

In the United States Court of Federal Claims

OFFICE OF SPECIAL MASTERS

No. 12-055V

Filed: June 18, 2012

KAITLYN E. AHOLT,

*

NOT TO BE PUBLISHED

*

Petitioner,

*

Damages; decision based on proffer;
varicella, tetanus-diphtheria-acellular
pertussis (Tdap) vaccine;
meningococcal vaccine (MCV),
hepatitis A.

*

v.

*

*

SECRETARY OF HEALTH
AND HUMAN SERVICES,

*

*

Respondent.

*

*

Carol L. Gallagher, Gallagher & Gallagher, Somers Point, New Jersey, for Petitioner;
Justine E. Daigneault, United States Department of Justice, Washington, DC, for Respondent.

UNPUBLISHED DECISION AWARDING DAMAGES¹

On January 29, 2012, Katherine E. Aholt filed a petition seeking compensation for her injuries resulting from the administration of a hepatitis A (Hep. A), varicella, tetanus-diphtheria-acellular pertussis (Tdap), and meningococcal (MCV) vaccinations. Ms. Aholt sought compensation pursuant to the National Vaccine Injury Act of 1986, 42 U.S.C. §§ 300aa-10 *et seq.*, alleging that she experienced an episode of syncope immediately after receiving these vaccinations on July 15, 2012, which caused her to suffer various injuries to her face, jaw and teeth. On April 30, 2012, the undersigned determined that Ms. Aholt was entitled to compensation.

¹ Because this ruling contains a reasoned explanation for the special master's action in this case, the special master intends to post it 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). 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 the disclosure of which would clearly be an unwarranted invasion of privacy. When such a decision or designated substantive order is filed, a party has 14 days to identify such information and to move to redact such information before the document's disclosure to the public. 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 the final version available to the public. 42 U.S.C. § 300aa-12(d)(4); Vaccine Rule 18(b).

On June 12, 2012, a Joint Proffer on Award of Compensation (“Proffer”) was filed, in which the parties identified the amounts of damages which they agreed Petitioner should be awarded. Based upon review of the Proffer and the record as a whole, the undersigned finds the Proffer reasonable and that Petitioner is entitled to an award as set forth in the Proffer. Pursuant to the Proffer, attached and incorporated herein as Appendix A, the undersigned awards Petitioner the following:

1. **A lump sum payment of \$107,180.01 representing compensation for actual lost earnings (\$579.15), actual and projected pain and suffering (\$100,000.00), past unreimburseable medical expenses (\$6,009.36), and projected unreimburseable expenses (\$591.50), in the form of a check payable to Petitioner; and**
2. **A lump sum of \$10,991.94 in the form of a check payable to Petitioner and Petitioner’s attorney, Carol L. Gallagher, Esq., for attorneys’ fees and costs.** Petitioner agrees to endorse this payment to Petitioner’s attorney.

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.

/s/ Daria J. Zane
Daria J. Zane
Special Master

² Pursuant to Vaccine Rule 11(a), the parties can expedite entry of judgment by each party providing notice that they are not seeking review by a United States Court of Federal Claims judge.

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

KAITLYN E. AHOLT,)	
)	
Petitioner,)	
)	
v.)	No. 12-55V
)	Special Master Zane
SECRETARY OF HEALTH)	ECF
AND HUMAN SERVICES,)	
)	
Respondent.)	
)	

JOINT PROFFER ON AWARD OF COMPENSATION

I. Items of Compensation

A. Projected Unreimbursable Vaccine-Related Injury Expenses

For the purposes of this proffer, the term “vaccine-related” is, as described in respondent’s Rule 4(c) Report filed on April 23, 2012, limited to the one episode of syncope on July 15, 2010, and excludes any syncopal episodes that petitioner may experience thereafter. Based upon the evidence supplied by petitioner, the parties jointly proffer that petitioner should be awarded \$591.50 for projected unreimbursable vaccine-related injury expenses as provided under 42 U.S.C. § 300aa-15(a)(1)(A).

B. Past Unreimbursable Vaccine-Related Injury Expenses

Evidence supplied by petitioner documents the expenditure of past unreimbursable expenses related to her vaccine-related injury. The parties jointly proffer that petitioner should be awarded \$6,009.36 for past unreimbursable expenses as provided under 42 U.S.C. § 300aa-15(a)(1)(B).

C. Actual Loss of Earnings

The parties agree that based upon the evidence supplied by petitioner, she incurred \$579.15 in actual lost earnings as a result of her vaccine-related injury as provided under 42 U.S.C. § 300aa-15(a)(3)(A).

D. Anticipated Loss of Earnings

The parties agree that based upon the evidence of record, petitioner will be gainfully employed. Therefore, the parties jointly proffer that petitioner should be awarded no anticipated loss of earnings under 42 U.S.C. § 300aa-15(a)(3)(A).

E. Pain and Suffering

The parties jointly proffer that petitioner should be awarded \$100,000.00 in actual and projected pain and suffering. This amount reflects that the award for projected pain and suffering has been reduced to net present value. *See* 42 U.S.C. § 300aa-15(a)(4) and 15(f)(4)(A).

F. Medicaid Lien

Petitioner represents that there are no outstanding Medicaid liens against her.

G. Attorneys' Fees and Costs

Petitioner has supplied documentation of reasonable attorneys' fees in the amount of \$10,485.00, and litigation costs in the amount of \$506.94 incurred in pursuit of this petition. In compliance with General Order #9, petitioner has submitted a statement indicating that petitioner incurred no out-of-pocket expenses in proceeding on the petition. The parties jointly proffer that petitioner should be awarded \$10,991.94 for attorneys' fees and costs.

II. Form of the Award

The parties recommend that the compensation provided to petitioner should be made through lump sum payments 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 \$107,180.01, representing compensation for actual lost earnings (\$579.15), actual and projected pain and suffering (\$100,000.00), past unreimbursable medical expenses (\$6,009.36), and projected unreimbursable expenses (\$591.50), in the form of a check payable to petitioner; and

B. A lump sum of \$10,991.94 in the form of a check payable to petitioner and petitioner's attorney, Carol L. Gallagher, Esq., for attorneys' fees and costs. Petitioner agrees to endorse this payment to petitioner's attorney.

Respectfully submitted,

s/ Carol L. Gallagher, Esq.
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Dated: June 12, 2012