

In the United States Court of Federal Claims

OFFICE OF SPECIAL MASTERS

No. 18-728V

UNPUBLISHED

BARBARA MURRAY,

Petitioner,

v.

SECRETARY OF HEALTH AND
HUMAN SERVICES,

Respondent.

Chief Special Master Corcoran

Filed: March 26, 2020

Special Processing Unit (SPU);
Damages Decision Based on Proffer;
Influenza (Flu) Vaccine; Shoulder
Injury Related to Vaccine
Administration (SIRVA)

Diana Lynn Stadelnikas, Maglio Christopher & Toale, PA, Sarasota, FL, for petitioner.

Traci R. Patton, U.S. Department of Justice, Washington, DC, for respondent.

DECISION AWARDING DAMAGES¹

On May 23, 2018, Barbara Murray, filed a petition for compensation under the National Vaccine Injury Compensation Program, 42 U.S.C. §300aa-10, *et seq.*,² (the “Vaccine Act”). Thereafter, Petitioner filed an amended Petition on September 10, 2018. Petitioner’s amended Petition alleges that her influenza (“flu”) vaccination on October 14, 2016, caused her to suffer a shoulder injury related to vaccine administration (“SIRVA”). Amended Petition at 1-3. The case was assigned to the Special Processing Unit of the Office of Special Masters.

On April 25, 2019, a ruling on entitlement was issued, finding Petitioner entitled to compensation for SIRVA. On March 24, 2020, Respondent filed a proffer on award of compensation (“Proffer”) indicating Petitioner should be awarded \$71,075.42. The award is comprised of the following: \$70,000.00 for pain and suffering and \$1,075.42 for

¹ Because this unpublished decision contains a reasoned explanation for the action in this case, I am required to post it on the United States Court of Federal Claims' website in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). **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, I agree that the identified material fits within this definition, I 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).

past out of pocket medical expenses. Proffer at 1. In the Proffer, Respondent represented that Petitioner agrees with the proffered award. *Id.* Based on the record as a whole, I find that Petitioner is entitled to an award as stated in the Proffer.

Pursuant to the terms stated in the attached Proffer, **I award Petitioner a lump sum payment of \$71,075.42 (comprised of the following: \$70,000.00 for pain and suffering and \$1,075.42 for past out of pocket medical expenses) in the form of a check payable to Petitioner.** 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.³

IT IS SO ORDERED.

s/Brian H. Corcoran
Brian H. Corcoran
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**

BARBARA MURRAY,)	
)	
Petitioner,)	
v.)	No. 18-728V
)	Chief Special Master Corcoran
SECRETARY OF HEALTH AND HUMAN)	ECF
SERVICES,)	
)	
Respondent.)	
)	

RESPONDENT’S PROFFER ON AWARD OF COMPENSATION

I. Items of Compensation

On April 24, 2019, respondent conceded that entitlement to compensation was appropriate under the terms of the Vaccine Act. Chief Special Master Dorsey issued a Ruling on Entitlement on April 25, 2019, finding that petitioner was entitled to vaccine compensation for her right-sided shoulder injury. Based upon the evidence of record, respondent proffers that petitioner should be awarded \$71,075.42. The award is comprised of the following: \$70,000.00 for pain and suffering and \$1,075.42 for past out of pocket medical expenses. This amount 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

The parties recommend that compensation provided to petitioner should be made through a lump sum payment of **\$71,075.42**, in the form of a check payable to petitioner.¹ Petitioner agrees.

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

Respectfully submitted,

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s/ Traci R. Patton
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Dated: March XX, 2020

¹ 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.