

# In the United States Court of Federal Claims

## OFFICE OF SPECIAL MASTERS

No. 15-1305V

Filed: January 15, 2016

Unpublished

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JUANITA MESSICK,	*	
	*	
Petitioner,	*	Ruling on Entitlement; Concession;
	*	Influenza (“flu”) Vaccine; Shoulder Injury
	*	Related to Vaccine Administration
SECRETARY OF HEALTH	*	(“SIRVA”); Special Processing Unit
AND HUMAN SERVICES,	*	(“SPU”)
	*	
Respondent.	*	
	*	

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*Paul Brazil, Muller Brazil, LLP, Dresher, PA, for petitioner.*  
*Heather Pearlman, U.S. Department of Justice, Washington, DC, for respondent.*

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

**Dorsey**, Chief Special Master:

On November 2, 2015, Juanita Messick (“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 received an influenza (“flu”) vaccine on November 15, 2014,<sup>3</sup> and thereafter suffered injuries to her left shoulder. Petition at 1. The case was assigned to the Special Processing Unit (“SPU”) of the Office of Special Masters.

On January 15, 2016, respondent filed a Rule 4(c) report in which she conceded entitlement to compensation. Respondent’s Rule 4(c) Report at 1, 3. Specifically, respondent concluded that a preponderance of evidence establishes that the injury to petitioner’s left shoulder was caused-in-fact by the administration of her November 14,

<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 Because this unpublished ruling contains a reasoned explanation for the action in this case, the undersigned intends to post it on the United States Court of Federal Claims’ website,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> The vaccination record indicates the date of vaccination was November 14, 2014. Pet Ex. 1 at 5-6.

2014 flu vaccine, and that petitioner's injury is not due to factors unrelated to the administration of that vaccine. *Id.* at 3. Respondent further stated that the medical evidence shows petitioner has suffered the condition for more than six months. *Id.* Petitioner has therefore satisfied all legal prerequisites for compensation under the Vaccine Act. *Id.*

**In view of respondent's concession and the evidence of record, the undersigned finds that petitioner is entitled to compensation for her shoulder injury related to vaccine administration ("SIRVA").**

**IT IS SO ORDERED.**

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