

# In the United States Court of Federal Claims

## OFFICE OF SPECIAL MASTERS

No. 14-1150V

Filed: April 9, 2015

Not for Publication

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BARBARA BUDGAKE,

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Petitioner,

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Ruling on Entitlement; Concession;  
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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Lawrence Disparti, Disparti Law Group, PA, Holiday, FL, for petitioner.  
Justine Walters, U.S. Department of Justice, Washington, DC, for respondent.

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

**Vowell**, Chief Special Master:

On November 25, 2014, Barbara Budgake 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”]. The petition alleges that as a result of an influenza (“flu”) vaccination on January 11, 2013, petitioner suffered a left shoulder injury. Petition at 1-3. The case was assigned to the Special Processing Unit of the Office of Special Masters.

On April 7, 2015, respondent filed her Rule 4(c) Report [“Respondent’s Report”], in which she concedes that petitioner is entitled to compensation in this case.

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 Because this unpublished ruling contains a reasoned explanation for the action in this case, it will be posted on the United States Court of Federal Claims’ website, in accordance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

<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).

Respondent's Report at 4. Specifically, respondent concedes that "a preponderance of the evidence establishes that petitioner's injury is consistent with a shoulder injury related to vaccine administration ("SIRVA")," and "is compensable as a 'caused-in-fact' injury 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