

In the United States Court of Federal Claims

OFFICE OF SPECIAL MASTERS

No. 15-771V

Filed: October 26, 2015

UNPUBLISHED

CARRIE PAYNE,

*

*

Petitioner,

*

*

*

SECRETARY OF HEALTH
AND HUMAN SERVICES,

*

*

*

Respondent.

*

*

Lawrence R. Cohan, Anapol, Schwartz, et al., Philadelphia, PA, for petitioner.

Christine Mary Becer, U.S. Department of Justice, Washington, DC, for respondent.

RULING ON ENTITLEMENT¹

Dorsey, Chief Special Master:

On June 23, 2015, Carrie Payne (“petitioner”) 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 as a result of receiving the influenza (“flu”) vaccine on October 14, 2014, she suffered a left rotator cuff injury that was caused in fact by her flu vaccination. Petition at 3. The case was assigned to the Special Processing Unit of the Office of Special Masters.

On October 26, 2015, respondent filed her Rule 4(c) report in which she concedes that petitioner is entitled to compensation in this case. Respondent’s Rule 4(c) Report at 3. Specifically, respondent states “that a preponderance of the medical evidence establishes that the injury to petitioner’s left shoulder was caused-in-fact by the administration of her October 14, 2014 flu vaccine, and that petitioner’s injury is not

¹ Because this unpublished ruling contains a reasoned explanation for the action in this case, I intend to post it on the United States Court of Federal Claims’ website, in accordance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 (2012).

due to factors unrelated to the administration of the flu vaccine.” Id. at 3. Respondent further states that the records show that petitioner suffered the sequela of her injury for more than six months. Id. Thus, respondent states that she “has concluded that [petitioner’s] left shoulder injury is compensable as a ‘caused-in-fact’ injury under the Act.” Id.

In view of respondent’s concession and the evidence presented, the undersigned finds that petitioner is entitled to compensation.

s/Nora Beth Dorsey
Nora Beth Dorsey
Chief Special Master