

In the United States Court of Federal Claims

OFFICE OF SPECIAL MASTERS

No. 17-1467V

Filed: September 27, 2018

UNPUBLISHED

LESLEE MORAN,

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)

Paul R. Brazil, Muller Brazil, LLP, Dresher, PA, for petitioner.

Justine Elizabeth Walters, U.S. Department of Justice, Washington, DC, for respondent.

DECISION AWARDING DAMAGES¹

Dorsey, Chief Special Master:

On October 6, 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 suffered from right shoulder injuries as a result of receiving an influenza (“flu”) vaccine on October 9, 2014. Petition at 1. The case was assigned to the Special Processing Unit of the Office of Special Masters.

On September 25, 2018, a ruling on entitlement was issued, finding petitioner entitled to compensation for SIRVA. On September 26, 2018, respondent filed a proffer on award of compensation (“Proffer”) indicating petitioner should be awarded \$85,000.00, representing compensation for actual pain and suffering. Proffer at 1. In the Proffer, respondent represented that petitioner agrees with the proffered award.

¹ Because this unpublished decision contains a reasoned explanation for the action in this case, the undersigned intends to post it on the United States Court of Federal Claims'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

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 \$85,000.00, representing compensation for actual pain and suffering, in the form of a check payable to petitioner, Leslee Moran.** 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**

LESLEE MORAN,)	
)	
)	
Petitioner,)	
)	
v.)	No. 17-1467V
)	Chief Special Master Dorsey
)	ECF
SECRETARY OF HEALTH AND)	SPU
HUMAN SERVICES,)	
)	
Respondent.)	
)	

RESPONDENT’S PROFFER ON AWARD OF COMPENSATION

On October 6, 2017, petitioner, Leslee Moran, filed a petition for compensation under the National Childhood Vaccine Injury Act, 42 U.S.C. §§ 300aa-1 to -34 (“Vaccine Act”), alleging that she developed right shoulder injuries as a result of receiving an influenza (“flu”) vaccine on October 9, 2014. On September 19, 2018, respondent filed a Rule 4(c) Report indicating that petitioner is entitled to compensation for a shoulder injury related to vaccine administration (“SIRVA”). For the purposes of this proffer, the term “vaccine-related” is as described in Respondent’s Rule 4(c) Report. On September 25, 2018, Chief Special Master Dorsey issued a Ruling on Entitlement finding that petitioner is entitled to compensation for SIRVA.

I. Items of Compensation

A. Pain and Suffering

Respondent proffers that petitioner should be awarded \$85,000.00 in actual pain and suffering. The evidence does not support that petitioner is entitled to projected pain and suffering. Petitioner agrees.

B. Medicaid Lien

Petitioner represents that there are no outstanding Medicaid liens against her.

II. Form of the Award

The parties recommend that the compensation provided to petitioner should be made through a lump sum payment of \$85,000.00 in the form of a check payable to petitioner.¹ This represents all elements of compensation to which petitioner is entitled under 42 U.S.C. § 300aa-15(a). Petitioner agrees.

Respectfully submitted,

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s/ Justine Walters
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DATE: September 26, 2018

¹ This proffer does not provide for any future damages as they are not supported by the record evidence. Nonetheless, 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 lost earnings, and future pain and suffering.