. 35).

On September 15, 2023, Respondent filed a proffer proposing an award of compensation. ECF No. 41. I have reviewed the file, and based upon that review I conclude that the Respondent’s proffer (as attached hereto) is reasonable. I therefore adopt it as my decision in awarding damages on the terms set forth therein.

The proffer awards:

- A lump sum payment of **\$100,072.08**, representing compensation for pain and suffering (\$100,000.00), and past unreimbursable expenses (\$72.08), in the form of a check payable to Petitioner; and
- A lump sum payment of **\$1,719.51**, representing compensation for satisfaction of the State of Michigan Medicaid lien, in the form of a check payable jointly to Petitioner and:

Optum  
P.O. Box 182643  
Columbus, OH 43218-2643  
Tax ID: 41-1858498  
Re: Amarah Elzabad – #73735010  
Attention: Amanda Bates

Proffer at II. These amounts represent compensation for all elements of compensation under 42 U.S.C. § 300aa-15(a) to which Petitioner is entitled.

I approve a Vaccine Program award in the requested amount set forth above to be made to Petitioner. In the absence of a motion for review filed pursuant to RCFC Appendix B, the clerk of the Court is directed to enter judgment herewith.<sup>3</sup>

**IT IS SO ORDERED.**

/s/ Brian H. Corcoran  
Brian H. Corcoran  
Special Master

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<sup>3</sup> Pursuant to Vaccine Rule 11(a), the parties may expedite entry of judgment by each filing (either jointly or separately) a notice renouncing their right to seek review.

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

AMARAH ELZABAD,	)	
	)	
Petitioner,	)	
	)	
v.	)	No. 21-1771V
	)	Chief Special Master Corcoran
	)	ECF
SECRETARY OF HEALTH AND	)	
HUMAN SERVICES,	)	
	)	
Respondent.	)	

**PROFFER ON AWARD OF COMPENSATION**

On June 9, 2023, respondent filed a Vaccine Rule 4(c) report concluding that petitioner suffered an injury that is compensable under the National Childhood Vaccine Injury Act of 1986, as amended, 42 U.S.C. §§ 300aa-10 to -34, that is, a shoulder injury related to vaccine administration (“SIRVA”), as defined in the Vaccine Injury Table. *See* ECF No.

34. Accordingly, on June 15, 2023, the Chief Special Master issued a Ruling on Entitlement. ECF No. 35.

**I. Compensation for Vaccine Injury-Related Items**

A. Pain and Suffering

Based upon the evidence of record, respondent proffers that petitioner should be awarded a lump sum of **\$100,000.00** for pain and suffering. 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 **\$72.08**. *See* 42 U.S.C. § 300aa-15(a)(1)(B). Petitioner agrees.

C. Medicaid Lien

Respondent proffers that petitioner should be awarded funds to satisfy the State of Michigan Medicaid lien in the amount of **\$1,719.51**, which represents full satisfaction of any right of subrogation, assignment, claim, lien, or cause of action the State of Michigan may have against any individual as a result of any Medicaid payments the State of Michigan has made to or on behalf of petitioner from the date of her eligibility for benefits through the date of judgment in this case as a result of her alleged vaccine-related injury suffered on or about September 9, 2020 under Title XIX of the Social Security Act.

The above amounts represent 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**

The parties recommend that compensation provided to petitioner should be made through two lump sum payments described below, and request that the Chief Special Master's decision and the Court's judgment award the following:<sup>1</sup>

- A. A lump sum payment of **\$100,072.08** in the form of a check payable to petitioner; and
- B. A lump sum payment of **\$1,719.51**, representing compensation for satisfaction of the State of Michigan Medicaid lien, in the form of a check payable jointly to petitioner and:

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<sup>1</sup> 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 medical expenses, future pain and suffering, and future lost wages.

Petitioner agrees to endorse the check to Optum for satisfaction of the Medicaid lien.

Petitioner is a competent adult. Evidence of guardianship is not required in this case.

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

DARRYL R. WISHARD  
Assistant Director  
Torts Branch, Civil Division

*s/ Jamica M. Littles*  
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Date: September 15, 2023