

# In the United States Court of Federal Claims

## OFFICE OF SPECIAL MASTERS

No. 15-974V

Filed: January 22, 2016

Unpublished

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JACQUELINE DUFF,

Petitioner,

SECRETARY OF HEALTH  
AND HUMAN SERVICES,

Respondent.

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Ruling on Entitlement; Concession;  
Tetanus-diphtheria-acellular pertussis;  
(Tdap); Shoulder injury (SIRVA);  
Special Processing Unit (“SPU”)

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*Andrew Downing, Van Cott & Talamante, PLLC, Phoenix, AZ, for petitioner.*

*Glenn MacLeod, U.S. Department of Justice, Washington, DC, for respondent.*

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

**Dorsey**, Chief Special Master:

On September 3, 2015, 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 she suffered a left shoulder injury following receipt of her September 18, 2014 Tetanus-diphtheria and acellular pertussis (“Tdap”) vaccination.<sup>3</sup> Petition at 2. The case was assigned to the Special Processing Unit of the Office of Special Masters.

On January 21, 2016, respondent filed her Rule 4(c) report in which she concedes that petitioner is entitled to compensation in this case. Respondent’s Rule

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 Because this unpublished ruling contains a reasoned explanation for the action in this case, the undersigned intends to post it on the United States Court of Federal Claims’ website,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

<sup>3</sup> Petitioner’s initial petition also made reference to a right shoulder injury. However, in an amended petition filed on December 15, 2015, petitioner indicated that the instant claim is for a left shoulder injury only. See Amended Petition at 1, fn. 1.

4(c) Report at 1. Specifically, respondent “has concluded that petitioner’s alleged left shoulder injury is consistent with a SIRVA injury, and that it was caused-in-fact by the Tdap vaccine she received on September 18, 2014.” *Id.* at 5. Respondent further agrees that no other cause of petitioner’s injury has been identified, that her injury and its sequela have lasted for at least six months, and that petitioner has met all the legal prerequisites for compensation under the Vaccine Act.<sup>4</sup> *Id.* at 5-6.

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

**IT IS SO ORDERED.**

**s/Nora Beth Dorsey**  
Nora Beth Dorsey  
Chief Special Master

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<sup>4</sup> Respondent’s concession is limited to petitioner’s left shoulder injury and sequela. *Id.* at 6. Respondent disputes that petitioner’s right shoulder injury was vaccine-caused. *Id.* at 5, fn. 1.