

# In the United States Court of Federal Claims

## OFFICE OF SPECIAL MASTERS

No. 17-0103V

Filed: January 19, 2018

UNPUBLISHED

DEVORA STAMM,

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)

*Lawrence R. Cohan, Anapol Weiss, Philadelphia, PA, for petitioner.*

*Daniel Anthony Principato, U.S. Department of Justice, Washington, DC, for respondent.*

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

**Dorsey**, Chief Special Master:

On January 23, 2017, Devora Stamm (“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 received an influenza (“flu”) vaccine on March 9, 2016, and thereafter suffered from a shoulder injury related to vaccine administration (“SIRVA”). Petition at 1. The case was assigned to the Special Processing Unit of the Office of Special Masters.

On September 26, 2017, a ruling on entitlement was issued, finding petitioner entitled to compensation for SIRVA. On January 19, 2018, respondent filed a proffer on award of compensation (“Proffer”) indicating petitioner should be awarded \$86,203.71. Proffer at 2. In the Proffer, respondent represented that petitioner agrees with the

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 Because this unpublished decision contains a reasoned explanation for the action in this case, the undersigned intends to post it on the United States Court of Federal Claims'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

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 the following:**

- A. a lump sum payment of \$86,147.01 (representing \$1,147.01 for unreimbursed past expenses and \$85,000.00 for past and future pain and suffering) in the form of a check payable to petitioner, Devora Stamm.**
- B. a lump sum payment of \$56.70 to satisfy the State of New Jersey Medicaid lien**, which represents full satisfaction of any right of subrogation, assignment, claim, lien, or cause of action the State of New Jersey had made to or on behalf of Devora Stamm from the date of her eligibility for benefits through the date of judgment in this case as a result of her vaccine-related injury suffered on or about March 8, 2016, under Title XIX of the Social Security Act. Reimbursement of the State of New Jersey lien shall be made through a lump sum payment of \$56.70, representing compensation for satisfaction of the State of New Jersey lien, payable jointly to petitioner, and

**Treasurer, State of New Jersey  
Health Management Systems, Inc.  
P.O. Box 416522  
Boston, MA 02241-6522**

Petitioner agrees to endorse this payment to the State of New Jersey. These amounts 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.<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**

DEVORA STAMM,	)	
	)	
	)	
Petitioner,	)	No. 17-103V
	)	Chief Special Master Dorsey
v.	)	ECF
	)	
SECRETARY OF HEALTH AND	)	
HUMAN SERVICES,	)	
	)	
Respondent.	)	
	)	

**PROFFER ON AWARD OF COMPENSATION**

**I. Compensation for Vaccine Injury-Related Items**

On September 26, 2017, respondent filed a Vaccine Rule 4(c) report concluding that petitioner suffered an injury that is compensable under the National Childhood Vaccine Injury Act of 1986, as amended, 42 U.S.C. §§ 300aa-10 to -34. Accordingly, on September 26, 2017, the Chief Special Master issued a Ruling on Entitlement.

Respondent now proffers that, based on the evidence of record, petitioner should be awarded \$86,203.71. This amount represents all elements of compensation to which petitioner would be entitled under 42 U.S.C. § 300aa-15(a). Petitioner agrees.

**II. Items of Compensation and Form of the Award**

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

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<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, future pain and suffering, and future lost wages.

A. Petitioner's Damages

A lump sum payment of \$86,147.01 (representing \$1,147.01 for unreimbursed past expenses and \$85,000.00 for past and future pain and suffering) in the form of a check payable to petitioner, Devora Stamm.

B. Medicaid Lien

Respondent proffers that petitioner should be awarded funds to satisfy the State of New Jersey Medicaid lien in the amount of \$56.70, which represents full satisfaction of any right of subrogation, assignment, claim, lien, or cause of action the State of New Jersey had made to or on behalf of Devora Stamm from the date of her eligibility for benefits through the date of judgment in this case as a result of her vaccine-related injury suffered on or about March 8, 2016, under Title XIX of the Social Security Act.

Reimbursement of the State of New Jersey lien shall be made through a lump sum payment of \$56.70, representing compensation for satisfaction of the State of New Jersey lien, payable jointly to petitioner, and

Treasurer, State of New Jersey  
Health Management Systems, Inc.  
P.O. Box 416522  
Boston, MA 02241-6522

Petitioner agrees to endorse this payment to the State of New Jersey.

C. Guardianship

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

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

A. Lump sum paid to petitioner	\$86,147.01
B. Reimbursement of Medicaid lien	\$56.70

Respectfully submitted,

CHAD A. READLER  
Acting Assistant Attorney General

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

CATHARINE E. REEVES  
Deputy Director  
Torts Branch, Civil Division

GABRIELLE M. FIELDING  
Assistant Director  
Torts Branch, Civil Division

/s/ Daniel A. Principato  
DANIEL A. PRINCIPATO  
Trial Attorney  
Torts Branch, Civil Division  
U.S. Department of Justice  
P.O. Box 146  
Benjamin Franklin Station  
Washington, D.C. 20044-0146  
Phone: (202) 616-3662  
Fax: (202) 353-2988

Dated: January 19, 2018