

In the United States Court of Federal Claims
OFFICE OF SPECIAL MASTERS
No. 22-1619V

SERINA JOHNSON,

Petitioner,

v.

SECRETARY OF HEALTH AND
HUMAN SERVICES,

Respondent.

Chief Special Master Corcoran

Filed: July 15, 2024

Leah V. Durant, Law Offices of Leah V. Durant, PLLC, Washington, DC, for Petitioner.

Joseph D. Leavitt, U.S. Department of Justice, Washington, DC, for Respondent.

DECISION AWARDING DAMAGES¹

On October 31, 2022, Serina Johnson 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 right shoulder injury related to vaccine administration (“SIRVA”) after receiving an influenza (“flu”) vaccination on November 12, 2019. Petition at 1. The case was assigned to the Special Processing Unit of the Office of Special Masters.

On February 29, 2024, a ruling on entitlement was issued, finding Petitioner entitled to compensation for her SIRVA. On July 11, 2024, Respondent filed a proffer on award of compensation (“Proffer”) indicating Petitioner should be awarded \$85,031.83, representing \$85,000.00 in pain and suffering damages and \$31.83 for past unreimbursable expenses. Proffer at 2. Respondent further indicates that \$618.35 should be jointly awarded to Petitioner and The Rawlings Company, LLC, representing

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).

satisfaction of the State of Maryland Medicaid lien. *Id.* 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 the following:**

- 1) a lump sum payment of \$85,031.83 in the form of a check payable to Petitioner; and**
- 2) a lump sum payment of \$618.35, representing compensation for the satisfaction of the State of Maryland Medicaid lien, in the form of a check payable jointly to Petitioner and The Rawlings Company, LLC, ATTN: Letitia Robinson, Reference No.: 149266801, P.O. Box. 2000, La Grange, KY 40031-2000. These amounts represent 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**

SERINA JOHNSON,

Petitioner,

v.

SECRETARY OF HEALTH AND
HUMAN SERVICES,

Respondent.

No. 22-1619V (ECF)
Chief Special Master Corcoran
ECF

RESPONDENT’S PROFFER ON AWARD OF COMPENSATION

On October 31, 2022, Serina Johnson (“petitioner”) filed a petition for compensation under the National Childhood Vaccine Injury Act of 1986, as amended (“the Vaccine Act” or “the Act”), 42 U.S.C. §§ 300aa-1 to -34, alleging that she suffered a right-sided shoulder injury related to vaccine administration (“SIRVA”), as defined in the Vaccine Injury Table, following administration of an influenza (“flu”) vaccination that she received on November 12, 2019. ECF No. 1 at 1. On November 29, 2023, respondent filed a Rule 4(c) Report, recommending that compensation be awarded. ECF No. 23. On February 29, 2024, Chief Special Master Corcoran issued a Ruling on Entitlement, agreeing with respondent that petitioner is entitled to compensation. ECF No. 24 at 2.

I. Items of Compensation

a. Pain and Suffering

Respondent proffers that petitioner should be awarded **\$85,000.00** 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 pertaining to her vaccine-related injury. Respondent proffers that petitioner should be awarded past unreimbursable expenses in the total amount of **\$31.83**. *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 Maryland's and the Kaiser Foundation Health Plan of the Mid-Atlantic States, Inc.'s ("Kaiser Foundation") Medicaid Lien¹ in the amount of **\$618.35**, which represents full satisfaction of any right of subrogation, assignment, claim, lien, or cause of action that the State of Maryland or the Kaiser Foundation may have against any individual as a result of any Medicaid payments the State of Maryland or the Kaiser Foundation 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 vaccine-related injury suffered on or about November 12, 2019 under Title XIX of the Social Security Act.

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

¹ Based on information provided by petitioner to respondent, The Rawlings Company, LLC, is engaged in pursuing the State of Maryland Medicaid lien on behalf of the Kaiser Foundation.

one lump sum payment as described below and requests that the Chief Special Master's decision and the Court's judgment award the following:²

- a. A lump sum payment of **\$85,031.83**, in the form of a check payable to petitioner; and
- b. A lump sum payment of **\$618.35**, representing compensation for the satisfaction of the State of Maryland Medicaid lien, in the form of a check payable jointly to petitioner and:

The Rawlings Company, LLC
ATTN: Letitia Robinson
Reference No.: 149266801
P.O. Box 2000
La Grange, KY
40031-2000

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

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

² 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 lost earnings and future pain and suffering.

/s/ Joseph Leavitt
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Dated: July 10, 2024