

In the United States Court of Federal Claims
OFFICE OF SPECIAL MASTERS

No. 05-0892V

Filed: 30 April 2008

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NICOLE RAHN, Parent and Natural Guardian of MARY GRACE RAHN,

Petitioner,

v.

SECRETARY OF HEALTH AND HUMAN SERVICES,

Respondent.

* * * * *

Edward Paul Gibson, Esq., Riesen Law Offices, North Charleston, South Carolina, for Petitioner;
Michael Patrick Milmoie, Esq., U.S. Department of Justice, Washington, D.C., for Respondent.

UNPUBLISHED DECISION

DAMAGES DECISION¹

ABELL, Special Master:

This Petition for compensation under the National Childhood Vaccine Injury Act of 1986 (Vaccine Act or Act)² was assigned to the Chambers for the Undersigned on 16 August 2005. On 12 March 2008, the Court ruled in an unpublished Order that Petitioner is entitled to compensation. Petitioner has submitted several itemizations of expenses and damages incurred by her, and the parties discussed at length the relative amounts apportionable to compensating the Petitioner.

On 11 April 2008, Respondent filed a Proffer on damages, including life care items, lost future earnings, pain and suffering, past unreimbursable expenses, and the form of the award, and on 25 April 2008, Petitioner filed her Acceptance of the Secretary's proffer. This case is now ripe for decision on damages.

¹ Petitioner is reminded that, pursuant to 42 U.S.C. § 300aa-12(d)(4) and Rule 18(b)(2) of the Vaccine Rules of this Court, within fourteen days of this decision, she may object to the public disclosure of any material that would constitute "medical files and similar files the disclosure of which would constitute a clearly unwarranted invasion of privacy."

² The statutory provisions governing the Vaccine Act are found in 42 U.S.C. §§300aa-10 *et seq.* (West 1991 & Supp. 1997). Hereinafter, reference will be to the relevant subsection of 42 U.S.C.A. §300aa.

After a complete review of the record, the court finds that Petitioner is entitled to an award under the National Vaccine Injury Compensation Program. 42 U.S.C. §300aa-10 et seq., pursuant to the Amended Proffer and Acceptance filed in this case, and as reflected in the attached list of “Items of Compensation for Mary Grace Rahn” (*Appendix A*). The court is convinced, based upon its experience and the information contained in the record, that this award shall provide reasonable compensation to cover Petitioner’s current and future vaccine-related expenses.

Based upon the record as a whole, the Undersigned **rules** that Petitioner is entitled to an award as stated in the Proffer. Pursuant to the attached Proffer, the Court **awards** Petitioner:

1. A lump sum payment of \$160,328.60, representing trust seed funds and present year cost of compensation in Compensation Years 2023 through 2024 (\$113,558.80) and life care expenses for Year One (\$46,769.80), in the form of a check payable to PeoplesBank, a Codorus Valley Company, as trustee of a grantor reversionary trust, established for the benefit of Mary Grace Rahn;

2. A lump sum payment of \$250,000.00 representing compensation for lost future earnings and pain and suffering, in the form of a check payable to petitioner, as the court-appointed guardian of the estate of Mary Grace Rahn for the benefit of Mary Grace Rahn. No payment under this paragraph shall be made until petitioner provides respondent with documentation that she has been appointed as guardian of the estate of Mary Grace Rahn;

3. A lump sum payment of \$30,000.00 representing compensation for past un-reimbursable expenses in the form of a check payable to petitioner, Nicole Rahn;

4. A lump sum payment of \$73,335.72, representing compensation for the reimbursement of the State's Medicaid lien, payable jointly to petitioner, Nicole Rahn, and the Georgia Dept. of Community Health, Subrogation Unit, 5660 New Northside Drive, # 750, Atlanta, GA 30328, Attn: Lorenzo Jackson for Nicole White;

5. An amount sufficient to purchase the annuity contract described in paragraph II. E. of the attached Proffer, paid to the life insurance company from which the annuity will be purchased.

In the absence of a motion for review filed pursuant to Vaccine Rules 23 and 24, the Clerk is directed to enter judgment in accord with this Decision.³

The parties are encouraged at this time to discuss attorney fees and costs incurred by Petitioner, so that Petitioner may expeditiously file an application for compensation of attorney fees

³ Under Vaccine Rule 11(a), the parties may expedite entry of judgment by filing a joint notice renouncing the right to seek review of this decision by a Court of Federal Claims judge. Then, under Vaccine Rule 12(a), Petitioner may expedite payment by filing an election to accept the judgment.

and costs in a timely fashion, not later than 180 days after the entry of judgment on this Decision. Any further issues or queries should be directed to my law clerk, Isaiah Kalinowski, Esq., at (202) 357-6351.

IT IS SO ORDERED.

Richard B. Abell
Special Master