

**CORRECTED**

# In the United States Court of Federal Claims

OFFICE OF SPECIAL MASTERS

No. 20-1206V

UNPUBLISHED

MARCIA ROBY,

Petitioner,

v.

SECRETARY OF HEALTH AND  
HUMAN SERVICES,

Respondent.

Chief Special Master Corcoran

Filed: September 3, 2021

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

*Joseph Alexander Vuckovich, Maglio Christopher & Toale, PA, Washington, DC, for  
Petitioner.*

*Matthew Murphy, U.S. Department of Justice, Washington, DC, for Respondent.*

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

On September 15, 2020, Marcia Roby 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-Barre Syndrome (“GBS”) as a result of an influenza (“flu”) vaccine administered on October 24, 2018. Petition at 1-2. The case was assigned to the Special Processing Unit of the Office of Special Masters.

On May 4, 2021, a ruling on entitlement was issued, finding Petitioner entitled to compensation for her GBS. On September 2, 2021, Respondent filed a proffer on award of compensation (“Proffer”) indicating Petitioner should be awarded \$162,260.47, representing \$160,000.00 for her pain and \$2,260.47 for her out-of-pocket medical and unrelated expenses. Proffer at 1-2. In the Proffer, Respondent represented that Petitioner

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 Because this unpublished Decision contains a reasoned explanation for the action in this case, I am required to post it on the United States Court of Federal Claims' website in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

<sup>2</sup> National Childhood Vaccine Injury Act of 1986, Pub. L. No. 99-660, 100 Stat. 3755. Hereinafter, for ease of citation, all section references to the Vaccine Act will be to the pertinent subparagraph of 42 U.S.C. § 300aa (2012).

agrees with the proffered award. *Id.* at 2. 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 \$162,260.47, representing compensation in the amount of \$160,000.00 for her pain and suffering and \$2,260.47 for her expenses in the form of a check payable to Petitioner.** This amount represents compensation for all damages that would be available under Section 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.

**IN THE UNITED STATES COURT OF FEDERAL CLAIMS  
OFFICE OF SPECIAL MASTERS**

MARICA ROBY,	)	
	)	
Petitioner,	)	No. 20-1206V ECF
	)	
v.	)	Chief Special Master Corcoran
	)	
SECRETARY OF HEALTH	)	
AND HUMAN SERVICES,	)	
	)	
Respondent.	)	
	)	

**PROFFER ON AWARD OF COMPENSATION<sup>1</sup>**

**I. Procedural History**

On September 15, 2020, Marcia Roby (“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 alleged that as a result of receiving the influenza vaccine on October 24, 2018, she suffered from Guillain-Barre Syndrome (GBS). *See* Petition. On May 3, 2021, respondent filed his Vaccine Rule 4(c) report, concluding that petitioner suffered GBS as defined by the Vaccine Injury Table, within the Table timeframe. On May 4, 2021, Chief Special Master Corcoran issued a ruling on entitlement, finding that petitioner was entitled to compensation for a GBS Table injury.

**II. Items of Compensation**

Based upon the evidence of record, respondent proffers that petitioner should be awarded a lump sum of **\$162,260.47**, for all damages, including \$160,000.00 representative of pain and

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<sup>1</sup> This Proffer does not include attorneys’ fees and costs, which the parties intend to address after the Damages Decision is issued.

suffering, and \$2,260.47 representative of out-of-pocket medical and related expenses. This amount 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 compensation provided to petitioner should be made through a lump sum payment of **\$162,260.47**, in the form of a check payable to petitioner.<sup>2</sup> Petitioner agrees.

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

Respectfully submitted,

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<sup>2</sup> Should 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.

/s/ Matthew L. Murphy by Traci R. Patton

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Dated: September 2, 2021