

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

No. 14-462V

Filed: September 25, 2014

(Not to be published)

LESLIE FOX,

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Petitioner,

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Ruling on Entitlement; Flu; SIRVA

v.

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SECRETARY OF HEALTH
AND HUMAN SERVICES,

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Respondent.

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William Cochran, Jr., Esq., Black McLaren Jones Ryland & Griffee, PC, Memphis, TN
for petitioner.

Gordin Shemin, Esq., U.S. Department of Justice, Washington, DC for respondent.

RULING ON ENTITLEMENT¹

Gowen, Special Master:

On June 2, 2014, Leslie Fox filed a petition for compensation under the National Vaccine Injury Compensation Program, 42 U.S.C. §300aa-10, *et seq.*² [the “Vaccine Act” or “Program”]. The petition alleges that as a result of an influenza vaccine administered to her on November 28, 2012, she suffered arm and shoulder injuries, including adhesive capsulitis. Petition at 1.

On August 25, 2014, respondent filed her Rule 4(c) Report [“Respondent’s Report”], in which she concedes that petitioner is entitled to compensation in this case. Respondent’s Report at 1.

¹ Because this unpublished ruling contains a reasoned explanation for the action in this case, I intend to post this ruling and order on the United States Court of Federal Claims’ website, in accordance with the E-Government Act of 2002, Pub. L. No. 107-347, § 205, 116 Stat. 2899, 2913 (codified as amended at 44 U.S.C. § 3501 note (2006)). In accordance with Vaccine Rule 18(b), petitioner has 14 days to identify and move to delete medical or other information, the disclosure of which would constitute an unwarranted invasion of privacy. If, upon review, I agree that the identified material fits within this definition, I will delete such material from public access.

² National Childhood Vaccine Injury Act of 1986, Pub. L. No. 99-660, 100 Stat. 3755. Hereinafter, for ease of citation, all “§” references to the Vaccine Act will be to the pertinent subparagraph of 42 U.S.C. § 300aa (2006).

Specifically, respondent submits petitioner's alleged injury is consistent with a Shoulder Injury Related to Vaccine Administration [SIRVA] and that it was caused-in-fact by the flu vaccine she received on November 28, 2012. Respondent's Report at 4. Respondent notes that she did not identify any other causes for petitioner's SIRVA, and based on the medical records outlined, petitioner met the statutory requirements by suffering the condition for more than six months. *Id.* "Therefore, based on the record as it now stands, [respondent concedes that] petitioner has satisfied all legal prerequisites for compensation under the Act." *Id.*

In view of respondent's concession and the evidence before me, I find that petitioner is entitled to compensation.

s/Thomas L. Gowen

Thomas L. Gowen
Special Master