

In the United States Court of Federal Claims

OFFICE OF SPECIAL MASTERS

No. 11-198V

Filed: October 26, 2012

Not for Publication

TAYLOR BRISTOW,

*

*

Petitioner,

*

*

Damages decision based on
stipulation; influenza vaccine;
Guillain-Barré syndrome

v.

*

*

SECRETARY OF HEALTH
AND HUMAN SERVICES,

*

*

*

Respondent.

*

*

Diana L. Stadelnikas, Sarasota, FL, for petitioner.

Traci R. Patton, Washington, DC, for respondent.

MILLMAN, Special Master

DECISION AWARDING DAMAGES¹

On October 25, 2012, the parties filed the attached stipulation in which they agreed to settle this case and described the settlement terms. Petitioner alleges that he suffered from Guillain-Barré syndrome (“GBS”) that was caused in fact by his September 30, 2009, receipt of influenza vaccine. Respondent denies that petitioner’s GBS or any other injury or condition was caused in fact by influenza vaccine. Nonetheless, the parties agreed to resolve this matter informally.

The court finds the terms to be reasonable, hereby adopts the parties’ stipulation, and

¹ Because this unpublished decision contains a reasoned explanation for the special master's action in this case, the special master intends to post this unpublished decision on the United States Court of Federal Claims's website, in accordance with the E-Government Act of 2002, Pub.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.

awards compensation in the amount and on the terms set forth therein.

Pursuant to the stipulation, the court awards:

- a. a lump sum of **\$38,564.17**, representing compensation for all damages, other than past medical expenses, that would be available under 42 U.S.C. § 300aa-15(a). The award shall be in the form of a check made payable to petitioner;
- b. a lump sum of **\$11,435.73**, representing compensation for the reimbursement of the Montana Medicaid lien, payable jointly to petitioner, Taylor Bristow, and

BCBSMT
Healthy Montana Kids
1400 Broadway, C118
Helena, MT 59620-2951
Attn: Jean Bergenson

Petitioner agrees to endorse this payment to BCBSMT, Healthy Montana Kids;

- c. a lump sum of **\$941.26**, in the form of a check payable jointly to petitioner, Taylor Bristow, and

Bayside Recovery Services, Inc.
P.O. Box 2587
Daphne, AL 36626
Re: Account #749975

Petitioner agrees to endorse this payment to Bayside Recovery Services, Inc.;

- d. a lump sum of **\$1,397.74**, in the form of a check payable jointly to petitioner, Taylor Bristow, and

Bay Area Credit Service
1901 W. 10th Street
Antioch, VA 94509
Attn: Teresa Martinez
Re: Account #848922795

Petitioner agrees to endorse this payment to Bay Area Credit Service; and

- e. a lump sum of **18,013.15**, in the form of a check payable jointly to petitioner, Taylor Bristow, and

Intermountain Medical Center
5121 South Cottonwood Street

Murray, UT 84157
Re: Account #154-26757930

Petitioner agrees to endorse this payment to Intermountain Medical Center.

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: October 26, 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.

IN THE UNITED STATES COURT OF FEDERAL CLAIMS
OFFICE OF SPECIAL MASTERS

TAYLOR BRISTOW,)	
)	
Petitioner,)	
v.)	No. 11-198V
)	Special Master Millman
SECRETARY OF HEALTH AND HUMAN)	
SERVICES,)	
)	
Respondent.)	

STIPULATION

The parties hereby stipulate to the following matters:

1. Taylor Bristow ("petitioner") filed a petition for vaccine compensation under the National Vaccine Injury Compensation Program, 42 U.S.C. §300aa-10 to 34 (the "Vaccine Program").¹ The petition seeks compensation for injuries allegedly related to Taylor's receipt of the influenza ("flu") vaccine, which vaccine is contained in the Vaccine Injury Table (the "Table"), 42 C.F.R. § 100.3 (a).
2. Petitioner received his flu immunization on September 30, 2009.
3. The vaccine was administered within the United States.
4. Petitioner alleges that the flu vaccine caused him to suffer Guillian-Barré Syndrome ("GBS").
5. Petitioner represents that there has been no prior award or settlement of a civil action for damages on his behalf as a result of his condition.

¹ The petition was originally filed by petitioner's father, Rick Bristow, as petitioner's parent and legal guardian, while petitioner was still a minor. Petitioner reached the age of majority on April 23, 2012, and the petition was amended by Order on that date to reflect that petitioner is now the proper claimant.

6. Respondent denies that the flu vaccine caused petitioner to suffer GBS or any other injury or condition.

7. Maintaining their above-stated positions, the parties nevertheless now agree that the issues between them shall be settled and that a decision should be entered awarding the compensation described in paragraph 8 of this Stipulation.

