

In the United States Court of Federal Claims

OFFICE OF SPECIAL MASTERS

No. 15-1046V

Filed: January 22, 2016

Unpublished

DAINA COCCIARDI, *

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Petitioner, *

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Ruling on Entitlement; Concession;

Influenza (“Flu”) Vaccination;

Shoulder Injury Related to Vaccine

SECRETARY OF HEALTH *

AND HUMAN SERVICES, *

Administration (“SIRVA”); Special

Processing Unit (“SPU”)

*

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Respondent. *

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Bruce William Slane, Law Office of Bruce W. Slane, P.C., White Plains, NY, for petitioner.

Amy Paula Kokot, U.S. Department of Justice, Washington, DC, for respondent.

RULING ON ENTITLEMENT¹

Dorsey, Chief Special Master:

On September 21, 2015, 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 she suffered “right shoulder injuries [which] were caused-in-fact by her November 11, 2013 influenza vaccination.” Petition, ¶17. 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 4(c) Report at 1. Specifically, respondent “recommends that compensation be awarded because petitioner’s alleged injury is consistent with a shoulder injury related to vaccine

¹ Because this unpublished ruling contains a reasoned explanation for the action in this case, the undersigned intends to post it on the United States Court of Federal Claims’ website,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

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).

administration ('SIRVA'), which was caused-in-fact by the flu vaccine." *Id.* Respondent agrees that no other causes have been identified for petitioner's SIRVA, and that "petitioner's SIRVA and its sequela persisted for more than six months after the administration of the vaccine." *Id.* at 4 (citations omitted). Respondent further indicates 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, the undersigned finds that petitioner is entitled to compensation.

IT IS SO ORDERED.

s/Nora Beth Dorsey
Nora Beth Dorsey
Chief Special Master