

# In the United States Court of Federal Claims

## OFFICE OF SPECIAL MASTERS

No. 16-85V

Filed: June 3, 2016

UNPUBLISHED

\*\*\*\*\*

SCOTT CURTIS,

\*

\*

Petitioner,

\*

v.

\*

Ruling on Entitlement; Concession;

Influenza;

Shoulder Injury (“SIRVA”);

Special Processing Unit (“SPU”)

SECRETARY OF HEALTH

\*

AND HUMAN SERVICES,

\*

\*

Respondent.

\*

\*

\*\*\*\*\*

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

*Lisa Ann Watts, U.S. Department of Justice, Washington, DC, for respondent.*

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

**Dorsey**, Chief Special Master:

On January 15, 2016, 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 alleges that he suffered a right shoulder injury related to vaccine administration (“SIRVA”) caused in fact by an influenza vaccination administered on November 5, 2014. Petition at 1. The case was assigned to the Special Processing Unit of the Office of Special Masters.

On June 2, 2016, respondent filed a Rule 4(c) Report and Proffer on Compensation Award in which she concedes that petitioner is entitled to compensation in this case. Respondent’s Rule 4(c) Report at 1. Specifically, respondent “opines that petitioner experienced SIRVA of the right upper extremity within 48 hours of flu vaccine administration” and further stated that [n]o other causes for petitioner’s SIRVA have been identified.” Further, respondent “agrees that petitioner’s SIRVA was more likely

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 Because this unpublished ruling contains a reasoned explanation for the action in this case, the undersigned intends to post it on the United States Court of Federal Claims’ website,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

than not caused by the November 5, 2014, flu vaccination.” *Id.* at 4. Respondent further agrees that petitioner met the statutory six month sequela requirement and that all legal prerequisites for compensation under the Vaccine Act have been met. *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