

# In the United States Court of Federal Claims

## OFFICE OF SPECIAL MASTERS

No. 15-0296V

Filed: June 12, 2015

Unpublished

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NADARA SHIVES,

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”)

*Lauren E. Faga, Conway Homer & Chin-Caplan, P.C., Boston, MA, for petitioner.  
Glenn A. MacLeod, U.S. Department of Justice, Washington, DC, for respondent.*

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

**Vowell**, Chief Special Master:

On March 23, 2015, Nadara Shives 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 September 20, 2013, petitioner suffered a right shoulder injury related to vaccine administration (“SIRVA”). The case was assigned to the Special Processing Unit of the Office of Special Masters (“SPU”).

On June 11, 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 4. Specifically, respondent “concluded that a preponderance of

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 Because this unpublished ruling contains a reasoned explanation for the action in this case, I intend to post it on the United States Court of Federal Claims’ website, in accordance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

<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).

the evidence establishes that petitioner's injury is consistent with a [SIRVA], and that [the] injury is not due to factors unrelated to her September 20, 2013, flu vaccination." *Id.* at 3. Respondent stated that "in light of the information contained in petitioner's medical records, [she] has concluded that petitioner's right shoulder injury is compensable as a 'caused-in-fact' injury 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