

In the United States Court of Federal Claims

OFFICE OF SPECIAL MASTERS

Filed: January 17, 2023

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| T.M., | * | PUBLISHED |
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| Petitioner, | * | No. 19-119V |
| | * | |
| v. | * | Special Master Nora Beth Dorsey |
| | * | |
| SECRETARY OF HEALTH | * | Decision Awarding Damages; Pain and |
| AND HUMAN SERVICES, | * | Suffering; Unreimbursable Expenses; Table |
| | * | Injury; Influenza (“Flu”) Vaccine; Guillain- |
| Respondent. | * | Barré Syndrome (“GBS”); Carpal Tunnel |
| | * | Syndrome (“CTS”). |
| * * * * * | | |

Anne Carrion Toale, Maglio Christopher & Toale, P.A., Sarasota, FL, for Petitioner.
Lynn Christina Schlie, U.S. Department of Justice, Washington, DC, for Respondent.

DECISION AWARDING DAMAGES¹

On January 23, 2019, T.M. (“Petitioner”) filed a petition for compensation under the National Vaccine Injury Compensation Program, 42 U.S.C. § 300aa-10, *et seq.*, (“the Vaccine Act”).² Petitioner alleged that she suffered Guillain-Barré Syndrome (“GBS”) as a result of an influenza (“flu”) vaccine administered to her on October 19, 2017. Petition at 1-2 (ECF No. 1).

On September 3, 2020, Respondent conceded that Petitioner satisfied the criteria for a Table injury of GBS following flu vaccination, and a Ruling on Entitlement was issued. Respondent’s Amended Report (“Resp. Am. Rept.”) at 2 (ECF No. 33); Ruling on Entitlement

¹ Because this Decision contains a reasoned explanation for the action in this case, the undersigned is 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, the undersigned agrees that the identified material fits within this definition, the undersigned will redact such material from public access.

² The National Vaccine Injury Compensation Program is set forth in Part 2 of the National Childhood Vaccine Injury Act of 1986, Pub. L. No. 99-660, 100 Stat. 3755, codified as amended, 42 U.S.C. §§ 300aa-10 to -34 (2012). All citations in this Decision to individual sections of the Vaccine Act are to 42 U.S.C. § 300aa.

dated Sept. 3, 2020 (ECF No. 34). The parties were unable to resolve the amount of compensation Petitioner should be awarded for pain and suffering and requested the undersigned to resolve the issue. Order dated Mar. 3, 2021 (ECF No. 46).

On December 19, 2022, the undersigned issued a Ruling on Damages, awarding Petitioner \$180,000.00 for actual pain and suffering, \$500.00 per year for Petitioner's life expectancy for future pain and suffering, and \$3,614.45 for unreimbursable expenses. Ruling on Damages dated Dec. 19, 2022 (ECF No. 74). That ruling is incorporated herein as if fully set forth. The undersigned also ordered the parties to file a joint status report converting the undersigned's award of future pain and suffering to net present value. *Id.* at 25. On January 17, 2023, Petitioner filed a joint status report, indicating "[t]he parties agree that the present value of the future pain and suffering award is \$10,094.83" and confirming "[t]he court's ruling contains all the items of damages and no outstanding issues remain." Petitioner's Joint Status Rept., filed Jan. 17, 2023 (ECF No. 78).

Therefore, based on the record as a whole, and pursuant to the undersigned's damages ruling, the undersigned finds that Petitioner is entitled to an award as ordered below:

The undersigned awards a lump sum payment of \$193,709.28, representing \$180,000.00 for actual pain and suffering, \$10,094.83 for future pain and suffering, and \$3,614.45 for past unreimbursable expenses, in the form of a check payable to Petitioner.

These amounts represent compensation for all damages that would be available under § 300aa-15(a). The Clerk of Court is directed to enter judgment in accordance with this Decision.

IT IS SO ORDERED.

s/Nora Beth Dorsey
Nora Beth Dorsey
Special Master