

OFFICE OF SPECIAL MASTERS

(Filed: October 24, 2005)

JOELL WILLIAMS,)	
mother and next friend of her son,)	
CALEB WILLIAMS,)	
)	
Petitioner,)	
)	
v.)	No. 03-2220V
)	DO NOT PUBLISH
SECRETARY OF)	
HEALTH AND HUMAN SERVICES,)	
)	
Respondent.)	
)	

DECISION ON ENTITLEMENT AND DAMAGES¹

Petitioner, Joell Williams (Ms. Williams), as next friend of her son, Caleb Williams (Caleb), seeks compensation under the National Vaccine Injury Compensation Program (Program).² In a petition that she filed on September 24, 2003, Ms. Williams alleges that Caleb suffered the first symptom or manifestation of onset of an encephalopathy as defined by the Vaccine Injury Table, 42 C.F.R. §§ 100.3(a) & (b), within five to fifteen days after he received a measles-mumps-rubella (MMR) immunization on January 8, 2002. Petition (Pet.) at 1. Respondent concedes that Caleb's condition "meets the criteria of the Vaccine Injury Table." Respondent's Report (Report), filed February 26, 2004, at 4. In addition, respondent concedes that "there is not a preponderance of evidence that" Caleb's condition "is due to factors unrelated to" the administration of Caleb's

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.

January 8, 2002 MMR immunization. *Id.* Therefore, respondent “recommends that compensation be awarded.” *Id.*

On October 18, 2005, respondent filed a proffer reflecting respondent’s recommendation on damages in this case. *See* Respondent’s Proffer on Award of Compensation (Proffer), filed October 18, 2005. Ms. Williams accedes to respondent’s Proffer. *See generally* Proffer. Based upon the record as a whole, the special master finds that the Proffer is reasonable and appropriate.³

CONCLUSION

1. As provided in the Proffer, Appendix A, respondent shall pay as soon as practicable after entry of judgment \$10,522.46 in a lump sum to Ms. Williams. The amount represents compensation for Ms. Williams’s actual unreimbursable expenses before the date of judgment. § 300aa-15(a)(1)(B); Proffer ¶¶ I(D), II(B), III(B).
2. As provided in the Proffer, Appendix A, respondent shall pay as soon as practicable after entry of judgment \$486,600.32 in a lump sum to Joell Williams, as the court-appointed guardian/conservator of the estate of Caleb Williams, for the benefit of Caleb Williams. The amount represents compensation for Caleb’s life care expenses in the year following judgment, § 300aa-15(a)(1)(A); compensation for Caleb’s lost future earnings, § 300aa-15(a)(3)(B); and compensation for Caleb’s actual and projected pain and suffering and emotional distress. § 300aa-15(a)(4); Proffer ¶¶ I(A)-(C), II(A), III(A).
3. As provided in the Proffer, Appendix A, respondent shall purchase, and take ownership of, as soon as practicable after entry of judgment an annuity contract that will provide during Caleb’s lifetime the amount reflected in the Proffer, Appendix A, for each year after the one-year anniversary of entry of judgment. § 300aa-15(a)(1)(A). The annuity payments shall be payable to Joell Williams, as court-appointed guardian/conservator of the estate of Caleb Williams, for the benefit of Caleb Williams. *As provided in the Proffer, Appendix A, the annuity contract shall provide for a 4% compounded annual growth rate for all non-medical life care items. As provided in the Proffer, Appendix A, the annuity contract shall provide for a 5% compounded annual growth rate for all medical life care items. As*

³ By reference, the special master incorporates respondent’s Proffer into this decision on entitlement and damages.

provided in the Proffer, Appendix A, the growth rate shall be applied and compounded beginning on the date of judgment. The insurer from whom respondent shall purchase the annuity contract must meet two criteria:

- a. The company must have a minimum of \$250,000,000.00 of capital and surplus, exclusive of any mandatory security valuation reserve; and
- b. The company must have one of the following ratings from two of the following rating organizations:
 - (i) A.M. Best Company: A++, A+, A+g, A+p, A+r, or A+s;
 - (ii) Moody's Investor Service Claims Paying Rating: Aa3, Aa2, Aa1 or Aaa;
 - (iii) Standard and Poor's Corporation Insurer Claims-Paying Ability Rating: AA-, AA, AA+ or AAA;
 - (iv) Fitch Credit Rating Company, Insurance Company Claims Paying Ability Rating: AA-, AA, AA+ or AAA.

¶¶ I(A), II(C), III(C).

- 4. As reflected in the Proffer, Ms. Williams represents that there is no outstanding Medicaid lien. Proffer ¶ I(E).

In the absence of a motion for review filed under RCFC Appendix B, the clerk of court shall enter judgment in Ms. Williams's favor in complete conformity with this decision.⁴

s/John F. Edwards
John F. Edwards
Special Master

⁴ 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. Williams may expedite payment by filing an election to accept the judgment.