

In the United States Court of Federal Claims

OFFICE OF SPECIAL MASTERS

No. 15-0295V

Filed: June 4, 2015

Unpublished

ANN WYBORSKI,

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”)

Renee J. Gentry, Shoemaker, Gentry & Knickelbein, Vienna, VA, for petitioner.
Lisa A. Watts, U.S. Department of Justice, Washington, DC, for respondent.

RULING ON ENTITLEMENT¹

Vowell, Chief Special Master:

On March 23, 2015, Ann Wyborski 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 September 13, 2013, petitioner suffered a shoulder injury related to vaccine administration (“SIRVA”). The case was assigned to the Special Processing Unit of the Office of Special Masters.

On June 4, 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 1. Specifically, respondent “agrees that petitioner’s SIRVA was

¹ Because this unpublished ruling contains a reasoned explanation for the action in this case, I intend to post it on the United States Court of Federal Claims’ website, in accordance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

more likely than not caused by the September 13, 2013, flu vaccination.” *Id.* at 4. Respondent stated that “based on the record as it now stands, petitioner has satisfied all legal prerequisites for compensation under the [Vaccine] 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