

# In the United States Court of Federal Claims

## OFFICE OF SPECIAL MASTERS

No. 19-959V

UNPUBLISHED

██████████,

Petitioner,

v.

SECRETARY OF HEALTH AND  
HUMAN SERVICES,

Respondent.

Chief Special Master Corcoran

Filed: June 8, 2021

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

*David Alexander Tierney, Rawls Law Group, Richmond, VA, for petitioner.*

*Debra A. Filteau Begley, U.S. Department of Justice, Washington, DC, for respondent.*

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

On July 2, 2019, ██████████ 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 from chronic left arm and shoulder pain and adhesive capsulitis as a result of an influenza (“flu”) vaccine administered on November 2, 2017. Petition at 1. The case was assigned to the Special Processing Unit of the Office of Special Masters.

On December 22, 2020, a ruling on entitlement was issued, finding Petitioner entitled to compensation for a SIRVA Table injury. On June 8, 2021, Respondent filed a proffer on award of compensation (“Proffer”) indicating Petitioner should be awarded \$80,000.00. Proffer at 1-2. In the Proffer, Respondent represented that Petitioner agrees

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 Because this unpublished decision contains a reasoned explanation for the action in this case, I am required to post it on the United States Court of Federal Claims' website in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

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 \$80,000.00 (representing compensation for pain and suffering) 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.

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

<div style="background-color: black; width: 150px; height: 1.2em; margin-bottom: 5px;"></div> <div style="text-align: center; margin-bottom: 10px;">Petitioner,</div> <div style="text-align: center; margin-bottom: 10px;">v.</div> <div style="text-align: center; margin-bottom: 10px;">SECRETARY OF HEALTH AND HUMAN SERVICES,</div> <div style="text-align: center;">Respondent.</div>	<div style="margin-bottom: 10px;">No. 19-959V</div> <div>Chief Special Master Corcoran ECF</div>
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**RESPONDENT’S PROFFER ON AWARD OF COMPENSATION**

On December 7, 2020, respondent filed a Rule 4(c) Report conceding that petitioner’s claim meets the Table criteria for a SIRVA injury. On December 22, 2020, the Court issued a Ruling on Entitlement finding petitioner entitled to compensation under the Vaccine Act.

**I. Items of Compensation**

Based upon the evidence of record, respondent proffers that petitioner should be awarded the following, and requests that the Chief Special Master’s decision and the Court’s judgment award:

a lump sum payment of **\$80,000.00**, which represents compensation for pain and suffering, *see* 42 U.S.C. § 300aa-15(a)(4).

This amount represents all elements of compensation to which petitioner would be entitled under 42 U.S.C. § 300aa-15(a).<sup>1</sup> Petitioner agrees.

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<sup>1</sup> Should petitioner die prior to the entry of judgment, the parties reserve the right to move the Court for appropriate relief. In particular, respondent would oppose any award for future pain and suffering.

**II. Form of the Award**

Petitioner is a competent adult. Evidence of guardianship is not required in this case. Respondent recommends that petitioner be awarded a lump sum payment of **\$80,000.00**, in the form of a check payable to petitioner. Petitioner agrees.

Respectfully submitted,

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Acting Assistant Attorney General

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

HEATHER L. PEARLMAN  
Acting Deputy Director  
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Dated: June 8, 2021