

In the United States Court of Federal Claims

OFFICE OF SPECIAL MASTERS

No. 14-862V

Filed: December 29, 2014

RUSSELL BAKER,

Petitioner,

v.

SECRETARY OF HEALTH
AND HUMAN SERVICES,

Respondent.

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Ruling on Entitlement; Concession;
Cause-in-fact; Influenza (flu); Shoulder
Injury Related to Vaccine Administration
(SIRVA)

RULING ON ENTITLEMENT¹

Vowell, Special Master:

On September 17, 2014, Russell Baker 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 Mr. Baker suffered a left shoulder injury as a result of the administration of an influenza (flu) vaccination on November 3, 2013. Petition at pp. 1-2.

On December 24, 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 p. 2. Specifically, respondent submits that “the temporal association between the administration of petitioner’s November 3, 2013, flu vaccine and the onset of his left shoulder pain is medically appropriate, and there is no other identifiable alternate cause for petitioner’s onset of symptoms and injury. Thus, causation-in-fact is supported by the record and petitioner has satisfied the legal prerequisites for compensation under the Vaccine Act.” *Id.* at p. 3.

¹ Because this unpublished ruling contains a reasoned explanation for the action in this case, I intend to post this ruling and order on the United States Court of Federal Claims'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).

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