

# In the United States Court of Federal Claims

## OFFICE OF SPECIAL MASTERS

No. 16-1381V

Filed: November 27, 2017

UNPUBLISHED

WOGAYEHU DUBALE,

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)

*Diana Lynn Stadelnikas, Maglio Christopher & Toale, PA, Sarasota, FL, for petitioner.  
Ilene Clair Albala, U.S. Department of Justice, Washington, DC, for respondent.*

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

**Dorsey**, Chief Special Master:

On October 24, 2016, Wogayehu Dubale (“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 suffered Guillain-Barré syndrome (“GBS”) as a result of an influenza (“flu”) vaccine he received on October 6, 2015. Petition at 1. The case was assigned to the Special Processing Unit of the Office of Special Masters.

On November 15, 2017, a ruling on entitlement was issued, finding petitioner entitled to compensation. On November 22, 2017, respondent filed a proffer on award of compensation (“Proffer”) indicating petitioner should be awarded \$165,000.00 for his pain and suffering, and \$223,132.36 to satisfy the State of California Medicaid lien. Proffer at 1-2. In the Proffer, respondent represents that petitioner agrees with the

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 Because this unpublished decision contains a reasoned explanation for the action in this case, the undersigned intends to post it on the United States Court of Federal Claims'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

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 \$165,000.00, in the form of a check payable to petitioner, Wogayehu Dubale.**
- B. A lump sum payment of \$223,132.36, representing compensation for satisfaction of the State of California Medicaid lien, payable jointly to petitioner and**

**Department of Health Care Services  
Recovery Branch – MS 4720  
P.O. Box 997421  
Sacramento, CA 95899-7421**

**Petitioner agrees to endorse this check to the State of California.**

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.

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

WOGAYEHU DUBALE	)	
	)	
Petitioner,	)	
	)	
v.	)	No. 16-1381V
	)	Chief Special Master Dorsey
SECRETARY OF HEALTH AND	)	ECF
HUMAN SERVICES,	)	
	)	
Respondent.	)	
	)	

**PROFFER ON AWARD OF COMPENSATION**

On November 15, 2017, Chief Special Master Dorsey issued an Order finding that petitioner's case was entitled to vaccine compensation for her Guillain-Barré syndrome ("GBS"). The parties submit the following proffer on compensation.

**I. Items of Compensation**

A. Pain and Suffering

Based upon the evidence of record, respondent proffers that petitioner should be awarded a lump sum of \$165,000.00, 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.

B. Medicaid Lien

Respondent proffers that petitioner should be awarded funds to satisfy the State of California Medicaid lien in the amount of \$223,132.36, which represents full satisfaction of any right of subrogation, assignment, claim, lien or cause of action the State of California may have

against any individual as a result of any Medicaid payments the State of California has made to or on behalf of petitioner from the date of his eligibility for benefits through the date of judgment in this case as a result of his vaccine-related injury, under Title XIX of the Social Security Act. Petitioner agrees.

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

Respondent proffers and petitioner agrees that an award of compensation include the following elements:

- A. A lump sum payment of **\$165,000.00**, in the form of a check payable to petitioner.
- B. A lump sum payment of A lump sum payment of **\$223,132.36**, representing compensation for satisfaction of the State of California Medicaid lien, payable jointly to petitioner and

Department of Health Care Services  
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Petitioner agrees to endorse this check to the State of California.

Petitioner is a competent adult. Evidence of guardianship is not required in this case.

Respectfully submitted,

CHAD A. READLER  
Principal Deputy Assistant Attorney General

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<sup>1</sup> Should petitioner die prior to the 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, future lost earnings, and future pain and suffering.

C. SALVATORE D’ALESSIO  
Acting Director  
Torts Branch, Civil Division

CATHARINE E. REEVES  
Deputy Director  
Torts Branch, Civil Division

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*s/ Ilene Albala*  
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Dated: November 22, 2017