

In the United States Court of Federal Claims

OFFICE OF SPECIAL MASTERS

No. 16-1535V

Filed: September 21, 2017

UNPUBLISHED

EDITHE SWENSEN,

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)

*Bruce W. Slane, Law Office of Bruce W. Slane, P.C., White Plains, NY, for petitioner.
Amy P. Kokot, U.S. Department of Justice, Washington, DC, for respondent.*

DECISION AWARDING DAMAGES¹

Dorsey, Chief Special Master:

On November 17, 2016, Edithe Swensen (“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 alleged that her receipt of an influenza (“flu”) vaccine on November 24, 2015, caused her to suffer a left-sided shoulder injury related to vaccine administration (“SIRVA”), as well as “tendinitis, impingement, infraspinatus tendinopathy, superior labrum tear, and subdeltoid bursitis.” Petition at 1. The case was assigned to the Special Processing Unit (“SPU”) of the Office of Special Masters.

On June 19, 2017, the undersigned issued a ruling on entitlement, finding petitioner entitled to compensation for a SIRVA. On September 21, 2017, respondent filed a proffer on award of compensation (“Proffer”) indicating petitioner should be

¹ Because this unpublished decision contains a reasoned explanation for the action in this case, the undersigned intends to post it on the United States Court of Federal Claims'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

awarded \$85,000.00. Proffer at 1. In the Proffer, respondent represented that petitioner agrees with the proffered award. *Id.* 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 \$85,000.00 in the form of a check payable to petitioner, Edithe Swensen.** This amount represents 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.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.

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EDITHE SWENSEN,)	
)	
Petitioner,)	
)	
v.)	No. 16-1535V (ECF)
)	Chief Special Master Dorsey
)	
SECRETARY OF HEALTH AND)	
HUMAN SERVICES,)	
)	
Respondent.)	
)	

I. Compensation for Vaccine Injury-Related Items

II. Form of the Award

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

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Respectfully submitted,

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Acting Assistant Attorney General

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Torts Branch, Civil Division

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s/Amy P. Kokot
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Dated: September 21, 2017