8. As soon as practicable after an entry of judgment reflecting a decision consistent with the terms of this Stipulation, and after petitioner has filed an election to receive compensation pursuant to 42 U.S.C. § 300aa-21(a)(1), the Secretary of Health and Human Services will issue the following vaccine compensation payments:

- a. A lump sum of \$38,564.17 in the form of a check payable to petitioner. This amount represents compensation for all damages, other than past medical expenses, that would be available under 42 U.S.C. § 300aa-15(a);
- b. A lump sum of \$11,435.73, representing compensation for the reimbursement of the Montana Medicaid lien, payable jointly to petitioner, Taylor Bristow, and

BCBSMT
Healthy Montana Kids
1400 Broadway, C118
Helena, MT 59620-2951
Attn: Jean Bergenson

Petitioner agrees to endorse this payment to BCBSMT, Healthy Montana Kids;

- c. A lump sum of \$941.26, in the form of a check payable jointly to petitioner, Taylor Bristow, and

Bayside Recovery Services, Inc.
P.O. Box 2587
Daphne, AL 36626
Re: Account #749975

Petitioner agrees to endorse this payment to Bayside Recovery Services, Inc.;

- d. A lump sum of \$1,397.74, payable jointly to petitioner, Taylor Bristow, and

Bay Area Credit Service
1901 W. 10th Street
Antioch, VA 94509
Attn: Teresa Martinez
Re: Account #848922795

Petitioner agrees to endorse this payment to Bay Area Credit Service; and

- e. A lump sum of \$18,013.15, payable jointly to petitioner, Taylor Bristow, and

Intermountain Medical Center
5121 South Cottonwood Street
Murray, UT 84157
Re: Account #154-26757930

Petitioner agrees to endorse this payment to Intermountain Medical Center.

9. As soon as practicable after the entry of judgment on entitlement in this case, and after petitioner has filed both a proper and timely election to receive compensation pursuant to 42 U.S.C. § 300aa-21(a)(1), and an application, the parties will submit to further proceedings before the special master to award reasonable attorneys' fees and costs incurred in proceeding upon this petition.

10. Payments made pursuant to paragraph 8 and any amounts awarded pursuant to paragraph 9 of this Stipulation will be made in accordance with 42 U.S.C. § 300aa-15(i), subject to the availability of sufficient statutory funds.

11. The parties and their attorneys further agree and stipulate that, except for any award for attorneys' fees and litigation costs, past unreimbursable expenses, and reimbursement of the state's Medicaid lien, the money provided pursuant to this Stipulation will be used solely for the benefit of Taylor as contemplated by a strict construction of 42 U.S.C. § 300aa-15(a) and (d), and subject to the conditions of 42 U.S.C. § 300aa-15(g) and (h).

12. Petitioner and his attorney represent that compensation to be provided pursuant to this Stipulation is not for any items or services for which the Program is not primarily liable under 42 U.S.C. § 300aa-15(g), to the extent that payment has been made or can reasonably be expected to be made under any State compensation programs, insurance policies, Federal or State health benefits programs (other than Title XIX of the Social Security Act (42 U.S.C. § 1396 et seq.)), or by entities that provide health services on a pre-paid basis.

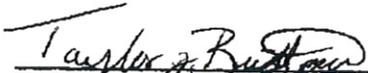
13. In return for the payments described in paragraphs 8 and 9, petitioner, in his individual capacity, and on behalf of his heirs, executors, administrators, successors or assigns, does forever irrevocably and unconditionally release, acquit and discharge the United States and the Secretary of Health and Human Services from any and all actions or causes of action (including agreements, judgments, claims, damages, loss of services, expenses and all demands of whatever kind or nature) that have been brought, could have been brought, or could be timely brought in the Court of Federal Claims, under the National Vaccine Injury Compensation Program, 42 U.S.C. § 300aa-10 et seq., on account of, or in any way growing out of, any and all known or unknown, suspected or unsuspected personal injuries to or death of petitioner resulting from, or alleged to have resulted from, the flu vaccination administered on September 30, 2009, as alleged by petitioner in a petition for vaccine compensation filed on or about March 30, 2011, in the United States Court of Federal Claims as petition No. 11-198V.

14. If petitioner should die prior to entry of judgment, this agreement shall be voidable upon proper notice to the Court on behalf of either or both of the parties.

15. If the special master fails to issue a decision in complete conformity with the terms of this Stipulation or if the Court of Federal Claims fails to enter judgment in conformity with a

Respectfully submitted,

PETITIONER:


TAYLOR BRISTOW

**ATTORNEY OF RECORD FOR
PETITIONER:**


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Dated: 10/25/2012