

In the United States Court of Federal Claims
OFFICE OF SPECIAL MASTERS
No. 23-2193V

LORI MILLER,

Petitioner,

v.

SECRETARY OF HEALTH AND
HUMAN SERVICES,

Respondent.

Chief Special Master Corcoran

Filed: December 26, 2024

Timothy James Lessman, Knutson & Casey Law Firm, Mankato, MN, for Petitioner.

Benjamin Rex Eisenberg, U.S. Department of Justice, Washington, DC, for Respondent.

DECISION AWARDING DAMAGES¹

On December 28, 2023, Lori Miller 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 1, 2021. Petition at 1. Petitioner further alleges that the vaccine was administered in the United States, she suffered the residual effects or complications of her injury for more than six months, and Petitioner has never received compensation in the form of an award or settlement (other than a worker’s compensation claim), or filed any other civil action prior to filing this petition, for her vaccine-related injuries. Petition at ¶¶ 4, 16, 17. 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 15, 2024, a ruling on entitlement was issued, finding Petitioner entitled to compensation for SIRVA. On December 26, 2024, Respondent filed a proffer on award of compensation (“Proffer”) indicating Petitioner should be awarded \$77,500.00. 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 \$77,500.00 (in 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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LORI MILLER,

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SECRETARY OF HEALTH AND
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No. 23-2193V
Chief Special Master Corcoran
ECF

RESPONDENT’S PROFFER ON AWARD OF COMPENSATION

On December 28, 2023, Lori Miller (“petitioner”) filed a petition for compensation under the National Childhood Vaccine Injury Act of 1986, 42 U.S.C. §§ 300aa-1 to -34 (“Vaccine Act” or “Act”), alleging that she suffered a Shoulder Injury Related to Vaccine Administration (“SIRVA”), as defined in the Vaccine Injury Table, following administration of a seasonal influenza vaccine she received on October 1, 2021. Petition at 1.

On October 15, 2024, respondent filed a respondent’s report conceding entitlement to compensation, and the Chief Special Master issued a Ruling on Entitlement finding petitioner entitled to compensation. ECF No. 21, 22.

On December 3, respondent made a proffer representing the calculation of the full value of damages in this case. On December 9, petitioner accepted this proffer. Although respondent submits this filing, petitioner has reviewed and agrees with this filing.

I. Items of Compensation

A. Pain and Suffering

Respondent proffers that petitioner should be awarded **\$77,500.00** in pain and suffering.

See 42 U.S.C. § 300aa-15(a)(4). Petitioner agrees.

B. Past Unreimbursable Expenses

Petitioner has no unreimbursable expenses under 42 U.S.C. § 300aa-15(a)(1)(B).

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 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 \$77,500.00, in the form of a check payable to petitioner.¹

III. Summary of Recommended Payments Following Judgment

Lump sum payable to petitioner: **\$77,500.00.**

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

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, unreimbursed expenses, future lost earnings and future pain and suffering.

COLLEEN C. HARTLEY
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Torts Branch, Civil Division

/s/ Benjamin Eisenberg
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