

In the United States Court of Federal Claims

OFFICE OF SPECIAL MASTERS

(Filed: March 7, 2008)

LINDA S. GARRETT,)	
)	
Petitioner,)	
)	
v.)	No. 06-0790V
)	Influenza Vaccine; Stipulation
SECRETARY OF)	
HEALTH AND HUMAN SERVICES,)	
)	
Respondent.)	
)	

DECISION DIRECTING ENTRY OF JUDGMENT¹

Petitioner, Linda S. Garrett (Ms. Garrett), seeks compensation under the National Vaccine Injury Compensation Program (Program).² Ms. Garrett suffers a neurologic injury that respondent characterizes as transverse myelitis. *See* Respondent's Supplemental Rule 4(c) Report (Supp. Report), filed July 11, 2007, at 2. Ms. Garrett attributes her neurologic injury to an influenza vaccination that she received on October 30, 2002. *See, e.g.*, Petition (Pet.), filed November 27, 2006; Amended Petition (Am. Pet.), filed March 27, 2007.

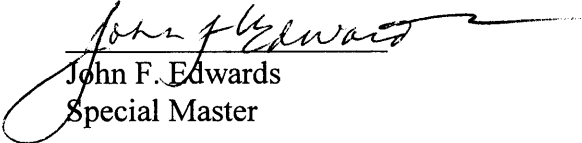
Respondent denies that Ms. Garrett sustained a vaccine-related injury. *See, e.g.*, Respondent's Report (Report), filed April 30, 2007; Supp. Report. Nevertheless, on March 5, 2008, the parties filed a stipulation. *See* Stipulation, filed March 5, 2008. The special master has reviewed thoroughly the stipulation. He adopts completely the stipulation. Therefore, in the absence of a motion for review filed under RCFC Appendix B, the clerk of court shall enter judgment based upon

¹ 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 decision" will be available to the public. *Id.*

² The statutory provisions governing the Vaccine Program are found in 42 U.S.C. §§ 300aa-10 *et seq.* For convenience, further reference will be to the relevant section of 42 U.S.C.

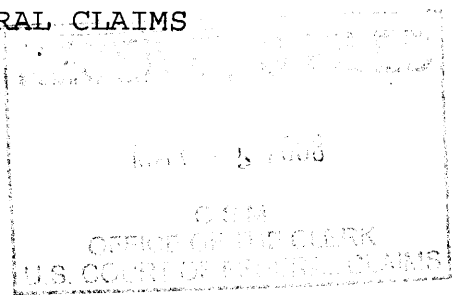
the stipulation in Ms. Garrett's favor. Under Vaccine Rule 11(a), the parties may expedite entry of judgment by filing a joint notice renouncing the right to seek review. Then, under Vaccine Rule 12(a), Ms. Garrett may expedite payment by filing an election to accept the judgment.

The clerk of court shall send Ms. Garrett's copy of this decision to Ms. Garrett by overnight express delivery.


John F. Edwards
Special Master

IN THE UNITED STATES COURT OF FEDERAL CLAIMS

OFFICE OF SPECIAL MASTERS



LINDA S. GARRETT,
Petitioner,
v.
SECRETARY OF HEALTH AND HUMAN
SERVICES,
Respondent.

No. 06-790V
Special Master Edwards

STIPULATION

The parties hereby stipulate to the following matters:

1. 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"). The petition seeks compensation for injuries allegedly related to petitioner's receipt of the influenza ("flu") vaccine, which vaccine is contained in the Vaccine Injury Table (the "Table"), 42 U.S.C. § 300aa-14(a); 42 C.F.R. § 100.3 (a)(I).
2. Petitioner received her flu immunization on October 30, 2002.
3. The vaccine was administered within the United States.
4. Petitioner alleges that she developed transverse myelitis ("TM") and/or Guillain-Barre Syndrome ("GBS") as a result of her October 30, 2002, vaccination.
5. Petitioner represents that there has been no prior award or

settlement of a civil action for damages as a result of her condition.

6. Respondent denies that petitioner's TM and/or GBS were caused-in-fact by her October 30, 2002, vaccination.

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 a lump sum payment of \$150,000.00 in the form of a check payable to petitioner. This amount represents compensation for all damages that would be available under 42 U.S.C. §300aa-15(a).

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 paragraphs 8 and 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 the money provided pursuant to this Stipulation will be used solely for the benefit of petitioner 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. In return for the payments described in paragraphs 8 and 9, petitioner does forever and fully expressly release, acquit and discharge the Secretary of Health and Human Services and the United States of America from any and all actions, causes of action, agreements, judgments, claims, damages, loss of services, expenses and all demands of whatever kind or nature on account of, or in any way growing out of, any and all known or unknown personal injuries to or death of petitioner resulting from, or alleged to have resulted from, the flu vaccination administered on October 30, 2002, as alleged by petitioner in a petition for vaccine compensation filed on or about November 27, 2006, in the United States Court of Federal Claims as petition No. 06-0790V.

13. If petitioner should die prior to receiving the payment described in paragraph 8, this agreement shall be considered voidable upon proper notice to the Court on behalf of either or both of the parties.

14. 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 decision that is in complete conformity with the terms of this Stipulation, then the parties' settlement and this Stipulation shall be null and void at the sole discretion of either party.

15. This Stipulation expresses a full and complete settlement of liability and damages claimed under the National Childhood Vaccine Injury Act of 1986, as amended, except as otherwise noted in paragraph 9 above. There is absolutely no agreement on the part of the parties hereto to make any payment or to do any act or thing other than is herein expressly stated and clearly agreed to.

16. All rights and obligations of petitioner hereunder shall apply equally to petitioner's successors and assigns.

END OF STIPULATION

Respectfully submitted,

PETITIONER:

Linda S. Garrett
LINDA S. GARRETT

ATTORNEY OF RECORD FOR
PETITIONERS:

Carol Gallagher
CAROL GALLAGHER
Gallagher & Gallagher
822 Shore Road
Somers Point, New Jersey 08244
(609) 926-6450

AUTHORIZED REPRESENTATIVE
OF THE ATTORNEY GENERAL:

Vincent J. Matanoski
VINCENT J. MATANOSKI
Acting Deputy Director
Torts Branch
Civil Division
U.S. Department of Justice
P.O. Box 146
Benjamin Franklin Station
Washington, D.C. 20044-0146

AUTHORIZED REPRESENTATIVE OF
THE SECRETARY OF HEALTH AND
HUMAN SERVICES:

Geoffrey Evans M.D.
GEOFFREY EVANS, M.D.
Acting Director, Division of
Vaccine Injury Compensation
Healthcare Systems Bureau
U.S. Department of Health
and Human Services
5600 Fishers Lane
Parklawn Building, Stop 11C-26
Rockville, MD 20857

ATTORNEY OF RECORD FOR
RESPONDENT:

Rebecca J. Trinrud
by V. J. Matanoski
REBECCA J. TRINRUD
Trial Attorney
Torts Branch
Civil Division
U.S. Department of Justice
P.O. Box 146
Benjamin Franklin Station
Washington, D.C. 20044-0146
(202) 353-7832

Dated: 3/5/08