

In the United States Court of Federal Claims
OFFICE OF SPECIAL MASTERS
No. 22-0597V

DIANNE GREENE,

Petitioner,

v.

SECRETARY OF HEALTH AND
HUMAN SERVICES,

Respondent.

Chief Special Master Corcoran

Filed: January 18, 2024

Paul R. Brazil, Muller Brazil, LLP, Dresher, PA, for Petitioner.

Naseem Kourosh, U.S. Department of Justice, Washington, DC, for Respondent.

DECISION AWARDING DAMAGES¹

On May 31, 2022, Dianne Greene 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 shoulder injury related to vaccine administration (“SIRVA”) resulting from an influenza vaccine received on October 20, 2020. Petition at 1. Petitioner further alleges that the vaccine was administered in the United States, her SIRVA symptoms persisted for more than six months, and neither Petitioner, nor any other party, has ever filed any action or received compensation in the form of an award or settlement for Petitioner’s vaccine-related injury. Petition at ¶¶ 1, 10, 11. The case was assigned to the Special Processing Unit of the Office of Special Masters.

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).

On October 11, 2023, a ruling on entitlement was issued, finding Petitioner entitled to compensation for SIRVA. On December 11, 2023, Respondent filed a proffer on award of compensation (ECF No. 34). On December 12, 2023, I issued a decision awarding damages (ECF No. 35). Judgment was entered on December 14, 2023 (ECF No. 37).

On December 19, and December 21, 2023, Respondent filed a motion and supplemental motion for relief from judgment (ECF Nos. 39, 40). On January 8, 2024, I issued an order granting the motions and directing that the clerk vacate the December 14, 2023 judgment, withdraw the December 12, 2023 decision, and strike the proffer filed on December 11, 2023 (ECF No. 41). The clerk has now done so.

On January 17, 2024, Respondent filed a proffer on award of compensation ("Proffer") indicating Petitioner should be awarded \$84,179.20. Proffer at 1-2. 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 \$84,179.20 (consisting of \$82,500.00 in pain and suffering and \$1,679.20 in 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.

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

DIANNE GREENE,

Petitioner,

v.

SECRETARY OF HEALTH
AND HUMAN SERVICES,

Respondent.

No. 22-597V (ECF)
Chief Special Master Corcoran

RESPONDENT’S PROFFER ON AWARD OF COMPENSATION

On May 31, 2022, Dianne Greene (“petitioner”) filed a petition for compensation under the National Childhood Vaccine Injury Act of 1986, 42 U.S.C. §§ 300aa-1 to -34 (2018) (the “Vaccine Act”). Petitioner alleged that she suffered a shoulder injury related to vaccine administration (“SIRVA”) as a result of an influenza vaccine administered on October 20, 2020. ECF No. 1 (Petition) at 1.

On October 10, 2023, the Secretary of Health and Human Services (“respondent”) filed a Rule 4(c) Report indicating that this case is appropriate for compensation under the terms of the Act for a SIRVA Table injury, and on October 11, 2023, the Chief Special Master issued a Ruling on Entitlement, finding that petitioner is entitled to compensation. ECF No. 29; ECF No. 30.

I. Items of Compensation

Based upon the evidence of record, respondent proffers that petitioner should be awarded \$84,179.20 in damages, consisting of \$82,500.00 in pain and suffering and \$1,679.20 in unreimbursable expenses, which 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 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 **\$84,179.20**, in the form of a check payable to petitioner.¹

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

TRACI R. PATTON
Assistant Director
Torts Branch, Civil Division

/s/ Naseem Kourosh
NASEEM KOUROSH
Trial Attorney
Torts Branch, Civil Division
U.S. Department of Justice
P.O. Box 146, Benjamin Franklin Station
Washington, D.C. 20044-0146
Telephone: (202) 305-1159
E-mail: Naseem.Kourosh@usdoj.gov

DATED: January 17, 2024

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 medical expenses, future pain and suffering, and future lost wages.