

In the United States Court of Federal Claims

OFFICE OF SPECIAL MASTERS

(Filed: July 16, 2008)

DO NOT PUBLISH

GENEVIEVE MCGHEE,)	
)	
Petitioner,)	
)	
v.)	
)	No. 06-0130V
SECRETARY OF)	Tetanus-diphtheria (Td) vaccine;
HEALTH AND HUMAN SERVICES,)	Arm Pain/Nerve Damage;
)	Stipulation
Respondent.)	
)	

DECISION DIRECTING ENTRY OF JUDGMENT¹

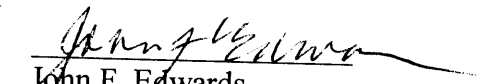
Petitioner, Genevieve McGhee (Ms. McGhee), seeks compensation under the National Vaccine Injury Compensation Program (Program).² Appearing *pro se*, Ms. McGhee filed a claim accompanied by several documents on February 22, 2006. The special master understands that Ms. McGhee alleges that she suffered severe pain in her left arm after she received a tetanus-diphtheria (Td) vaccination on August 14, 2003. In addition, the special master understands that Ms. McGhee maintains that she has lost gradually the use of the arm. Further, the special master understands that Ms. McGhee asserts that a physician has informed her that she sustained muscle and nerve damage in the arm from the August 14, 2003 Td vaccination. *See generally* Petitioner's documents, filed February 22, 2006.

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.

Respondent denies that Ms. McGhee sustained a vaccine-related injury. *See, e.g.*, Respondent's Rule 4(c) Report (Report), filed February 8, 2007. Nevertheless, on July 14, 2008, the parties filed a Stipulation. *See* Stipulation, filed July 14, 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 the Stipulation in Ms. McGhee'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. McGhee may expedite payment by filing an election to accept the judgment.

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


John F. Edwards
Special Master

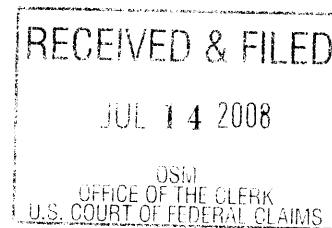
IN THE UNITED STATES COURT OF FEDERAL CLAIMS

OFFICE OF SPECIAL MASTERS

GENEVIEVE MCGHEE,)
)
Petitioner,)
)
v.)
)
SECRETARY OF HEALTH AND HUMAN)
SERVICES,)
)
Respondent.)
_____)

No. 06-0130V

Special Master Edwards



STIPULATION

The parties hereby stipulate to the following matters:

1. Petitioner, Genevieve McGhee, filed a petition for vaccine compensation under the National Vaccine Injury Compensation Program, 42 U.S.C. § 300aa-10 to 34, as amended (the "Vaccine Program"). The petition seeks compensation for injuries allegedly related to petitioner's receipt of tetanus diphtheria 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 the above vaccine on August 14, 2003.
3. The vaccine was administered within the United States.
4. Petitioner alleges that she sustained a sore arm and complex regional pain syndrome as a result of receiving the above vaccination.
5. Petitioner represents that there has been no prior award or settlement of a civil action for damages on her behalf as a result of her alleged vaccine-related injury.
6. Respondent denies that petitioner has established by a preponderance of evidence that petitioner suffered a vaccine-related injury.

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 payment:

A lump sum of Twenty Thousand Dollars (\$20,000.00) 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. Payment 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 of attorneys' fees, the money provided pursuant to this Stipulation will be used solely for the benefit of petitioner as contemplated by 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 paragraph 8, and any payment awarded pursuant to paragraph 9, petitioner, in her individual capacity, on behalf of herself, her heirs, executors, administrators, successors, and assigns, 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 tetanus diphtheria vaccination administered to her on August 14, 2003, as alleged by petitioner in a petition for vaccine compensation filed on or about February 22, 2006, in the United States Court of Federal Claims as petition No. 06-130V.

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.

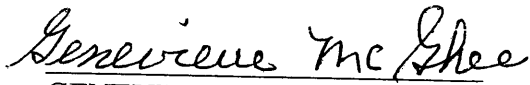
15. This Stipulation expresses a full and complete settlement of liability and damages claimed under the National Childhood Vaccine Injury Act of 1986, as amended. There is absolutely no agreement on the part of the parties hereto to make any payment or to do any act or thing other than is herein expressly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

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

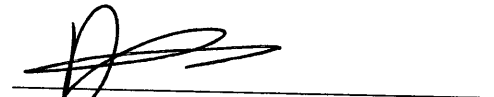
END OF STIPULATION

Respectfully submitted,


PETITIONER:


GENEVIEVE MCGHEE

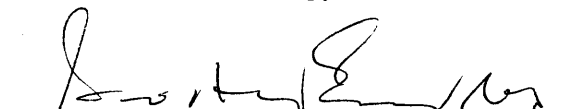
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Date: July 14, 2008