In the United States Court of Federal Claims

OFFICE OF SPECIAL MASTERS
No. 16-1112V
Filed: March 20, 2017
UNPUBLISHED

KIRK FRANCESCHINI, Petitioner, v. SECRETARY OF HEALTH AND HUMAN SERVICES, Respondent.	*	Ruling on Entitlement; Concession; Influenza ("Flu") vaccine; Tetanus-Diphtheria-acellular pertussis ("Tdap") vaccine; brachial neuritis; Shoulder Injury Related to Vaccine Administration ("SIRVA"); Special Processing Unit ("SPU")

Robert J. Killeen, Jr., Killeen & Stern, P.C., Houston, TX, for petitioner.
Ryan D. Pyles, U.S. Department of Justice, Washington, DC, for respondent.

RULING ON ENTITLEMENT[1]

Dorsey, Chief Special Master:

On September 7, 2016, Kirk Franceschini ("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"). Petitioner alleges that an influenza ("flu") and/or tetanus-diphtheria-acellular pertussis ("Tdap") vaccine that he received on November 6, 2013, caused him to suffer either brachial neuritis or a shoulder injury related to vaccine administration ("SIRVA"). Petition at 1. The case was assigned to the Special Processing Unit of the Office of Special Masters.

On March 20, 2017, respondent filed his Rule 4(c) report in which he concedes that petitioner is entitled to compensation in this case. Respondent's Rule 4(c) Report at 1. Specifically, respondent recommends that compensation be awarded for septic arthritis in petitioner's left shoulder. *Id.* at 1. Respondent further agrees that petitioner

[1] Because this unpublished ruling contains a reasoned explanation for the action in this case, the undersigned intends to post it on the United States Court of Federal Claims' website,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

[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).

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continued to seek treatment for his arm/shoulder pain for more than six months after the onset of his condition and he also had inpatient hospitalization. *Id.* at 4-5.

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