

In the United States Court of Federal Claims

OFFICE OF SPECIAL MASTERS

No. 10-206V

Filed: June 21, 2011

JESSICA BERMUDEZ,)	
)	
Petitioner,)	NOT TO BE PUBLISHED
)	
v.)	Damages; Proffer;
)	Human papillomavirus; HPV;
SECRETARY OF)	Rotator cuff tendonitis
HEALTH AND HUMAN SERVICES,)	
)	
Respondent.)	
)	

Ronald C. Homer, Conway, Homer & Chin-Caplan, P.C., Boston, MA, for Petitioner.
Ann D. Martin, U.S. Dep't of Justice, Washington, D.C. for Respondent.

DECISION AWARDING DAMAGES¹

On April 7, 2010, Petitioner Jessica Bermudez filed a petition seeking compensation under the National Vaccine Injury Compensation Program, 42 U.S.C. § 300aa-10 et seq. (2006). Petitioner alleged that she suffered from neurological injuries which were caused in fact by the human papillomavirus (HPV) vaccination she received on April 17, 2007. Amended Pet. at 1. On September 24, 2010, Respondent filed her Rule 4(c) Report in which she contested that the HPV vaccination caused a neurological injury but conceded that Petitioner developed rotator cuff tendonitis as a result of her HPV vaccination. I issued a ruling on entitlement on November 2, 2010.

On June 20, 2011, Respondent filed a joint Proffer setting forth all items of compensation to which the parties agreed should be awarded to Petitioner. Based upon the record as a whole, I find the Proffer reasonable and that Petitioner is entitled to an award as stated in the Proffer. Pursuant to the Proffer, attached as Appendix A, the court awards Petitioner:

¹ The undersigned 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, § 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 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 ruling will be available to the public. Id.

A lump sum payment of \$57,469.02, representing physical therapy expenses (\$1,469.02) and pain and suffering (\$56,000.00), in the form of a check payable to petitioner, Jessica Bermudez.

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

IT IS SO ORDERED.

s/ Dee Lord
Dee Lord
Special Master

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

JESSICA BERMUDEZ,)	
)	
Petitioner,)	
)	
v.)	No. 10-206V
)	Special Master Lord
)	ECF
SECRETARY OF HEALTH AND)	
HUMAN SERVICES,)	
)	
Respondent.)	

RESPONDENT'S PROFFER ON AWARD OF COMPENSATION

I. Items of Compensation

A. Life Care Items

The parties agree that based upon the evidence of record, Jessica Bermudez has a modest amount of future vaccine-injury related needs. For the purposes of this proffer, the term “vaccine related” is as described in Respondent’s Rule 4(c) Report filed on September 24, 2010.

Respondent proffers that Jessica Bermudez should be awarded \$1,469.02 to cover the cost of physical therapy equipment in the form of exercise bands. Petitioner agrees.

B. Lost Future Earnings

The parties agree that based upon the evidence of record, Jessica Bermudez’s vaccine-related injury has not impaired her earning capacity. Therefore, respondent proffers that Jessica Bermudez should be awarded no lost future earnings as provided under the Vaccine Act, 42 U.S.C. § 300aa-15(a)(3)(A). Petitioner agrees.

C. Pain and Suffering

Respondent proffers that Jessica Bermudez should be awarded \$56,000.00 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). Petitioner agrees.

D. Past Unreimbursable Expenses

The parties agree that based upon the evidence of record, Jessica Bermudez did not incur any past unreimbursable expenses related to her vaccine-related injury. Therefore, respondent proffers that Jessica Bermudez should be awarded no actual unreimbursable expenses as provided under the Vaccine Act, 42 U.S.C. § 300aa-15(a)(1)(B). Petitioner agrees.

E. Medicaid Lien

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

II. Form of the Award

The parties recommend that the compensation provided to Jessica Bermudez should be made through a lump sum payment of \$57,469.02 in the form of a check payable to petitioner.

III. Summary of Recommended Payments Following Judgment

Lump sum paid to petitioner:	\$57,469.02
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Respectfully submitted,

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Assistant Attorney General

MARK W. ROGERS
Acting Director
Torts Branch, Civil Division

VINCENT J. MATANOSKI
Acting Deputy Director
Torts Branch, Civil Division