

In the United States Court of Federal Claims

OFFICE OF SPECIAL MASTERS

No. 16-207V

Filed: June 6, 2016

Unpublished

DANIEL MULVIHILL,

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v.

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Petitioner,

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Ruling on Entitlement; Concession;

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Influenza ("Flu") Vaccination;

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Shoulder Injury Related to Vaccine

SECRETARY OF HEALTH

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Administration ("SIRVA");

AND HUMAN SERVICES,

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Special Processing Unit ("SPU")

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Respondent.

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John Howie, Jr., Howie Law, P.C., Dallas, TX, for petitioner.

Claudia Gangi, U.S. Department of Justice, Washington, DC, for respondent.

RULING ON ENTITLEMENT¹

Dorsey, Chief Special Master:

On February 10, 2016, Daniel Mulvihill ("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" or "Program"). Petitioner alleges that he suffered a shoulder injury related to vaccine administration ("SIRVA") caused-in-fact by the influenza vaccination he received on November 26, 2014. Petition at 1, ¶ 17. Petitioner further alleges that he has suffered the residual effects of his injury for more than six months, and that no lawsuit has been filed or settlement accepted by himself or anyone else for his injuries. *Id.* at ¶¶ 16, 18. The case was assigned to the Special Processing Unit of the Office of Special Masters.

¹ Because this unpublished ruling contains a reasoned explanation for the action in this case, the undersigned intends to post it on the United States Court of Federal Claims' website,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 (2012)). 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).

On June 6, 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 "believes that the alleged injury is consistent with a shoulder injury related to vaccine administration ("SIRVA")." *Id.* at 4. Respondent further indicates that "petitioner met the statutory requirements by suffering the sequela of his injury for more than six months . . . [and] [t]herefore, based on the record as it now stands, petitioner has satisfied all legal prerequisites for compensation under the Act." *Id.* at 4 (citations omitted).

In view of respondent's concession and the evidence before me, I find that petitioner is entitled to compensation.

IT IS SO ORDERED.

s/Nora Beth Dorsey
Nora Beth Dorsey
Chief Special Master