

In the United States Court of Federal Claims

OFFICE OF SPECIAL MASTERS

No. 14-1050V

Filed: January 12, 2015

Not For Publication

AMY FOGG,

*

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Petitioner,

*

v.

*

*

Damages Decision Based on Proffer;
Tdap; Shoulder Injury Related to
Vaccine Administration (SIRVA)

SECRETARY OF HEALTH
AND HUMAN SERVICES,

*

*

*

Respondent.

*

*

Paul Brazil, Muller Brazil, LLP, Philadelphia, PA, for petitioner.

Lara Ann Glund, U.S. Department of Justice, Washington, DC, for respondent.

DECISION AWARDING DAMAGES¹

Vowell, Chief Special Master:

On October 28, 2014, Amy Fogg filed a petition for compensation under the National Vaccine Injury Compensation Program, 42 U.S.C. §300aa-10, *et seq.*² [the “Vaccine Act” or “Program”]. The petition alleges that Ms. Fogg suffered a left shoulder injury as a result of the administration of a tetanus, diphtheria, and pertussis (“Tdap”) vaccination on February 12, 2014. (Petition at p. 1.)

On January 12, 2015, I issued a ruling on entitlement, finding petitioner entitled to compensation. (See Ruling on Entitlement (ECF No. 15).) Also on January 12, 2015, respondent filed a proffer on award of compensation (“Proffer”) detailing compensation for all elements of compensation to which petitioner would be entitled under § 300aa-15(a)(1); -15(a)(3)(A); and -15(a)(4). According to respondent’s Proffer, petitioner

¹ Because this unpublished decision contains a reasoned explanation for the action in this case, it will be posted on the United States Court of Federal Claims’ website, in accordance with the E-Government Act of 2002, Pub. L. No. 107-347, 116 Stat. 2899, 2913 (Dec. 17, 2002). In accordance with Vaccine Rule 18(b), petitioners have 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 “§” references to the Vaccine Act will be to the pertinent subparagraph of 42 U.S.C. § 300aa (2006).

agrees to the proposed award of compensation. Pursuant to the terms stated in the attached Proffer, I **award petitioner:**

A lump sum payment of \$120,000.00 in the form of a check payable to petitioner, Amy Fogg.

This amount represents compensation for all damages that would be available under § 300aa-15(a).

The clerk of the court is directed to enter judgment in accordance with this decision.³

IT IS SO ORDERED.

s/Denise K. Vowell
Denise K. Vowell
Chief Special Master

³ Pursuant to Vaccine Rule 11(a), entry of judgment can be expedited by each party filing a notice renouncing the right to seek review.

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

AMY FOGG,)	
)	
Petitioner,)	
)	
v.)	No. 14-1050V
)	Chief Special Master Denise Vowell
)	
HEALTH AND HUMAN SERVICES,)	
)	
Respondent.)	
)	

RESPONDENT’S PROFFER ON AWARD OF COMPENSATION

I. Compensation for Vaccine Injury-Related Items

Respondent proffers that, based on the evidence of record, petitioner should be awarded \$120,000.00. This amount represents all elements of compensation to which petitioner would be entitled under 42 U.S.C. § 300aa-15(a)(1); -15(a)(3)(A); and -15(a)(4). Petitioner agrees.

II. Form of the Award

The parties recommend that the compensation provided to petitioner should be made as lump sum payment of \$120,000.00, in the form of a check payable to petitioner.¹ Petitioner is a competent adult. Evidence of guardianship is not required in this case. This amount accounts for all elements of compensation under 42 U.S.C. § 300aa-15(a) to which petitioner would be entitled.

Respectfully submitted,

JOYCE R. BRANDA
Acting Assistant Attorney General

¹ 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.

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Torts Branch, Civil Division

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s/ LARA A. ENGLUND
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Dated: January 12, 2015