

In the United States Court of Federal
Claims OFFICE OF SPECIAL MASTERS
No. 23-1654V

Respondent.

GRISEL ESCALERA,

Chief Special Master Corcoran

Petitioner, v.

Filed: March 21, 2025

SECRETARY OF HEALTH AND
HUMAN SERVICES,

*Christopher E. Hultquist, Law Office of Christopher E. Hultquist, Esq., Providence, RI,
for Petitioner.*

Joseph Douglas Leavitt, U.S. Department of Justice, Washington, DC, for Respondent.

DECISION AWARDING DAMAGES¹

On September 26, 2023, Grisel Escalera 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”) following an influenza vaccination she received on October 16, 2020. Petition at 1. The case was assigned to the Special Processing Unit of the Office of Special Masters.

On February 11, 2025, a ruling on entitlement was issued, finding Petitioner entitled to compensation for her SIRVA. On March 20, 2025, Respondent filed a proffer on award of compensation (“Proffer”) indicating Petitioner should be awarded \$107,500.00, comprised of \$102,500.00 for pain and suffering and \$5,000.00 for lost earnings. Proffer at 1-2. In the Proffer, Respondent represented that Petitioner agrees

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).

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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 \$107,500.00, comprised of \$102,500.00 for pain and suffering and \$5,000.00 in lost wages, to be paid through an ACH deposit to Petitioner's counsel's IOLTA account for prompt disbursement 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**

GRISEL ESCALERA,

Petitioner,
No. 23-1654V (ECF)
Chief Special Master Corcoran

v.

RESPONDENT'S PROFFER ON AWARD OF COMPENSATION

On September 23, 2023, Grisel Escalera (“petitioner”) filed a petition for compensation under the National Childhood Vaccine Injury Act of 1986, 42 U.S.C. §§ 300aa-1 to -34 (“Vaccine Act” or “Act”), as amended, alleging that she suffered a Shoulder Injury Related to Vaccine Administration (“SIRVA”) resulting from an influenza (“flu”) vaccination she received on October 16, 2020. Petition at 1 (ECF No. 1). On February 10, 2025, the Secretary of Health and Human Services (“respondent”) filed his Rule 4(c) Report conceding that petitioner’s claim meets the Table criteria for SIRVA. ECF No. 35. Accordingly, on February 11, 2025, the Chief Special Master issued a Ruling on Entitlement, finding that petitioner is entitled to vaccine compensation for SIRVA following the influenza vaccine she received on October 16, 2020. ECF No. 37.

I. Compensation

A. Pain and Suffering

Respondent proffers that petitioner should be awarded \$102,500.00 in pain and suffering. *See* 42 U.S.C. § 300aa-15(a). Petitioner agrees.

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B. Lost Earnings

Respondent proffers that petitioner should be awarded \$5,000.00 in lost earnings. *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 one lump sum payment as described below and requests that the Chief Special Master's decision and the Court's judgment award the following:¹

A lump sum payment of **\$107,500.00** to be paid through an ACH deposit to petitioner's counsel's IOLTA account for prompt disbursement to petitioner.

Respectfully submitted,

YAAKOV M. ROTH

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Assistant Director
Torts Branch, Civil Division

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

s/Joseph Leavitt

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Dated: March 20, 2025

