

**In the United States Court of Federal Claims**  
**OFFICE OF SPECIAL MASTERS**  
**No. 22-0148V**

MARY WALSH,

Petitioner,

v.

SECRETARY OF HEALTH AND  
HUMAN SERVICES,

Respondent.

Chief Special Master Corcoran

Filed: May 16, 2024

*Maureen A. Keegan, Basch & Keegan, Kingston, NY, for Petitioner.*

*Katherine Carr Esposito, U.S. Department of Justice, Washington, DC, for Respondent.*

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

On February 14, 2022, Mary Walsh filed a petition for compensation under the National Vaccine Injury Compensation Program, 42 U.S.C. §300aa-10, *et seq.*<sup>2</sup> (the “Vaccine Act”). Petitioner alleges that she suffered a shoulder injury related to vaccine administration (“SIRVA”) following an influenza vaccination she received on November 13, 2020. Petition at 1. The case was assigned to the Special Processing Unit of the Office of Special Masters.

On August 10, 2023, a ruling on entitlement was issued, finding Petitioner entitled to compensation for her SIRVA. On May 15, 2024, Respondent filed a proffer on award of compensation (“Proffer”) indicating Petitioner should be awarded \$160,442.21, comprised of \$150,000.00 in actual pain and suffering, \$8,647.81 in lost wages, and \$1,794.40 in unreimbursed out-of-pocket 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.

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<sup>1</sup> 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.

<sup>2</sup> 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).

Pursuant to the terms stated in the attached Proffer, **I award Petitioner a lump sum payment of \$160,442.21, comprised of \$150,000.00 in actual pain and suffering, \$8,647.81 in lost wages, and \$1,794.40 in unreimbursed 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.<sup>3</sup>

**IT IS SO ORDERED.**

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

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<sup>3</sup> 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

MARY WALSH,

Petitioner,

v.

SECRETARY OF HEALTH AND  
HUMAN SERVICES,

Respondent.

No. 22-148V  
Chief Special Master Corcoran

**PROFFER ON AWARD OF COMPENSATION<sup>1</sup>**

**I. Procedural History**

On February 14, 2022, Mary Walsh (“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*. She alleges that, as a result of receiving an influenza vaccine on November 13, 2020, she sustained a Shoulder Injury Related to Vaccine Administration (“SIRVA”).  
Petition at 1. On August 2, 2023, respondent filed his Vaccine Rule 4(c) report, concluding that petitioner suffered SIRVA as defined by the Vaccine Injury Table, within the Table timeframe, and with no apparent alternative cause. On October 10, 2023, Chief Special Master Corcoran issued a ruling on entitlement, finding that petitioner was entitled to compensation for a SIRVA Table injury.

**II. Items of Compensation**

Based upon the evidence of record, respondent proffers that petitioner should be awarded

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<sup>1</sup> This Proffer does not include attorneys’ fees and costs, which the parties intend to address after the Damages Decision is issued.

a lump sum of **\$160,442.21**, for all damages (consisting of \$150,000.00 actual pain and suffering, \$8,647.81 in lost wages, and \$1,794.40 in documented out-of-pocket expenses). This amount represents all elements of compensation to which petitioner is entitled under 42 U.S.C. § 300aa-15(a). Petitioner agrees.

**III. Form of the Award**

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 following: A lump sum payment of **\$160,442.21** in the form of a check payable to petitioner.<sup>2</sup> Petitioner agrees.

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

LARA A. ENGLUND  
Assistant Director  
Torts Branch, Civil Division

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<sup>2</sup> Should petitioner die prior to entry of judgment, respondent would oppose any award for future medical expenses, future lost earnings, and future pain and suffering, and the parties reserve the right to move the Court for appropriate relief.

s/Katherine C. Esposito  
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Dated: May 15, 2024