

In the United States Court of Federal Claims

OFFICE OF SPECIAL MASTERS

No. 15-1265V

Filed: January 22, 2016

UNPUBLISHED

KATHLEEN ROMERO,

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”); Rotator Cuff Tear; Special
Processing Unit (“SPU”)

Mark R. Karsner, Karsner & Meehan, P.C., Taunton, MA, for petitioner.

Michael Patrick Milmoie, U.S. Department of Justice, Washington, DC, for respondent.

RULING ON ENTITLEMENT¹

Dorsey, Chief Special Master:

On October 27, 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”]. Petitioner alleged that she developed a rotator cuff tear and other shoulder injuries as a result of receiving a seasonal influenza (“flu”) vaccination on November 2, 2014. Petition at 1-2. 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 4(c) Report at 1. Specifically, respondent states that a “preponderance of the evidence establishes that petitioner’s injury is consistent with a shoulder injury related to vaccine administration (“SIRVA”), and that petitioner’s injury is not due to factors unrelated to her November 2, 2014 flu vaccination. Thus, in light of the information contained in

¹ Because this unpublished ruling contains a reasoned explanation for the action in this case, the undersigned intends to post it on the United States Court of Federal Claims’ website,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

petitioner's medical records, respondent has concluded that petitioner's left shoulder injury is compensable as a "caused-in-fact" injury under the Act. *Id.* at 2-3.

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