

# U.S. to pay \$4.5 million DPT award

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In what is believed to be the largest award of its kind, a four-year-old boy who suffers from seven different types of seizures as a result of receiving a diphtheria, pertussis and tetanus shot as an infant will receive more than \$4.5 million, according to a ruling by the U.S. Claims Court.

The award, \$4,534,012, is believed to be the largest one resulting from the Vaccine Compensation Act, 42 U.S.C.A.300aa-10 through 300aa-34, according to the petitioner's Chicago attorney, Kenneth B. Moll of McDowell & Colantoni Ltd.

Previously the largest award was \$2.1 million, he said.

Effective in October 1988, the act provides compensation for individuals who can show that they exhibited certain symptoms within the time frame in the vaccine injury table, Moll said.

These symptoms, which include shock, residual seizure disorder and brain damage, must appear within three days after the administration of

the DPT shot in order to receive compensation.

The four-year-old, Andrew D. Nuzzo of Bradford, Pa., suffers from several different types of seizure disorders, Moll said.

Nuzzo received a DPT shot when he was two months old and four months old. His disorders began to surface within three days after the first shot, Moll said. Nuzzo exhibits all three symptoms including brain damage, residual seizure disorder and shock.

To illustrate his illnesses, the Nuzzos brought their son to the hearing. The hearing, held before Special Master Bryan Bernstein, was held in Pittsburgh to accommodate the Nuzzos.

Andrew Nuzzo, who is usually strapped into his stroller and wears glasses and a helmet to protect himself, was unstrapped and his glasses and helmet were taken off him. He screamed and suffered a petit mal seizure, Moll said.

The amount of compensation is for future medical care which was determined to be \$67,000 per year while Nuzzo is a child and \$102,000

per year when Nuzzo becomes an adult, Moll said.

Barbara Hudson, an attorney with the U.S. Department of Health and Human Services, recommended that Bernstein deny the compensation on the grounds that the Nuzzos did not meet the requirements for compensation, Moll said. Hudson, who is on a leave of absence, could not be reached for comment.

When the act was passed, it provided that anyone who wanted to make a claim needed to do so within two years of the alleged symptoms, Moll said. However, Congress stipulated that anyone who received a DPT shot at any time prior to 1989 could file a claim by October 1990, Moll said. This is why the Nuzzos were able to file their claim, *Colleen Nuzzo, legal representative of the estate of Andrew D. Nuzzo, a minor, petitioner v. Secretary of the Department of Health and Human Services*, No. 88-74-V.

Earlier this year, the U.S. Claims Court also awarded \$1,306,017 to

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**AWARD**

# Award

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Amanda Beck, 11, of Milwaukee, for injuries she allegedly received after being given DPT as an infant, according to her Chicago attorney, Norman J. Lerum.

Amanda was born on Dec. 18, 1978 in Honolulu to Gail and Henry J. Beck, both of whom were serving on active duty in the U.S. Navy, Lerum said. On Jan. 26, 1979, she received the first of two DPT shots at the Tripler Army Medical Center Well Baby and Neonatal Follow-up Clinic, Lerum said.

Prior to the DPT shot, Amanda was described by her doctor as a "healthy infant female," Lerum said.

But after receiving the DPT shot, Amanda began to experience frequent seizures, Lerum said. Nevertheless, she received a second DPT shot on April 20, 1979, and within a few days her seizures became much more frequent and she became more lethargic, Lerum said.

The U.S. Court of Claims special master Paul T. Baird had recommended that Amanda receive \$1,443,359 for future medical and rehabilitative expenses; \$307,017 for loss of income; \$150,000 for pain and suffering and emotional distress; and \$75,963.90 to recover reasonable attorneys' fees and costs, Lerum said.

The U.S. government was represented by John Euler of the U.S. Justice Department.