

- A lump sum of \$30,000.00, in the form of a check payable to Petitioner, representing compensation for all damages that would be available under 42 U.S.C. §300aa-15(a).
- A lump sum of \$8,652.91, in the form of a check payable jointly to Petitioner and

State of Arkansas Medicaid
Arkansas Department of Human Services
Office of Chief Counsel
P.O. Box 1437 Slot S-260
Little Rock, AR 72203-9935
Attn.: Angie Foster

which represents compensation for reimbursement of the State of Arkansas Medicaid lien.

Under the statute governing the Program, as well as the “Vaccine Rules” adopted by this court, the special master must now enter a decision endorsing that stipulation, and the clerk must enter judgment, in order to authorize payment of the award. See § 300aa-12(d)(3)(A) and (e)(3); § 300aa-13(a); Vaccine Rules 10(a), 11(a).³

I have reviewed the file, and based on that review, I conclude that the parties’ stipulation appears to be an appropriate one. Accordingly, my decision is that a Program award shall be made to petitioner in the amounts set forth above. In the absence of a timely-filed motion for review of this Decision, the clerk shall enter judgment in accordance herewith.

IT IS SO ORDERED.

/s/ George L. Hastings, Jr.
George L. Hastings, Jr.
Special Master

³ The “Vaccine Rules of the United States Court of Federal Claims” are found in Appendix B of the Rules of the United States Court of Federal Claims.

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

CHARLOTTE BRAMMER,)	
Natural Mother and Guardian for,)	
[REDACTED] a minor,)	ECF
M.B.,)	No. 10-72V
Petitioner,)	Special Master Hastings
)	
v.)	
)	
SECRETARY OF HEALTH AND HUMAN)	
SERVICES,)	
)	
Respondent.)	

STIPULATION

The parties hereby stipulate to the following matters:

1. Charlotte Brammer, ("petitioner"), Mother and Natural Guardian of [REDACTED] M.B., [REDACTED] 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 [REDACTED] receipt of a seasonal influenza vaccine ("flu"), which vaccine is contained in the Vaccine Injury Table (the "Table"), 42 C.F.R. § 100.3(a).
M.B.'s
2. [REDACTED] received her flu vaccine on January 8, 2008.
M.B.
3. The vaccine was administered within the United States.
4. Petitioner alleges that [REDACTED] suffered juvenile dermatomyositis as a consequence of her vaccination. Petitioner further alleges that [REDACTED] current disabilities are sequelae of her injury, and that [REDACTED] experienced residual effects of this injury for more than six months.
M.B.'s
M.B.

5. Petitioner represents that there has been no prior award or settlement of a civil action for damages as a result of [REDACTED] condition.

M.B.'s

6. Respondent denies that the flu vaccine caused [REDACTED] juvenile dermatomyositis or any other injury; denies that [REDACTED] current disabilities are sequelae of her alleged vaccine-related injury; and denies that [REDACTED] experienced the residual effects of her injuries for more than six months.

M.B.'s

M.B.'s

M.B.

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. A lump sum of \$8,652.91, for reimbursement of the State of Arkansas' Medicaid Lien, in the form of a check payable jointly to petitioner and

State of Arkansas Medicaid
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Petitioner agrees to endorse this payment to the State of Arkansas Medicaid.

- b. A lump sum of \$30,000.00 in the form of a check payable to petitioner. This amount represents compensation for all remaining 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. Petitioner and her attorney represent that they have identified to respondent all known sources of payment for items or services for which the Program is not primarily liable under 42 U.S.C. § 300aa-15(g), including State compensation programs, insurance policies, Federal or State health benefits programs (other than Title XIX of the Social Security Act (42 U.S.C. § 1396 et seq.)), or entities that provide health services on a pre-paid basis.

11. Payment made pursuant to paragraph 8 of this Stipulation and any amounts awarded pursuant to paragraph 9 will be made in accordance with 42 U.S.C. § 300aa-15(i), subject to the availability of sufficient statutory funds.

12. The parties and their attorneys further agree and stipulate that, except for any award for attorneys' fees and litigation costs, the money provided pursuant to this Stipulation will be used solely for the benefit of [REDACTED] 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).
M. B.

13. Petitioner represents that she presently is, or within 90 days of the date of judgment will become, duly authorized to serve as guardian/conservator of [REDACTED] estate under the laws of the State of Arkansas. No payments pursuant to this Stipulation shall be made until petitioner provides the Secretary with documentation establishing her appointment as guardian/conservator of [REDACTED] estate. If petitioner is not authorized by a court of competent jurisdiction to serve
M. B.'s

as guardian/conservator of the estate of [REDACTED] at the time a payment pursuant to this Stipulation is to be made, any such payment shall be paid to the party or parties appointed by a court of competent jurisdiction to serve as guardian/conservator of the estate of [REDACTED] M.B., [REDACTED] upon submission of written documentation of such appointment to the Secretary.

14. In return for the payments described in paragraphs 8 and 9, petitioner, in her individual capacity and as legal representative of [REDACTED] on behalf of herself, [REDACTED], and her heirs, executors, administrators, successors or assigns, does forever irrevocably and unconditionally release, acquit and discharge the United States and the Secretary of Health and Human Services from any and all actions or causes of action (including agreements, judgments, claims, damages, loss of services, expenses and all demands of whatever kind or nature) that have been brought, could have been brought, or could be timely brought in the Court of Federal Claims, under the National Vaccine Injury Compensation Program, 42 U.S.C. § 300aa-10 et seq., on account of, or in any way growing out of, any and all known or unknown, suspected or unsuspected personal injuries to or death of [REDACTED] resulting from, or alleged to have resulted from, the flu vaccination administered on January 8, 2008, as alleged by petitioner in a petition for vaccine compensation filed on or about February 4, 2010, in the United States Court of Federal Claims as petition No. 10-72V.

15. If [REDACTED] should die prior to entry of judgment, this agreement shall be voidable upon proper notice to the Court on behalf of either or both of the parties.

16. 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 voidable at the sole discretion of either party.

17. This Stipulation expresses a full and complete negotiated 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. The parties further agree and understand that the award described in this Stipulation may reflect a compromise of the parties' respective positions as to liability and/or amount of damages, and further, that a change in the nature of the injury or condition or in the items of compensation sought, is not grounds to modify or revise this agreement.

18. This Stipulation shall not be construed as an admission by the United States or the Secretary of Health and Human Services that the flu vaccine caused [REDACTED] juvenile dermatomyositis or any other injury; that [REDACTED] current disabilities are sequelae of any alleged injury; or that [REDACTED] experienced the residual effects of any alleged injury for more than six months.
M.B. 'S
M.B. 'S
M.B.

19. All rights and obligations of petitioner hereunder shall apply equally to petitioner's heirs, executors, administrators, successors, and/or assigns as legal representatives of [REDACTED] M.B.,
[REDACTED]

END OF STIPULATION

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Respectfully submitted,

PETITIONER:



CHARLOTTE BRAMMER

**ATTORNEY OF RECORD FOR
PETITIONER:**



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Dated: 2/8/13