

# In the United States Court of Federal Claims

## OFFICE OF SPECIAL MASTERS

No. 17-776V

Filed: June 26, 2019

UNPUBLISHED

DIANE FEDORCHAK,

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)

*Leah VaSahnja Durant, Law Offices of Leah V. Durant, PLLC, Washington, DC, for petitioner.*

*Robert Paul Coleman, III, U.S. Department of Justice, Washington, DC, for respondent.*

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

**Dorsey**, Chief Special Master:

On June 12, 2017, petitioner filed a petition for compensation under the National Vaccine Injury Compensation Program, 42 U.S.C. §300aa-10, et seq., (the “Vaccine Act”). Petitioner alleges that she suffered a shoulder injury related to vaccine administration (“SIRVA”) as a result of her December 8, 2015 influenza (“Flu”) vaccination. Petition at 1. The case was assigned to the Special Processing Unit of the Office of Special Masters.

On June 26, 2019, a ruling on entitlement was issued, finding petitioner entitled to compensation for SIRVA. On June 24, 2019, respondent filed a proffer on award of compensation indicating petitioner should be awarded \$631.02 in compensation for unreimbursable medical expenses, \$100,000.00 in compensation for petitioner’s actual and projected pain and suffering, and \$26,432.92 for petitioner’s lost earnings, for a total award of \$127,063.94. Respondent’s Rule 4(c) Report and Proffer on Award of

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<sup>1</sup> The undersigned intends to post this decision on the United States Court of Federal Claims' website. **This means the decision will be available to anyone with access to the internet.** 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. Because this unpublished decision contains a reasoned explanation for the action in this case, undersigned is required to post it on the United States Court of Federal Claims' website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).

Compensation (“Proffer”) at 3-4. 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 Proffer, **the undersigned awards petitioner a lump sum payment of \$127,063.94 (representing \$631.02 in compensation for unreimbursable medical expenses, \$100,000.00 in compensation for petitioner’s actual and projected pain and suffering, and \$26,432.92 in compensation for petitioner’s lost wages) in the form of a check payable to petitioner, Diane Fedorchak.** This amount represents compensation for all damages that would be available under § 15(a).

The clerk of the court is directed to enter judgment in accordance with this decision.<sup>2</sup>

**IT IS SO ORDERED.**

**s/Nora Beth Dorsey**  
Nora Beth Dorsey  
Chief Special Master

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<sup>2</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.