

In the United States Court of Federal Claims

OFFICE OF SPECIAL MASTERS

No. 14-983V

Filed: December 9, 2014

VIRGINIA SHIVES,

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Petitioner,

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Ruling on Entitlement; Concession;

Influenza Vaccine or Flu Vaccine;

Shoulder Injury Related to Vaccine

Administration; SIRVA

SECRETARY OF HEALTH

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AND HUMAN SERVICES,

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Respondent.

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Andrew Downing, Van Cott & Talamante, PLLC, Phoenix, AZ, for petitioner.

Claudia Gangi, US Department of Justice, Washington, DC, for respondent.

RULING ON ENTITLEMENT¹

Vowell, Chief Special Master:

On October 14, 2014, Virginia Shives 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”]. Petitioner alleges that she suffered left shoulder and arm pain caused-in-fact by the influenza vaccine she received on September 20, 2013. Petition at 1-2, 7. The case was assigned to the Special Processing Unit of the Office of Special Masters.

On December 9, 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 3. Specifically, respondent indicates “that the alleged injury is consistent with a shoulder injury related to vaccine administration (“SIRVA”), and that it was caused in fact by the flu vaccine that petitioner received on September 20, 2013.” *Id.* Respondent

¹ Because this unpublished ruling contains a reasoned explanation for the action in this case, I intend to post it on the United States Court of Federal Claims' website, in accordance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

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).

agrees that “based on the record as it now stands, 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/Denise K. Vowell

Denise K. Vowell
Chief Special Master