

# In the United States Court of Federal Claims

## OFFICE OF SPECIAL MASTERS

No. 15-1133V

Filed: December 17, 2015

UNPUBLISHED

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DENISE GUZMAN,

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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*Paul R. Brazil, Muller Brazil, LLP, Dresher, PA, for petitioner.*

*Glenn Alexander MacLeod, U.S. Dep’t of Justice, Washington, DC, for respondent.*

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

**Dorsey**, Chief Special Master:

On October 6, 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”]. Petitioner alleged that she received an influenza (“flu”) vaccine on October 22, 2013, and thereafter suffered a left shoulder injury including tendinitis and adhesive capsulitis as a result of the flu vaccine. Petition at 1. The case was assigned to the Special Processing Unit of the Office of Special Masters.

On December 16, 2015, respondent filed her Rule 4(c) report conceding that petitioner is entitled to compensation in this case. Respondent’s Rule 4(c) Report at 1. Specifically, respondent states that upon a review of the medical records and medical literature filed in this case, she has “concluded that a preponderance of the evidence establishes that the injury to petitioner’s left shoulder was caused-in-fact by the administration of her October 22, 2013 flu vaccine.” *Id.* at 4. As such, respondent

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 Because this unpublished ruling contains a reasoned explanation for the action in this case, the undersigned intends to post it on the United States Court of Federal Claims’ website,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

concludes that petitioner's "left shoulder injury is compensable under the Act as a "caused-in-fact" shoulder injury related to vaccine administration. *Id.* at 4.

**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