

# In the United States Court of Federal Claims

## OFFICE OF SPECIAL MASTERS

No. 18-1143V

UNPUBLISHED

IRIS J. JACKSON,

Petitioner,

v.

SECRETARY OF HEALTH AND  
HUMAN SERVICES,

Respondent.

Chief Special Master Corcoran

Filed: January 6, 2020

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

*Jimmy A. Zgheib, Zgheib Sayad, P.C., White Plains, NY, for petitioner.*

*Catherine Elizabeth Stolar, U.S. Department of Justice, Washington, DC, for respondent.*

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

On August 6, 2018, Iris J. Jackson 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 a shoulder injury related to vaccine administration (“SIRVA”) as a result of an influenza (“flu”) vaccine she received on September 25, 2017. Petition at 1. The case was assigned to the Special Processing Unit of the Office of Special Masters.

On July 25, 2019, a ruling on entitlement was issued, finding Petitioner entitled to compensation for SIRVA. On January 3, 2020, Respondent filed a proffer on award of compensation (“Proffer”) indicating Petitioner should be awarded a total of \$124,348.79, representing compensation for Petitioner’s actual and projected pain and suffering

<sup>1</sup> Because this unpublished ruling contains a reasoned explanation for the action in this case, I am required to post it on the United States Court of Federal Claims' website in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 ruling 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.

<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).

(\$120,000.00) and past unreimbursable expenses (\$4,348.79). Proffer at 2. 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 \$124,348.79, (representing compensation for pain and suffering (\$120,000.00) and past unreimbursable expenses (\$4,348.79)) 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.<sup>3</sup>

**IT IS SO ORDERED.**

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

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IRIS J. JACKSON,

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SECRETARY OF HEALTH AND  
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No. 18-1143V  
Chief Special Master Corcoran  
ECF

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

On August 6, 2018, Iris J. Jackson (“petitioner”) filed a petition for compensation under the National Childhood Vaccine Injury Act of 1986, 42 U.S.C. §§ 300aa-1 to -34 (“Vaccine Act” or “Act”), alleging that she suffered a right shoulder injury as a result of an influenza (“flu”) vaccine administered on September 25, 2017. On July 25, 2019, the Chief Special Master issued a Ruling on Entitlement finding petitioner entitled to compensation.

**I. Items of Compensation**

A. Pain and Suffering

Respondent proffers that petitioner should be awarded \$120,000.00 in actual and projected pain and suffering. This amount reflects that the award for projected pain and suffering has been reduced to net present value. See 42 U.S.C. § 300aa-15(a)(4). Petitioner agrees.

B. Unreimbursable Expenses

Evidence supplied by petitioner documents petitioner’s unreimbursable expenses as a result of her vaccine injury. Respondent proffers that petitioner should be awarded

unreimbursable expenses in the amount of \$4,348.79, as provided under the Vaccine Act, 42 U.S.C. § 300aa-15(a)(1)(B). 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 as described below and requests that the Chief Special Master's decision and the Court's judgment award the following<sup>1</sup>: a lump sum payment of \$124,348.79, representing compensation for pain and suffering (\$120,000.00), and past unreimbursable expenses (\$4,348.79), in the form of a check payable to petitioner, Iris J. Jackson.

## **III. Summary of Recommended Payments Following Judgment**

Lump sum payable to petitioner, Iris J. Jackson:	<b>\$124,348.79</b>
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Respectfully submitted,

JOSEPH H. HUNT  
Assistant Attorney General

C. SALVATORE D'ALESSIO  
Acting Director  
Torts Branch, Civil Division

CATHARINE E. REEVES  
Deputy Director  
Torts Branch, Civil Division

ALEXIS B. BABCOCK  
Assistant Director  
Torts Branch, Civil Division

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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.

s/ Catherine E. Stolar  
CATHERINE E. STOLAR  
Trial Attorney  
Torts Branch, Civil Division  
U.S. Department of Justice  
P.O. Box 146  
Benjamin Franklin Station  
Washington, D.C. 20044-0146  
Tel.: (202) 353-3299  
Fax: (202) 616-4310  
Email: catherine.stolar@usdoj.gov

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