

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

No.
(Not to be published)

Surviving parents and legal representatives of
a minor child , deceased

Petitioners,

v.

SECRETARY OF HEALTH AND
HUMAN SERVICES

Respondent.

Filed:

Decision by Stipulation;
Damages; Influenza (Flu)
Vaccine; Death

Ramon Rodriguez, III, Fort Worth, TX, for Petitioner

Glenn A. MacLeod, Washington, DC, for Respondent

DECISION AWARDING DAMAGES¹

On , petitioners and , as parents and legal representatives of the vaccinee , deceased, filed a petition seeking compensation under the National Vaccine Injury Compensation Program, (“the Vaccine Program”).² Petitioners alleged that the vaccinee suffered an injury resulting from an influenza

¹ Because this decision contains a reasoned explanation for my action in this case, I will 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, § 205, 116 Stat. 2899, 2913 (codified as amended at 44 U.S.C. § 3501 note (2006)). As provided by Vaccine Rule 18(b), each party has 14 days within which to request redaction “of any information furnished by that party: (1) that is a trade secret or commercial or financial in substance and is privileged or confidential; or (2) that includes medical files or 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.

² The National Vaccine Injury Compensation Program is set forth in Part 2 of the National Childhood Vaccine Injury Act of 1986, Pub. L. No. 99-660, 100 Stat. 3755, codified as amended,

(“flu”) vaccination she received on _____, and that the injury eventually caused the vaccinee’s death.

Respondent denies that the vaccinee’s alleged injuries and eventual death were caused by her receipt of the flu vaccine. Nonetheless, both parties, while maintaining the above positions, agreed in a stipulation filed _____ that the issues before them can be settled and that a decision should be entered awarding petitioners compensation.

I have reviewed the file and, based upon that review, I conclude that the parties’ stipulation is reasonable. I therefore adopt the stipulation as the decision of this proceeding in awarding damages, on the terms set forth therein.

The stipulation awards:

- a) A lump sum of \$2,937.75, which amount represents reimbursement of a lien for services rendered on behalf of _____, in the form of a check payable jointly to petitioners as Legal Representatives of the Estate of _____, deceased, and

_____ petitioners agree to endorse this payment to the _____ Medicaid Agency; and

- b) A lump sum of \$100,000.00, in the form of a check payable to petitioners, as Legal Representative of the Estate of _____, deceased, which amount represents compensation for all other damages that would be available under 42 U.S.C. § 300aa-15(a);

Stipulation ¶ 8.

I approve a Vaccine Program award to be made to petitioners in the amounts set forth above. 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.³

42 U.S.C.A. § 300aa-10-§ 300aa-34 (West 1991 & Supp. 2002) (“Vaccine Act”). All citations in this decision to individual sections of the Vaccine Act are to 42 U.S.C.A. § 300aa.

³ Pursuant to Vaccine Rule 11(a), the parties may expedite entry of judgment by filing a joint notice renouncing their right to seek review.

IT IS SO ORDERED.

/s/ Brian H. Corcoran
Brian H. Corcoran
Special Master