

In the United States Court of Federal Claims

OFFICE OF SPECIAL MASTERS

No. 14-1114V

Filed: April 29, 2015

Not for Publication

ANTOINETTE MCCORMICK,

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Petitioner,

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Ruling on Entitlement; Concession;

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Influenza Vaccine (“Flu”);

v.

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Shoulder Injury Related to

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Vaccine Administration (“SIRVA”);

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Special Processing Unit (“SPU”)

SECRETARY OF HEALTH

*

AND HUMAN SERVICES,

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*

Respondent.

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Paul R. Brazil, Muller Brazil, LLP, Philadelphia, PA for petitioner.

Alexis B. Babcock, U.S. Department of Justice, Washington, DC, for respondent.

RULING ON ENTITLEMENT¹

Vowell, Chief Special Master:

On November 14, 2014, Antoinette McCormick 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 (“flu”) vaccination on December 7, 2013, petitioner suffered “shoulder injuries which were caused in fact” by her influenza vaccination. Petition at 1. The case was assigned to the Special Processing Unit of the Office of Special Masters.

On April 27, 2015, respondent filed her Rule 4(c) Report [“Respondent’s Report”], in which she concedes that petitioner is entitled to compensation in this case.

¹ Because this unpublished ruling contains a reasoned explanation for the action in this case, it will be posted on the United States Court of Federal Claims’ website, in accordance with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).

Respondent's Report at 3. Specifically, respondent submits that "Ms. McCormick suffered a Shoulder Injury Related to Vaccine Administration ["SIRVA"], a non-Table injury, and that the preponderance of the medical evidence indicates that the injury was casually related to the vaccination. Therefore, compensation is appropriate." *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