

# In the United States Court of Federal Claims

## OFFICE OF SPECIAL MASTERS

No. 15-1439V

Filed: February 18, 2016

Unpublished

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SANDRA MALONE,

Petitioner,

SECRETARY OF HEALTH  
AND HUMAN SERVICES,

Respondent.

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Ruling on Entitlement; Concession;  
Influenza;  
Shoulder Injury (“SIRVA”);  
Special Processing Unit (“SPU”)

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*Anne Carrion Toale, Maglio Christopher and Toale, Sarasota, FL, for petitioner.  
Christine Becer, U.S. Department of Justice, Washington, DC, for respondent.*

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

**Dorsey**, Chief Special Master:

On December 1, 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 experienced a left shoulder injury following receipt of her October 22, 2014 influenza vaccine.. Petition at 1. The case was assigned to the Special Processing Unit of the Office of Special Masters.

On February 17, 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 “has concluded that a preponderance of evidence establishes that the injury to petitioner’s left shoulder was caused-in-fact by the administration of her October 22, 2014, flu vaccine, and that petitioner’s injury is not due to factors unrelated to the administration of the flu vaccine.” *Id.* at 3. Respondent further agrees that the statutory six month sequela requirement has been satisfied. *Id.*

<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 Because this unpublished ruling contains a reasoned explanation for the action in this case, the undersigned intends to post it on the United States Court of Federal Claims' website,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. 44 U.S.C. § 3501 note (2012)(Federal Management and Promotion of Electronic Government Services). 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).

**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