

In the United States Court of Federal Claims

OFFICE OF SPECIAL MASTERS

No. 18-1431V

UNPUBLISHED

CHARLOTTE DUNN,

Petitioner,

v.

SECRETARY OF HEALTH AND
HUMAN SERVICES,

Respondent.

Chief Special Master Corcoran

Filed: March 15, 2021

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

Theodore J. Hong, Maglio Christopher & Toale, PA, Seattle, WA, for petitioner.

Adriana Ruth Teitel, U.S. Department of Justice, Washington, DC, for respondent.

DECISION AWARDING DAMAGES¹

On September 19, 2018, Charlotte Dunn 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 Guillain-Barre Syndrome (“GBS”) as a result of an influenza (“flu”) vaccine and/or pneumococcal vaccine administered on October 13, 2015. Petition at 1. The case was assigned to the Special Processing Unit of the Office of Special Masters.

On September 17, 2019, a ruling on entitlement was issued, finding Petitioner entitled to compensation. On March 15, 2021, Respondent filed a proffer on award of compensation (“Proffer”) indicating Petitioner should be awarded \$300,705.33. Proffer at 1-2. In the Proffer, Respondent represented that Petitioner agrees with the proffered

¹ Because this unpublished decision contains a reasoned explanation for the action in this case, I am required to post it on the United States Court of Federal Claims' website in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

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 \$269,000.00 (representing compensation in the amount of \$250,000.00 in pain and suffering and \$19,000.00 in actual and anticipated care expenses) in the form of a check payable to Petitioner.**
- **A lump sum of \$31,705.33, representing compensation for satisfaction of the State of California Medicaid lien, in the form of a check payable jointly to Petitioner and**

Department of Health Care Services
Recovery Branch – MS 4720
P.O. Box 997421
Sacramento, CA 95899-7421
DHCS Account No.: C95399920G-VAC02

Petitioner agrees to endorse this payment to Department of Health Care Services/California Medi-Cal.

These amounts represent 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.

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OFFICE OF SPECIAL MASTERS**

CHARLOTTE DUNN,

Petitioner,

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SECRETARY OF HEALTH AND
HUMAN SERVICES,

Respondent.

No. 18-1431V

Chief Special Master Corcoran (SPU)

ECF

PROFFER ON AWARD OF COMPENSATION

I. Procedural History

On September 19, 2018, Charlotte Dunn (“petitioner”) filed a petition for compensation (“petition”) under the National Childhood Vaccine Injury Act of 1986, 42 U.S.C. §§ 300aa-1 to -34, *as amended*. She alleges that, as a result of receiving an influenza and/or pneumococcal conjugate vaccine on October 13, 2015, she suffered from Guillain-Barre Syndrome (“GBS”). *See* Petition at ¶¶1, 29-30. On September 16, 2019, respondent filed his Vaccine Rule 4(c) report, concluding that petitioner suffered GBS as defined by the Vaccine Injury Table, within the Table timeframe, and on September 17, 2019, then-Chief Special Master Dorsey issued a ruling on entitlement, finding that petitioner was entitled to compensation for a GBS Table injury. ECF No. 32; ECF No. 33.

II. Items of Compensation

Based upon the evidence of record, respondent proffers that petitioner should be awarded a lump sum of \$300,705.33, for all damages, including \$250,000.00 representative of pain and suffering, \$19,000.00 for petitioner’s actual and anticipated care expenses, and \$31,705.33 for reimbursement of a State of California Medi-Cal lien for services rendered on behalf of

petitioner. Petitioner agrees.

This amount (\$300,705.33) represents all elements of compensation to which petitioner is entitled under 42 U.S.C. § 300aa-15(a). Petitioner agrees.

III. Form of the Award

Respondent recommends that the compensation provided to petitioner should be made through two lump sum payments, as described below, and requests that the Chief Special Master's decision and the Court's judgment award the following:

- A lump sum of **\$269,000.00** in the form of a check payable to petitioner;¹ and
- A lump sum of **\$31,705.33**, representing compensation for satisfaction of the State of California Medicaid lien, in the form of a check payable jointly to petitioner and

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Petitioner agrees to endorse this payment to Department of Health Care Services/California Medi-Cal.

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

Respectfully submitted,

BRIAN M. BOYNTON
Acting Assistant Attorney General

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

¹Should petitioner die prior to entry of judgment, respondent would oppose any award for future medical expenses, future lost earnings, and future pain and suffering, and the parties reserve the right to move the Court for appropriate relief.

HEATHER L. PEARLMAN
Acting Deputy Director
Torts Branch, Civil Division

DARRYL R. WISHARD
Assistant Director
Torts Branch, Civil Division

s/ Adriana Teitel
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Dated: March 15, 2021