

In the United States Court of Federal Claims

OFFICE OF SPECIAL MASTERS

No. 11-586 V

Filed: April 16, 2012

Not for Publication

DIANE GRADY, as legal representative of *
ZACHARY R. CHIAVETTA, a minor, *

Petitioner, *

v. * Damages Decision Based on Proffer

SECRETARY OF HEALTH *
AND HUMAN SERVICES, *

Respondent. *

Sherry K. Drew, Glenview, IL, for petitioner.
Claudia B. Gangi, Washington, DC, for respondent.

MILLMAN, Special Master

DECISION AWARDING DAMAGES¹

On April 13, 2012, respondent filed a Proffer on Award of Compensation. On April 16, 2012, petitioner's counsel communicated to the undersigned's law clerk that petitioner accepts respondent's Proffer. Based on the record, the special master finds that petitioner is entitled to the award as stated in the Proffer. Pursuant to the terms in the attached Proffer, the court awards petitioner:

¹ Because this decision contains a reasoned explanation for the special master's action in this case, the special master intends to post this decision on the United States Court of Federal Claims's website, in accordance with the E-Government Act of 2002, Pub. L. No. 107-347, 116 Stat. 2899, 2913 (Dec. 17, 2002). Vaccine Rule 18(b) states that all decisions of the special masters will be made available to the public unless they contain trade secrets or commercial or financial information that is privileged and confidential, or medical or similar information whose disclosure would constitute a clearly unwarranted invasion of privacy. When such a decision is filed, petitioner has 14 days to identify and move to redact such information prior to the document's disclosure. If the special master, upon review, agrees that the identified material fits within the banned categories listed above, the special master shall redact such material from public access.

- a. A lump sum payment of **\$123,468.96**, representing compensation for pain and suffering. The award shall be in the form of a check payable to petitioner Diane Grady as guardian/conservator of Zachary R. Chiavetta;
- b. A lump sum payment of **\$1,531.04**, representing compensation for past unreimbursable medical expenses. The award shall be in the form of a check payable to petitioner Diane Grady; and
- c. A lump sum payment of **\$128.45**, representing compensation for satisfaction of the Illinois Department of Healthcare and Family Services lien. The award shall be in the form of a check payable jointly to petitioner and

Illinois Department of Healthcare and Family Services
Bureau of Collections
Technical Recovery Section
P.O. Box 19174
Springfield, IL 02794-9174

In the absence of a motion for review filed pursuant to RCFC Appendix B, the clerk of the court is directed to enter judgment herewith.²

IT IS SO ORDERED.

Dated: April 16, 2012

s/ Laura D. Millman
Laura D. Millman
Special Master

² Pursuant to Vaccine Rule 11(a), entry of judgment can be expedited by each party's filing a notice renouncing the right to seek review.

C. Medicaid Lien

Respondent proffers that Zachary R. Chiavetta should be awarded funds to satisfy the Illinois Department of Healthcare and Family Services lien in the amount of \$128.45, which represents full satisfaction of any right of subrogation, assignment, claim, lien, or cause of action the Illinois Department of Healthcare and Family Services may have against any individual as a result of any Medicaid payments the Illinois Department of Healthcare and Family Services has made to or on behalf of Zachary R. Chiavetta from the date of his eligibility for benefits through the date of judgment in this case as a result of his vaccine-related injury suffered on or about May 31, 2011, under Title XIX of the Social Security Act.

II. Form of the Award

The parties recommend that the compensation provided to Zachary R. Chiavetta should be made through a lump sum payment as described below, and request that the special master's decision and the Court's judgment award the following:

A. A lump sum payment of \$123,468.96 (representing compensation for pain and suffering and past unreimbursable expenses), in the form of a check payable to petitioner, Diane Grady, as guardian/conservator of Zachary R. Chiavetta. No payments shall be made until petitioner provides respondent with documentation establishing that she has been appointed as the guardian/conservator of Zachary R. Chiavetta's estate;

B. A lump sum payment of \$1,531.04 (representing past unreimbursable expenses) in the form of a check payable to petitioner, Diane Grady;

C. A lump sum payment of \$128.45, representing compensation for satisfaction of the Illinois Department of Healthcare and Family Services lien, payable jointly to petitioner and

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Petitioner agrees to endorse this payment to the Illinois Department of Healthcare and Family Services.

D. No payments shall be made until petitioner provides respondent with documentation establishing that she has been appointed as the guardian/conservator of Zachary R. Chiavetta's estate. If petitioner is not authorized by a court of competent jurisdiction to serve as guardian/conservator of the estate of Zachary R. Chiavetta, any such payment shall be made to the party or parties appointed by a court of competent jurisdiction to serve as guardian/conservator of the estate of Zachary R. Chiavetta upon submission of written documentation of such appointment to the Secretary.

III. Summary of Recommended Payments Following Judgment

A.	Lump Sum paid to petitioner as guardian/conservator of Zachary R. Chiavetta's estate:	\$123,468.96
B.	Past unreimbursable expenses to petitioner:	\$1,531.04
C.	Reimbursement for Medicaid lien:	\$128.45

Respectfully submitted,

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/s/ Claudia B. Gangi
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DATE: April 13, 2012