

# In the United States Court of Federal Claims

## OFFICE OF SPECIAL MASTERS

No. 14-668V

Filed: October 24, 2014

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AIMEE DEAK,

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Petitioner,

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Ruling on Entitlement; Concession;

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Influenza Vaccine or Flu Vaccine;

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Shoulder Injury Related to Vaccine

SECRETARY OF HEALTH

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Administration or SIRVA

AND HUMAN SERVICES,

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Respondent.

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### RULING ON ENTITLEMENT<sup>1</sup>

**Vowell**, Chief Special Master:

On July 29, 2014, Aimee Deak filed a petition for compensation under the National Vaccine Injury Compensation Program, 42 U.S.C. §300aa-10, *et seq.*<sup>2</sup> [the “Vaccine Act” or “Program”]. Petitioner alleged that she suffered a shoulder injury which was caused in fact by the flu vaccination she received on October 13, 2012. Petition at 1. The case was assigned to the Special Processing Unit of the Office of Special Masters.

On October 24, 2014, respondent filed her Rule 4(c) report [“Res. Report”] in which she concedes that petitioner is entitled to compensation in this case. Res. Report at 5. Specifically, respondent indicates “that petitioner’s SIRVA was more likely than not caused by the October 13, 2012, flu vaccination.” *Id.* Respondent agrees that petitioner’s injury lasted for more than six months and that no other causes for petitioner’s injury can be identified. *Id.*

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<sup>1</sup> Because this unpublished ruling contains a reasoned explanation for the action in this case, I intend to post it on the United States Court of Federal Claims’ website, in accordance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 redact 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 redact such material from public access.

<sup>2</sup> 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).

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

**s/Denise K. Vowell**  
Denise K. Vowell  
Chief Special Master