

In the United States Court of Federal Claims
OFFICE OF SPECIAL MASTERS
No. 22-1526V

THELLYS ANN WALDEN, Personal
Representative of ESTATE OF BILLY
EDWIN WALDEN,

Petitioner,

v.

SECRETARY OF HEALTH AND
HUMAN SERVICES,

Respondent.

Chief Special Master Corcoran

Filed: December 14, 2023

Frank Stout, Stout Law Office, Ada, OK, for Petitioner.

Colleen Clemons Hartley, U.S. Department of Justice, Washington, DC, for Respondent.

DECISION AWARDDING DAMAGES¹

On October 17, 2022, Thellys Ann Walden, Personal Representative of the Estate of Billy Edwin Walden deceased (“Petitioner”) 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 Billy Edwin Walden (“Mr. Walden”) suffered Guillain Barré syndrome (“GBS”), and ultimately, his death, as a result of an influenza (“flu”) vaccine administered on October 21, 2020. Petition at 1. 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 September 25, 2023, a ruling on entitlement was issued, finding Petitioner entitled to compensation. On December 12, 2023, Respondent filed a proffer on award of compensation (“Proffer”) indicating Petitioner should be awarded \$350,000.00 (comprised of \$250,000.00 for the statutory benefit for a vaccine-related death, and \$100,000.00 for past pain and suffering). 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 \$350,000.00** (comprised of \$250,000.00 for the statutory benefit for a vaccine-related death, and \$100,000.00 for past pain and suffering) **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.

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SECRETARY OF HEALTH AND *
HUMAN SERVICES, *

Respondent. *

RESPONDENT’S PROFFER ON AWARD OF COMPENSATION

On October 17, 2022, Thellys Ann Walden, as personal representative of the Estate of Billy Edwin Walden,¹ filed a petition stating that Billy Edwin Walden developed Guillain-Barré syndrome (“GBS”), a Vaccine Table Injury, within the Table time frame following administration of a flu vaccine on October 21, 2020. Petitioner also alleged that Billy Edwin Walden’s death is a sequela of his GBS.

On September 22, 2023, respondent filed a Rule 4(c) Report, conceding that petitioner’s claim meets the Table criteria for a GBS injury, and that Billy Edwin Walden’s death is vaccine related. ECF No. 26. On September 25, 2023, the Court issued a Ruling on Entitlement finding petitioner entitled to compensation under the Vaccine Act. ECF No. 27.

¹ Petitioner filed documentation on October 17, 2022, establishing that on March 14, 2022, she was appointed personal representative of Billy Edwin Walden’s Estate under the laws of the State of Oklahoma. See Exhibit 1. All references to petitioner herein refer solely to Thellys Ann Walden in her representative capacity as the personal representative of the Estate of Billy Edwin Walden.

I. Items of Compensation

Based upon the evidence of record, respondent proffers that petitioner should be awarded the following, and requests that the Chief Special Master's decision and the Court's judgment award:

- a. a lump sum payment of **\$250,000.00**, which represents compensation for the statutory benefit for a vaccine-related death, and
- b. a lump sum payment of **\$100,000.00**, which represents compensation for past pain and suffering.

These amounts represent all elements of compensation to which petitioner would be entitled under 42 U.S.C. § 300aa-15(a)(2) and (a)(4).² Petitioner agrees.

II. Form of the Award

Respondent recommends that petitioner be awarded a lump sum payment of **\$350,000.00**, in the form of a check payable to petitioner, Thellys Ann Walden, as personal representative of the Estate of Billy Edwin Walden.³ Petitioner agrees.

Respectfully submitted,

BRIAN M. BOYNTON
Principal Deputy Assistant Attorney General

C. SALVATORE D'ALESSIO
Director
Torts Branch, Civil Division

² This Proffer does not include attorneys' fees and costs, which the parties intend to address after a Damages Decision is issued.

³ If for some reason petitioner is not authorized by a court of competent jurisdiction to serve as the personal representative of the Estate of Billy Edwin Walden at the time a payment pursuant to this Proffer is to be made, then any such payment shall be paid to the party or parties appointed by a court of competent jurisdiction to serve as personal representative of the Estate of Billy Edwin Walden upon submission of written documentation of such appointment to the Secretary.

HEATHER L. PEARLMAN
Deputy Director
Torts Branch, Civil Division

TRACI R. PATTON
Assistant Director
Torts Branch, Civil Division

/s/ COLLEEN C. HARTLEY
COLLEEN C. HARTLEY
Assistant Director
Torts Branch, Civil Division
U.S. Department of Justice
P.O. Box 146
Benjamin Franklin Station
Washington, D.C. 20044-0146
Phone: (202) 616-3644

Dated: December 12, 2023