

In the United States Court of Federal Claims

OFFICE OF SPECIAL MASTERS

No. 21-0881V

UNPUBLISHED

ZEHRA RIZVI,

Petitioner,

v.

SECRETARY OF HEALTH AND
HUMAN SERVICES,

Respondent.

Chief Special Master Corcoran

Filed: September 21, 2022

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

Alison H. Haskins, Maglio Christopher & Toale, PA, Sarasota, FL, for Petitioner.

Jennifer A. Shah, U.S. Department of Justice, Washington, DC, for Respondent.

DECISION AWARDING DAMAGES¹

On February 8, 2021, Zehra Rizvi 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 a shoulder injury related to vaccine administration (“SIRVA”), as defined in the Vaccine Table, after receiving the influenza (“flu”) vaccine in her left deltoid on October 9, 2019. Petition at 1, ¶¶ 3, 15-16, 18. The case was assigned to the Special Processing Unit of the Office of Special Masters.

On August 2, 2022, a ruling on entitlement was issued, finding Petitioner entitled to compensation for her SIRVA. On September 21, 2022, Respondent filed a proffer on award of compensation (“Proffer”) indicating Petitioner should be awarded \$110,115.79, representing \$105,000.00 for her pain and suffering and \$5,115.79 for her mileage and unreimbursed expenses. Proffer at 2. In the Proffer, Respondent represented that

¹ Because this unpublished Decision contains a reasoned explanation for the action in this case, I am required to post it on the United States Court of Federal Claims' website in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 section references to the Vaccine Act will be to the pertinent subparagraph of 42 U.S.C. § 300aa (2012).

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 \$110,115.79, representing \$105,000.00 for her pain and suffering and \$5,115.79 for her mileage and unreimbursable 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 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**

ZEHRA RIZVI,

Petitioner,

v.

SECRETARY OF HEALTH AND
HUMAN SERVICES,

Respondent.

No. 21-881V
Chief Special Master Corcoran
ECF

RESPONDENT’S PROFFER ON AWARD OF COMPENSATION

On February 8, 2021, Zehra Rizvi (“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 (“Vaccine Act” or “Act”). Petitioner alleges that she suffered a left Shoulder Injury Related to Vaccine Administration (“SIRVA”) caused by an influenza (“flu”) vaccine administered on October 3, 2019. Petition at 1, 5. On May 13, 2022, the Chief Special Master issued Findings of Fact and Conclusions of Law, finding that the evidence supported petitioner’s assertion that she was vaccinated in her left shoulder.¹ ECF No. 26 at 7-8.

On August 1, 2022, respondent filed his Vaccine Rule 4(c) report. In light of the Chief Special Master’s Findings and Conclusions, respondent submitted that petitioner had otherwise satisfied the criteria set forth in the Vaccine Injury Table and the Qualifications and Aids to Interpretation (“QAI”) for SIRVA. See 42 C.F.R §§ 100.3(a)(XIV) and (c)(10). As such, respondent requested a ruling on the record regarding petitioner’s entitlement to compensation.

¹ Respondent reserves his right, pursuant to 42 U.S.C. § 300aa-12(e), to seek review of the Chief Special Master’s May 13, 2022 Findings and Conclusions which provided the basis for his Ruling on Entitlement. This right accrues following issuance of a Decision on Damages.

ECF No. 31. On August 2, 2022, this Court issued a Ruling on Entitlement finding petitioner entitled to compensation. ECF No. 32.

I. Items of Compensation

Respondent proffers that petitioner should be awarded **\$110,115.79**, consisting of \$105,000.00 for pain and suffering and \$5,115.79 for mileage and unreimbursed medical expenses. This 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

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 following²: a lump sum payment of **\$110,115.79**, representing compensation for all elements of economic and noneconomic damages, in the form of a check payable to petitioner, Zehra Rizvi.

III. Summary of Recommended Payment Following Judgment

Lump sum payable to petitioner, Zehra Rizvi:	\$110,115.79.
--	----------------------

Respectfully submitted,

BRIAN BOYNTON
Principal Deputy Assistant Attorney General

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

² 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.

HEATHER L. PEARLMAN
Deputy Director
Torts Branch, Civil Division

DARRYL R. WISHARD
Assistant Director
Torts Branch, Civil Division

s/ Jennifer A. Shah
Jennifer A. Shah
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) 305-2181
Jennifer.shah@usdoj.gov

Dated: September 21, 2022