

# In the United States Court of Federal Claims

## OFFICE OF SPECIAL MASTERS

No. 16-0875V

Filed: August 8, 2017

UNPUBLISHED

JON MARTIN,

Petitioner,

v.

SECRETARY OF HEALTH AND  
HUMAN SERVICES,

Respondent.

Special Processing Unit (SPU);  
Damages Decision Based on Proffer;  
Influenza (Flu) Vaccine; Shoulder  
Injury Related to Vaccine  
Administration (SIRVA)

*Maximillian J. Muller, Muller Brazil, LLP, Dresher, PA, for petitioner.*

*Claudia Barnes Gangi, U.S. Department of Justice, Washington, DC, for respondent.*

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

**Dorsey**, Chief Special Master:

On July 25, 2016, Jon Martin (“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 he received an influenza (“flu”) vaccine in his left arm on October 10, 2015, and subsequently suffered an injury to his left shoulder secondary to the vaccination. Petition at 1. The case was assigned to the Special Processing Unit of the Office of Special Masters.

On February 9, 2017, a ruling on entitlement was issued, finding petitioner entitled to compensation for SIRVA. On August 8, 2017, respondent filed a proffer on award of compensation (“Proffer”) indicating petitioner should be awarded a lump sum of \$70,000.00, for his actual and projected pain and suffering, and \$1,430.87, representing compensation for satisfaction of the State of Nevada Medicaid lien. Proffer

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 Because this unpublished decision contains a reasoned explanation for the action in this case, the undersigned intends to post it on the United States Court of Federal Claims'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

at 1-2. In the Proffer, respondent represented that 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 the following:**

- A. A lump sum payment of \$70,000.00, in the form of a check payable to petitioner, Jon Martin.**
- B. A lump sum payment of \$1,430.87, representing compensation for satisfaction of the State of Nevada Medicaid lien, payable joint to petitioner and**

State of Nevada  
Department of Health and Human Services  
Division of Health Care Financing and Policy  
HMS NV Casualty Unit  
P.O. Box 167487  
Irving, TX 75016  
Medicaid#: 00001769855

Petitioner agrees to endorse this payment to the State of Nevada. 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.

	)	
JON MARTIN,	)	
	)	
Petitioner,	)	
	)	<b>No. 16-875V</b>
v.	)	<b>Chief Special Master Dorsey</b>
	)	<b>ECF</b>
SECRETARY OF HEALTH AND	)	
HUMAN SERVICES,	)	
	)	
Respondent.	)	
	)	

this case as a result of his vaccine-related injury suffered on or about October 10, 2015, under Title XIX of the Social Security Act.

## **II. Form of the Award**

The parties recommend that the compensation provided to Jon Martin should be made through a combination of lump sum payments as described below, and request that the Chief Special Master's decision and the Court's judgment award the following:<sup>1</sup>

A. A lump sum payment of \$70,000.00, representing pain and suffering in the form of a check payable to petitioner, Jon Martin.

B. A lump sum payment of \$1,430.87, representing compensation for satisfaction of the State of Nevada Medicaid lien, payable jointly to petitioner and

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Petitioner agrees to endorse this payment to the State of Nevada.

## **III. Summary of Recommended Payments Following Judgment**

A.	Lump Sum paid to petitioner, Jon Martin:	<b>\$70,000.00</b>
B.	Medicaid Lien, paid jointly to petitioner and State of Nevada:	<b>\$ 1,430.87</b>

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<sup>1</sup> Should petitioner die prior to entry of judgment, respondent reserves the right to move the Court for appropriate relief. In particular, respondent would oppose any award for future pain and suffering.

Respectfully submitted,

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Acting Assistant Attorney General

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/s/ Claudia B. Gangi  
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Dated: August 8, 2017