

# In the United States Court of Federal Claims

## OFFICE OF SPECIAL MASTERS

No. 16-411V

Filed: November 4, 2016

UNPUBLISHED

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CHRISTOPHER DIANE LEWIS,

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Petitioner,

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v.

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SECRETARY OF HEALTH

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AND HUMAN SERVICES,

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Respondent.

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*Jeffrey S. Pop, Jeffrey S. Pop & Associates, Beverly Hills, CA, for petitioner.*

*Reginald Skinner, U.S. Department of Justice, Washington, DC, for respondent.*

### **DECISION AWARDING DAMAGES<sup>1</sup>**

**Dorsey**, Chief Special Master:

On March 31, 2016, petitioner filed a petition for compensation under the National Vaccine Injury Compensation Program, 42 U.S.C. §300aa-10, *et seq.*,<sup>2</sup> (the “Vaccine Act”). Petitioner alleges that she suffered a left shoulder injury caused-in-fact by her November 4, 2014 influenza vaccination. Petition at 1. The case was assigned to the Special Processing Unit of the Office of Special Masters.

On August 26, 2016, a ruling on entitlement was issued, finding petitioner entitled to compensation for a shoulder injury related to vaccine administration (“SIRVA”). On November 3, 2016, respondent filed a proffer on award of compensation (“Proffer”) indicating petitioner should be awarded \$65,000.00 for her pain and suffering and \$1,569.55 for a Medicaid lien. Proffer at 1. In the Proffer, respondent represented that

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<sup>1</sup> Because this unpublished decision contains a reasoned explanation for the action in this case, the undersigned intends to post it on the United States Court of Federal Claims' website,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). 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.

<sup>2</sup> 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).

petitioner agrees with the proffered award. Based on the record as a whole, the undersigned finds that petitioner is entitled to an award as stated in the Proffer.

Pursuant to the terms stated in the attached Proffer, the undersigned awards:

- **A lump sum payment of \$65,000.00, which represents compensation for petitioner's pain and suffering, in the form of a check payable to petitioner, Christopher Diane Lewis; and**
- **A lump sum payment of \$1,569.55, which amount represents compensation for satisfaction of the State of Texas Medicaid Lien (Molina Healthcare of TX), in the form of a check payable jointly to petitioner and First Recovery Group, LLC:**

**First Recovery Group, LLC  
P.O. Box 771932  
Detroit, MI 48277-1932**

Petitioner agrees to endorse the check. 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.<sup>3</sup>

**IT IS SO ORDERED.**

**s/Nora Beth Dorsey**  
Nora Beth Dorsey  
Chief Special Master

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<sup>3</sup> 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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On August 26, 2016, the Chief Special Master found that a preponderance of the medical evidence indicates that petitioner suffered a left shoulder injury related to vaccine administration (“SIRVA”), which was causally related to the influenza (“flu”) vaccination she received on November 4, 2014. The parties now address the amount of compensation to be awarded in this case.

Based upon the evidence of record, respondent proffers that petitioner should be awarded (1) Pain and Suffering in the amount of \$65,000.00, and (2) Medicaid Lien in the amount of \$1,569.55, which represents all elements of compensation to which petitioner would be entitled under 42 U.S.C. § 300aa-15(a).<sup>1</sup> Petitioner agrees.

The parties recommend that the compensation provided to petitioner should be made

<sup>1</sup> 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 medical expenses and future pain and suffering.

through a lump sum payment of \$65,000.00 in the form of a check payable to petitioner.

In addition, a lump sum payment should be made of \$1,569.55, representing compensation for satisfaction of the State of Texas Medicaid Lien (Molina Healthcare of TX), payable jointly to petitioner and First Recovery Group, LLC:

First Recovery Group, LLC  
P.O. Box 771932  
Detroit, MI 48277-1932

Petitioner agrees to endorse that check.

Respectfully submitted,

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Date: November 3, 2016