

OFFICE OF SPECIAL MASTERS

No. 03-2016V

Filed: September 10, 2007

NOT TO BE PUBLISHED

CLAUDIA CARRERA-MEZA,	*	
	*	
Petitioner,	*	
	*	Proffer on Award of Compensation
v.	*	
	*	
SECRETARY OF THE DEPARTMENT	*	
OF HEALTH AND HUMAN SERVICES,	*	
	*	
Respondent.	*	
	*	

Lisa A. Roquemore, McQueen & Ashman, LLP, Irvine, CA, for petitioner

Rebecca J. Trinrud, U.S. Department of Justice, Washington, D.C., for respondent

DECISION¹

GOLKIEWICZ, Chief Special Master.

The undersigned had previously determined that petitioner was entitled to compensation. The parties engaged their respective life care planners for the purposes of ascertaining petitioner’s long-term vaccine-related needs. Petitioner engaged life care planner Liz Holakiewicz, RN, BSN, CCM, CNLCP and respondent engaged Catherine Sullivan Knebel, RN, MS, CRC, CCM. The parties have worked diligently towards resolving the damages issue informally. On August 30, 2007, respondent filed his Proffer on Award for Compensation for the items over which no dispute exists and to which petitioner agrees.

¹ The undersigned intends to post this decision on the United States Court of Federal Claims’ website, in accordance with the E-Government Act of 2002, Pub. L. No. 107-347, 116 Stat. 2899, 2913 (Dec. 17, 2002). As provided by Vaccine Rule 18(b), each party has 14 days within which to request redaction “of any information furnished by that party that (1) that is a trade secret or commercial or financial information and is privileged or confidential, or (2) that are medical files and similar files, the disclosure of which would constitute a clearly unwarranted invasion of privacy.” Vaccine Rule 18(b). Otherwise, “the entire” decision will be available to the public. Id.

After a complete review of the record, the court finds that petitioner, Claudia Carrera-Meza, is entitled to compensation under the National Injury Compensation Program, 42 U.S.C. §300aa-10 et seq., as reflected in respondent's Proffer on Award of Compensation and the attached chart, *Appendix A: Items of Compensation for Claudia Carrera-Meza*. The court is convinced, based on its experience and information in the record, that this award shall provide reasonable compensation to cover Claudia Carrera-Meza's vaccine-related expenses.

Form of Compensation Award

1. **Lump Sum:**

A lump sum payment of \$1,582,554.12, representing life care expenses for Year One (\$154,708.95), lost earnings (\$1,212,062.00), pain and suffering (\$175,783.17), and past unreimbursable expenses (\$40,000), in the form of a check payable to Claudia Carrera-Meza, as provided for in Appendix A.

2. **Annuity:**

Section 15(f)(4) requires that payment of compensation be based on the net present value of the elements of compensation. One way of discounting to net present value is to use the cost of an annuity to provide periodic payments to meet projected needs of a petitioner for the remainder of her life. Special masters are specifically empowered by § 15 (f)(4) of the Act to order that the compensation awarded under the Program be used to purchase an annuity. The court considers it in Claudia Carrera-Meza's best interest to order that the compensation for life care items be awarded beyond one year post-judgment be paid in the form of an annuity, which annuity shall be purchased as soon as practicable after entry of judgment.

The court awards an amount sufficient to purchase an annuity contract, subject to the conditions described below, that will provide payment for the life care items contained in the life care plan, reflected by the attached chart, paid to the life insurance company from which the annuity will be purchased. Compensation for Year Two (beginning on the first anniversary of the date of judgment) and all subsequent years shall be provided through respondent's purchase of an annuity, which annuity shall make payments directly to Claudia Carrera-Meza, for all items of care set forth in Appendix A.

At the Secretary's sole discretion, the periodic payments may be provided to petitioner in monthly, quarterly, annual or other installments. The "annual amounts", with the rate reflected in the attached chart, describe only the total yearly sum to be paid to Claudia Carrera-Meza and do not require that the payment be made in one annual installment.

The annuity company must meet the following criteria:²

² These criteria taken from the December 1990 draft of the Uniform Periodic Payment of Judgments Act.

1) has a minimum of \$250,000,000 of capital and surplus, exclusive of any mandatory security valuation reserve; and

2) has one of the following ratings from two of the following organizations;

- a) A.M. Best Company: A+, A+g, A+p, A+r or A+s;
- b) Moody's Investors Service Claims Paying Rating: Aa3, Aa2, Aa1 or Aaa;
- c) Standard and Poor's Corporation Insurer Claims-Paying Ability Rating: AA-, AA, AA+ or AAA
- d) Fitch Credit Rating Company, Insurance Company Claims Paying Ability Rating: AA-,AA, AA+ or AAA.

CONCLUSION

Petitioner, Claudia Carrera-Meza, is entitled to an award under the Vaccine Program to provide for compensable expenses as reflected in the attached Appendix A. Petitioner's award of compensation shall be in the form of an annuity as provided for in paragraph 2 above, together with the following lump sum payments:

- 1) A lump sum payment of \$1,582,554.12, representing life care expenses for Year One (\$154,708.95), lost earnings (\$1,212,062.00), pain and suffering (\$175,783.17), and past unreimbursable expenses (\$40,000), in the form of a check payable to Claudia Carrera-Meza, as provided for in Appendix A.

Based on the foregoing, this Court adopts the parties' Proffer and finds that petitioner is entitled to compensation in the amount and on the terms set forth therein. The Clerk of the Court is directed to enter judgment according to this decision.³

IT IS SO ORDERED.

Gary J. Golkiewicz
Chief Special Master

³ Pursuant to Vaccine Rule 11(a), the parties can expedite entry of judgment by each party filing a notice renouncing the right to seek review by a U.S. Court of Federal Claims Judge.