

# In the United States Court of Federal Claims

## OFFICE OF SPECIAL MASTERS

No. 15-0894V

Filed: November 17, 2015

Unpublished

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LEO J. JEROME,

Petitioner,

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”)

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*Carol L. Gallagher, Carol L. Gallagher, Esq. LLC, Linwood, NJ, for petitioner.  
Lara A. Englund, U.S. Department of Justice, Washington, DC, for respondent.*

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

**Dorsey**, Chief Special Master:

On August 19, 2015, Leo J. Jerome (“petitioner”) 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”). Petitioner alleges that he suffered a shoulder injury as a result of an influenza (“flu”) vaccine administered to him on September 10, 2014. Petition at 1. The case was assigned to the Special Processing Unit (“SPU”) of the Office of Special Masters.

On November 17, 2015, respondent filed a Rule 4(c) report (“Resp’t. Rep.”) in which she conceded entitlement to compensation. Resp’t. Rep. at 1, 3. Specifically, respondent opined that petitioner’s alleged injury is consistent with a shoulder injury related to vaccine administration (“SIRVA”). *Id.* at 2. She further agreed that the injury to petitioner’s right shoulder was caused by the administration of the vaccine he received on September 10, 2014, and that petitioner’s injury is not due to factors

<sup>1</sup> Because this unpublished ruling contains a reasoned explanation for the action in this case, the undersigned intends to post it on the United States Court of Federal Claims’ website,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, the undersigned agrees that the identified material fits within this definition, the undersigned 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 (2012).

unrelated to the administration of that vaccine. *Id.* at 2-3. Additionally, respondent stated that the medical evidence reflects that petitioner has suffered the condition for more than six months. *Id.* at 3. In light of the foregoing, respondent has concluded that petitioner's right shoulder injury is compensable under the Act. *Id.*

**In view of respondent's concession and the evidence of record, the undersigned finds that petitioner is entitled to compensation.**

**IT IS SO ORDERED.**

**s/Nora Beth Dorsey**

Nora Beth Dorsey  
Chief Special Master