

In the United States Court of Federal Claims

OFFICE OF SPECIAL MASTERS

No. 15-0140V

Filed: June 16, 2015

Unpublished

VIRGINIA IVES,

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Petitioner,

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v.

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Ruling on Entitlement; Concession;
Influenza or Flu Vaccine; Shoulder
Injury Related to Vaccine Administration
("SIRVA"); Special Processing Unit
("SPU")

SECRETARY OF HEALTH
AND HUMAN SERVICES,

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Respondent.

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*Jeffrey S. Pop, Esq., Jeffrey S. Pop, Attorney at Law, Beverly Hills, CA, for petitioner.
Christine M. Becer, Esq., U.S. Department of Justice, Washington, DC for respondent.*

RULING ON ENTITLEMENT¹

Vowell, Chief Special Master:

On February 11, 2015, Virginia Ives 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 a shoulder injury caused by the influenza vaccine she received on September 23, 2013. Petition at 1. Petitioner also alleges that her injuries lasted more than six months and that she continues to suffer the residual effects of her injury. *Id.*, ¶ 18. The case was assigned to the Special Processing Unit of the Office of Special Masters.

On June 15, 2015, respondent filed her Rule 4(c) report in which she "recommends that compensation be awarded in this case." Respondent's Rule 4(c) Report at 1. Specifically, respondent "has concluded that a preponderance of evidence establishes that the injury to petitioner's right shoulder was caused-in-fact by the

¹ Because this unpublished ruling contains a reasoned explanation for the action in this case, I intend to post it on the United States Court of Federal Claims' website, in accordance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

administration of her September 24, 2013, flu vaccine, and that petitioner's injury is not due to factors unrelated to the administration of the flu vaccine." *Id.* at 3. Furthermore, respondent agrees that petitioner's injury lasted for more than six months. *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