

In the United States Court of Federal Claims

OFFICE OF SPECIAL MASTERS

No. 15-026V

Filed: April 15, 2015

Unpublished

ELAINE STOUT,

Petitioner,

v.

SECRETARY OF HEALTH
AND HUMAN SERVICES,

Respondent.

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Ruling on Entitlement; Concession;
Influenza (“flu”) vaccine; Shoulder Injury
Related to Vaccine Administration
 (“SIRVA”); Special Processing Unit
 (“SPU”)

*Michael McLaren, Black McLaren Jones Ryland & Griffee, Memphis, TN, for petitioner.
Gordon Shemin, U.S. Department of Justice, Washington, DC, for respondent.*

RULING ON ENTITLEMENT¹

Vowell, Chief Special Master:

On January 9, 2015, Elaine Stout 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 January 10, 2013, petitioner suffered a shoulder injury related to vaccine administration (“SIRVA”). Petition at 1. The case was assigned to the Special Processing Unit (“SPU”) of the Office of Special Masters.

On April 15, 2015, 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 3. Specifically, respondent “concluded that petitioner’s alleged

¹ Because this unpublished ruling contains a reasoned explanation for the action in this case, it will be posted on the United States Court of Federal Claims’ website, in accordance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

injury is consistent with a SIRVA and that it was caused in fact by the flu vaccine she received on January 10, 2013.” *Id.* Respondent stated that “based on the record as it now stands, petitioner has satisfied all legal prerequisites for compensation under the [Vaccine] Act.” *Id.* at 4.

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