

In the United States Court of Federal Claims

OFFICE OF SPECIAL MASTERS

No. 15-1241V

Filed: January 22, 2019

PUBLISHED

JAMES YOUNG,

Petitioner,

v.

SECRETARY OF HEALTH AND
HUMAN SERVICES,

Respondent.

Decision; Pain and Suffering Damages;
Influenza (“Flu”) Vaccine; Shoulder
Injury Related to Vaccine Administration
(“SIRVA”); Out-of-Pocket Expenses.

Edward M. Kraus, Law Offices of Chicago Kent, Chicago, IL, for petitioner.

Robert Paul Coleman, III, U.S. Department of Justice, Washington, DC, for respondent.

DECISION AWARDING DAMAGES¹

Dorsey, Chief Special Master:

On October 23, 2015, James Young (“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 he suffered from a left shoulder injury as a result of receiving an influenza (“flu”) vaccination on October 24, 2013. Petition at 1, 4.

On January 10, 2018, the undersigned issued a ruling on entitlement, finding petitioner entitled to compensation for his shoulder injury related to vaccine administration (“SIRVA”).

¹ The undersigned intends to post this Decision on the United States Court of Federal Claims’ website. **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, the undersigned agrees that the identified material fits within this definition, the undersigned will redact such material from public access. Because this Decision contains a reasoned explanation for the action in this case, the undersigned is required to post it on the United States Court of Federal Claims’ website in accordance with the E-Government Act of 2002. 44 U.S.C. § 3501 note (2012) (Federal Management and Promotion of Electronic Government Services).

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 (2012).

The parties then attempted to resolve damages informally, but they were unable to do so. A damages hearing was subsequently held on September 25, 2018, in Washington, D.C. On November 20, 2018, petitioner filed a status report indicating that the parties were still unable to resolve damages and requesting that the Court issue a decision. Status Report dated Nov. 20, 2018 (ECF No. 71).

On January 4, 2019, the undersigned issued a damages ruling, awarding petitioner \$100,000.00 for actual pain and suffering and \$2,293.15 for past unreimbursable medical expenses. Damages Ruling dated Jan. 4, 2019 (ECF No. 74). That ruling is incorporated herein as if fully set forth. The undersigned also ordered petitioner to file additional documentation of his anticipated future physical therapy costs. *Id.* at 10. On January 16, 2019, petitioner informed the Court that he had decided not to pursue a claim for future medical expenses, and so he would not file any additional documentation. Status Report dated Jan. 16, 2019 (ECF No. 75).

Therefore, based on the record as a whole, and pursuant to the undersigned's damages ruling, the undersigned finds that petitioners are entitled to an award as ordered below:

The undersigned awards a lump sum payment of \$100,000.00 for actual pain and suffering, and a lump sum payment of \$2,293.15 for past unreimbursable medical expenses, for a total of \$102,293.15 in the form of a check payable to petitioner.

These amounts represent 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.

IT IS SO ORDERED.

s/Nora Beth Dorsey
Nora Beth Dorsey
Chief Special Master