

In the United States Court of Federal Claims

OFFICE OF SPECIAL MASTERS

No. 17-713V

Filed: March 8, 2018

UNPUBLISHED

JENNIFER BUTTERWORTH LYONS,

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)

Edward M. Kraus, Law Offices of Chicago Kent, Chicago, IL, for petitioner.

Claudia Barnes Gangi, U.S. Department of Justice, Washington, DC, for respondent.

DECISION AWARDING DAMAGES¹

Dorsey, Chief Special Master:

On May 31, 2017, 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 alleges that she received an influenza vaccine on September 16, 2014, 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 March 6, 2018, a ruling on entitlement was issued, finding petitioner entitled to compensation for her SIRVA. On March 6, 2018, respondent filed a proffer on award of compensation (“Proffer”) indicating petitioner should be awarded \$62,500.00. Proffer at) 1. In the Proffer, respondent represented that petitioner agrees with the proffered

¹ Because this unpublished decision contains a reasoned explanation for the action in this case, the undersigned intends to post it on the United States Court of Federal Claims'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

award. Based on therecord 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 \$62,500.00 in the form of a check payable to petitioner, Jennifer Butterworth Lyons.** 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.

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

JENNIFER BUTTERWORTH LYONS,)	
)	
)	
Petitioner,)	
)	
v.)	No. 17-713V
)	Chief Special Master Dorsey
)	ECF
SECRETARY OF HEALTH AND)	
HUMAN SERVICES,)	
)	
Respondent.)	
)	

RESPONDENT’S PROFFER ON AWARD OF COMPENSATION

On May 31, 2017, Jennifer Butterworth Lyons (“petitioner”) filed a petition for compensation under the National Vaccine Injury Compensation Program, 42 U.S.C. §300aa-10 to 34. Petitioner alleges that she received an influenza vaccine on September 16, 2014, and thereafter suffered from a shoulder injury related to vaccine administration (“SIRVA”). *See* Petition at 1. On March 5, 2018, the Secretary of Health and Human Services (“respondent”) filed a Vaccine Rule 4(c) Report, conceding that petitioner suffered from SIRVA, and recommending that the Court award petitioner compensation. Respondent’s Rule 4(c) Report at 1, 5. Respondent hereby submits the following proffer regarding the award of compensation.

I. Items of Compensation

Based upon the evidence of record, respondent proffers that petitioner should be awarded \$62,500.00, 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

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

Respondent recommends that the compensation provided to petitioner should be made through a lump sum payment of \$62,500.00, in the form of a check payable to petitioner. Petitioner agrees.

Respectfully submitted,

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Acting Assistant Attorney General

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/s/ Claudia B. Gangi
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Dated: March 6, 2018