

# In the United States Court of Federal Claims

## OFFICE OF SPECIAL MASTERS

No. 17-1234V

Filed: October 11, 2018

UNPUBLISHED

OFILIA ARECHIGA,

Petitioner,

v.

SECRETARY OF HEALTH  
AND HUMAN SERVICES,

Respondent.

Special Processing Unit (SPU);  
Damages Decision Based on Proffer;  
Influenza (Flu) Vaccine; Guillain-  
Barré Syndrome (GBS)

*Nancy Routh Meyers, Ward Black Law, Greensboro, NC, for petitioner.*

*Heather Lynn Pearlman, U.S. Department of Justice, Washington, DC, for respondent.*

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

**Dorsey**, Chief Special Master:

On September 12, 2017, Ofilia Arechiga (“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 Guillain-Barré syndrome (“GBS”) as a result of an influenza (“flu”) vaccine she received on November 1, 2016. Petition at 1, ¶2. The case was assigned to the Special Processing Unit of the Office of Special Masters.

On August 22, 2018, a ruling on entitlement was issued, finding petitioner entitled to compensation. On October 11, 2018, respondent filed a proffer on award of compensation (“Proffer”) indicating petitioner should be awarded a total of \$128,741.53 (comprised of \$125,000.00 for pain and suffering and \$3,741.53 for past unreimbursable expenses). Proffer at 1. In the Proffer, respondent represented that petitioner agrees

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 Because this unpublished decision contains a reasoned explanation for the action in this case, the undersigned intends to post it on the United States Court of Federal Claims'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

with 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 petitioner a lump sum payment of \$128,741.53 (comprised of \$125,000.00 for pain and suffering and \$3,741.53 for past unreimbursable expenses), in the form of a check payable to petitioner, Ofilia Arechiga.** 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.<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**

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OFILIA ARECHIGA,	)	
	)	
Petitioner,	)	
v.	)	No. 17-1234V
	)	Chief Special Master Dorsey
SECRETARY OF HEALTH AND HUMAN	)	ECF
SERVICES,	)	
	)	
Respondent.	)	
<hr/>	)	

**RESPONDENT’S PROFFER ON AWARD OF COMPENSATION**

Petitioner filed her petition for compensation on September 12, 2017, alleging that she suffered Guillain-Barre Syndrome (“GBS”) as the result of an influenza vaccination. On August 21, 2018, respondent filed a Rule 4(c) Report, stating that petitioner had satisfied the criteria set forth in the Vaccine Injury Table and the Qualifications and Aids to Interpretation. 42 C.F.R. §§ 100.3(a)(XIV)(D), 100.3(c)(15). The following day, August 22, 2018, Chief Special Master Dorsey issued a Ruling on Entitlement, finding that petitioner was entitled to vaccine compensation for her GBS.

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

Based on the evidence of record, respondent proffers that petitioner should be awarded **\$128,741.53**. The \$128,741.53 is comprised of \$125,000.00 for pain and suffering and \$3,741.53 for past unreimbursable expenses, and it 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**

Respondent recommends that the compensation provided to petitioner be made through a lump sum payment of **\$128,741.53**, in the form of a check payable to petitioner.<sup>1</sup> Petitioner agrees.

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

Respectfully submitted,

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Assistant Attorney General

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Acting Director  
Torts Branch, Civil Division

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s/ Heather L. Pearlman  
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Dated: October 11, 2018

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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 lost earnings and future pain and suffering.