

# In the United States Court of Federal Claims

## OFFICE OF SPECIAL MASTERS

No. 16-0976V

Filed: December 7, 2016

Unpublished

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MARY GERMANO,	*	
	*	
Petitioner,	*	Ruling on Entitlement; Concession;
v.	*	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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*Leah V. Durant, Law Offices of Leah V. Durant, PLLC, Washington, DC, for petitioner.  
Colleen C. Hartley, U.S. Department of Justice, Washington, DC, for respondent.*

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

**Dorsey**, Chief Special Master:

On August 10, 2016, Mary Germano (“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 she sustained left shoulder injuries from an influenza (“flu”) vaccination she received on December 13, 2015. Petition at 1-2. The case was assigned to the Special Processing Unit (“SPU”) of the Office of Special Masters.

On December 7, 2016, respondent filed her Rule 4(c) Report conceding that petitioner is entitled to compensation. Rule 4(c) Rep. at 1. Based on her evaluation of the evidence, respondent concluded that petitioner’s alleged injury is consistent with a shoulder injury related to vaccine administration (“SIRVA”), and that it was caused by the flu vaccination she received on December 13, 2015. *Id.* at 4. Respondent did not identify any other causes for petitioner’s SIRVA, and petitioner’s records demonstrate

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 Because this unpublished ruling contains a reasoned explanation for the action in this case, the undersigned intends to post it on the United States Court of Federal Claims' website,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

that she suffered residuals of her condition for more than six months. *Id.* Therefore, based on the record as it now stands, petitioner has 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.**

**IT IS SO ORDERED.**

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