

# In the United States Court of Federal Claims

## OFFICE OF SPECIAL MASTERS

No. 17-650V

Filed: May 15, 2018

UNPUBLISHED

DONNA T. HYATT,

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)

*Shealene Priscilla Wasserman, Muller Brazil, LLP, Dresher, PA, for petitioner.*

*Voris Edward Johnson, U.S. Department of Justice, Washington, DC, for respondent.*

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

**Dorsey**, Chief Special Master:

On May 17, 2017, 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 suffered a right shoulder injury related to vaccine administration (“SIRVA”) as a result of her September 14, 2015 influenza (“flu”) vaccination. Petition at 1. The case was assigned to the Special Processing Unit of the Office of Special Masters.

On February 7, 2018, a ruling on entitlement was issued, finding petitioner entitled to compensation for SIRVA. On May 14, 2018, respondent filed an amended proffer on award of compensation (“Proffer”) indicating petitioner should be awarded \$80,000.00 as well as \$1,085.82 representing compensation for satisfaction of Medicaid lien. Proffer at 1-2. In the Proffer, respondent represented that petitioner agrees with

---

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 Because this unpublished decision contains a reasoned explanation for the action in this case, the undersigned intends to post it on the United States Court of Federal Claims'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

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 \$81,085.82 as follows:**

- **A lump sum payment of \$80,000.00 in the form of a check payable to petitioner, Donna T. Hyatt; and**
- **A lump sum payment of \$1,085.82, representing compensation for satisfaction of a State of South Carolina Medicaid lien, payable jointly to petitioner and:**

**Equian, LLC  
Attn: Robert Lucas, Recovery Attorney  
P.O. Box 771932  
Detroit, MI 48277-1932  
Reference: Donna T. Hyatt, File No. 815505-172217.**

Petitioner agrees to endorse this payment to Equian, LLC.

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

---

<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**

DONNA T. HYATT,	)	
	)	
	)	
Petitioner,	)	
	)	
v.	)	No. 17-650V (ECF)
	)	Chief Special Master Dorsey
	)	
SECRETARY OF HEALTH	)	
AND HUMAN SERVICES,	)	
	)	
Respondent.	)	
	)	

**RESPONDENT’S AMENDED PROFFER ON AWARD OF DAMAGES**

Pursuant to the Chief Special Master’s May 1, 2018 Order, respondent submits the following amended proffer:

On February 7, 2018, respondent, the Secretary of Health and Human Services, filed his Rule 4(c) Report conceding entitlement to compensation in this matter, and the same day, the Court entered its Ruling on Entitlement finding petitioner, Donna T. Hyatt, entitled to Vaccine Act compensation. Respondent now proffers that petitioner receive a compensation award consisting of:

- a. a lump sum of **\$80,000.00** in the form of a check payable to petitioner, Donna T. Hyatt.<sup>1</sup> This amount represents compensation for all elements of compensation under 42 U.S.C. § 300aa-15(a)<sup>2</sup> to which petitioner is entitled; and,

---

<sup>1</sup> Petitioner is a competent adult. No guardianship is required.

<sup>2</sup> Should petitioner die prior to entry of judgment, respondent would oppose any award for future medical expenses, future lost earnings, and future pain and suffering, and the parties reserve the right to move the Court for appropriate relief.

- b. A lump sum payment of **\$1,085.82**, representing compensation for satisfaction of a State of South Carolina Medicaid lien, payable jointly to petitioner and:

Equian, LLC  
Attn: Robert Lucas, Recovery Attorney  
P.O. Box 771932  
Detroit, MI 48277-1932  
Reference: Donna T. Hyatt, File No. 815505-172217

Petitioner agrees to endorse this payment to Equian, LLC.

Petitioner agrees with the proffered award described above.<sup>3</sup>

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

HEATHER L. PEARLMAN  
Assistant Director  
Torts Branch, Civil Division

s/Voris E. Johnson, Jr.  
VORIS E. JOHNSON, JR.  
Senior Trial Attorney  
Torts Branch, Civil Division  
U.S. Department of Justice  
P.O. Box 146  
Ben Franklin Station  
Washington, D.C. 20044-0146  
Direct dial: (202) 616-4136

Dated: May 14, 2018

---

<sup>3</sup> This proffer does not include any award for attorneys' fees and costs that may be awarded pursuant to 42 U.S.C. § 300aa-15(e).