

In the United States Court of Federal Claims

OFFICE OF SPECIAL MASTERS

No. 23-0798V

ALFRED ENGLERT, JR.,

Petitioner,

v.

SECRETARY OF HEALTH AND
HUMAN SERVICES,

Respondent.

Chief Special Master Corcoran

Filed: May 31, 2024

*Catherine Wallace Costigan, Maglio Christopher & Toale, Washington, DC, for
Petitioner.*

Katherine Edwards, U.S. Department of Justice, Washington, DC, for Respondent.

DECISION ON DAMAGES¹

On June 1, 2023, Alfred Englert, Jr. 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 alleged that he developed Guillain-Barré syndrome (“GBS”) as a result of an influenza (“flu”) vaccine that was administered on October 11, 2021. Petition at 1. The case was assigned to the Special Processing Unit of the Office of Special Masters.

On February 14, 2024, a ruling on entitlement was issued, finding Petitioner entitled to compensation for GBS. On May 31, 2024, Respondent filed a proffer on award of compensation (“Proffer”). Respondent represented that Petitioner agrees with the

¹ Because this Decision contains a reasoned explanation for the action taken in this case, it must be made publicly accessible and will be posted on the United States Court of Federal Claims' website, and/or at <https://www.govinfo.gov/app/collection/uscourts/national/cofc>, in accordance with the E-Government Act of 2002. 44 U.S.C. § 3501 note (2018) (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 (2018).

proffered award. *Id.* at 1 – 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 the following:

- A. A lump sum payment of \$512,170.03 (representing \$163,000.00 for pain and suffering, \$13,205.72 for past unreimbursable expenses, and \$335,964.31 for past lost wages) in the form of a check payable to Petitioner.**
- B. A lump sum payment of \$1,778.04, in the form of a check payable jointly to Petitioner, Alfred Englert, and Texas Health Resources. Petitioner agrees to endorse this payment to Texas Health Resources and forward the check to:**

**Texas Health Resources
Attention: Business Office
P.O. Box 733546
Dallas, TX 75373**

- C. A lump sum payment of \$300.00, in the form of a check payable jointly to Petitioner, Alfred Englert, and Virtue Anesthesia. Petitioner agrees to endorse this payment to Virtue Anesthesia and forward the check to:**

**Virtue Anesthesia
3301 S 14th St, Ste 16180
Abilene, TX 79605**

These amounts represent 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**

ALFRED ENGLERT, JR.,

Petitioner,

v.

SECRETARY OF HEALTH AND
HUMAN SERVICES,

Respondent.

No. 23-798V

Chief Special Master Brian H. Corcoran
ECF

RESPONDENT’S PROFFER ON AWARD OF COMPENSATION

On June 1, 2023, Alfred Englert (“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 he suffered the Vaccine Injury Table injury of Guillain-Barre Syndrome (“GBS”) that developed following an influenza (“flu”) vaccine administered on October 11, 2021. Petition at 1. On February 9, 2024, the Secretary of Health and Human Services (“respondent”) filed a Rule 4(c) Report indicating that this case is appropriate for compensation under the terms of the Act for a GBS Table injury, and on February 14, 2024, the Chief Special Master issued a Ruling on Entitlement finding petitioner entitled to compensation. ECF No. 21; ECF No. 22.

I. Items of Compensation

A. Pain and Suffering

Respondent proffers that petitioner should be awarded \$163,000.00 in pain and suffering. *See* 42 U.S.C. § 300aa-15(a)(4). Petitioner agrees.

B. Past Unreimbursable Expenses

Evidence supplied by petitioner documents that he incurred past unreimbursable expenses related to his vaccine-related injury. Respondent proffers that petitioner should be awarded past unreimbursable expenses in the amount of \$15,283.76, of which \$13,205.72 will be paid to petitioner, \$1,778.04 to be paid jointly to petitioner and Texas Health Resources, and \$300.00 to be paid jointly to petitioner and Virtue Anesthesia. *See* 42 U.S.C. § 300aa-15(a)(1)(B).

Petitioner agrees.

C. Lost Wages

Evidence supplied by petitioner documents that he incurred past lost wages related to his vaccine-related injury. Respondent proffers that petitioner should be awarded past lost wages in the amount of \$335,964.31. *See* 42 U.S.C. § 300aa-15(a)(3)(A). Petitioner agrees.

These amounts represent all elements of compensation to which petitioner is 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 following¹:

- A lump sum payment of \$512,170.03, in the form of a check payable to petitioner, Alfred Englert.

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, unreimbursed expenses, future lost earnings and future pain and suffering.

- A lump sum payment of \$1,778.04, in the form of check payable jointly to petitioner, Alfred Englert, and Texas Health Resources. Petitioner agrees to endorse this payment to Texas Health Resources and forward the check to:

Texas Health Resources
 Attention: Business Office
 P.O. Box 733546
 Dallas, TX 75373

- A lump sum payment of \$300.00, in the form of check payable jointly to petitioner, Alfred Englert, and Virtue Anesthesia. Petitioner agrees to endorse this payment to Virtue Anesthesia and forward the check to.

Virtue Anesthesia
 3301 S 14th St, Ste 16180
 Abilene, TX 79605

III. Summary of Recommended Payments Following Judgment

Lump sum payable to petitioner, Alfred Englert:	\$512,170.03
Lump sum payable jointly to petitioner and Texas Health Resources:	\$1,778.04
Lump sum payable jointly to petitioner and Virtue Anesthesia:	\$300.00

Respectfully submitted,

BRIAN M. BOYNTON
 Principal Deputy Assistant Attorney General

C. SALVATORE D’ALESSIO
 Director
 Torts Branch, Civil Division

HEATHER L. PEARLMAN
 Deputy Director
 Torts Branch, Civil Division

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 Assistant Director
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/s/ Katherine Edwards
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Dated: May 31, 2024