

In the United States Court of Federal Claims

OFFICE OF SPECIAL MASTERS

No. 16-0946V

Filed: August 3, 2017

UNPUBLISHED

The Estate of ARNOLD LEE MILLER,
Decedent, by and through ARMICKA
S. MILLER, as Personal
Representative,

Petitioner,

v.

SECRETARY OF HEALTH AND
HUMAN SERVICES,

Respondent.

Special Processing Unit (SPU);
Damages Decision Based on Proffer;
Influenza (Flu) Vaccine; Guillain-
Barre Syndrome (GBS)

*Isaiah Richard Kalinowski, Maglio Christopher & Toale, PA, Washington, DC, for
petitioner.*

Jennifer Leigh Reynaud, U.S. Department of Justice, Washington, DC, for respondent.

DECISION AWARDING DAMAGES¹

Dorsey, Chief Special Master:

On August 5, 2016, petitioner filed a petition as personal representative for the estate of Arnold Lee Miller for compensation under the National Vaccine Injury Compensation Program, 42 U.S.C. §300aa-10, *et seq.*,² (the “Vaccine Act”). Petitioner alleged that the decedent, Arnold Lee Miller, developed Guillain-Barré Syndrome (“GBS”) resulting in his death which was causally related to the influenza vaccine and Prevnar 13 pneumococcal conjugate vaccine he received on November 4, 2015. The case was assigned to the Special Processing Unit of the Office of Special Masters.

¹ Because this unpublished decision contains a reasoned explanation for the action in this case, the undersigned intends to post it on the United States Court of Federal Claims'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

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).

On July 31, 2017, a ruling on entitlement was issued, finding petitioner entitled to compensation for his Guillain-Barré Syndrome and subsequent death. On August 3, 2017, respondent filed a proffer on award of compensation ("Proffer") indicating petitioner should be awarded \$350,000.00. Proffer at 1. 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 petitioner a lump sum payment of \$350,000.00 in the form of a check payable to petitioner, Armicka S. Miller, Executrix of The Estate of Arnold L. Miller, Sr.** Payment shall be made when petitioner provides respondent with documentation establishing her appointment as the Executrix of the Estate of Arnold Lee Miller. Proffer at 2. "If petitioner is not authorized by a court of competent jurisdiction to serve as the Executrix of the Estate of Arnold Lee Miller, any such payment shall be made to the party or parties appointed by the court of competent jurisdiction to serve as legal representative of the Estate of Arnold Lee Miler, upon submission of written documentation of such appointment to the Secretary." *Id.* This amount represents compensation for all damages that would be available under § 15(a).

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

IT IS SO ORDERED.

s/Nora Beth Dorsey
Nora Beth Dorsey
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.

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

The Estate of ARNOLD LEE MILLER,
Decedent, by and through ARMICKA S.
MILLER, as Personal Representative,

Petitioner,

v.

SECRETARY OF HEALTH AND
HUMAN SERVICES,

Respondent.

No. 16-946V
Chief Special Master Dorsey
ECF

RESPONDENT’S PROFFER ON AWARD OF COMPENSATION

On August 5, 2016, Armicka S. Miller (“petitioner”) filed a petition for compensation (“Petition”) on behalf of the estate of Arnold Lee Miller (“Mr. Miller”), under the National Childhood Vaccine Injury Act of 1986, 42 U.S.C. §§ 300aa-1 to -34 (“Vaccine Act” or “Act”), as amended. Respondent’s Rule 4(c) Report, filed on July 31, 2017, conceded that petitioner is entitled to compensation. In light of respondent’s concession, on July 31, 2017, the special master found petitioner entitled to compensation.

I. Items of Compensation

Based upon the evidence of record, respondent proffers that petitioner should be awarded \$350,000.00, which represents all elements of compensation to which petitioner would be entitled under 42 U.S.C. § 300aa-15(a). Petitioner agrees.

II. Form of the Award

Respondent recommends that the compensation provided to petitioner should be made through a lump sum payment of **\$350,000.00** in the form of a check payable to **Armicka S. Miller, Executrix of The Estate of Arnold L. Miller Sr.** No payment shall be made until

petitioner provides respondent with documentation establishing her appointment as the Executrix of the Estate of Arnold Lee Miller. If petitioner is not authorized by a court of competent jurisdiction to serve as the Executrix of the Estate of Arnold Lee Miller, any such payment shall be made to the party or parties appointed by a court of competent jurisdiction to serve as legal representative of the Estate of Arnold Lee Miller, upon submission of written documentation of such appointment to the Secretary. Petitioner agrees.

Respectfully submitted,

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Acting Director
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s/ Jennifer L. Reynaud
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Date: August 3, 2017