

In the United States Court of Federal Claims

OFFICE OF SPECIAL MASTERS

No. 16-1357V

Filed: March 24, 2017

Unpublished

DOUGLAS A. FREEDMAN, *

*

v. *

Petitioner, *

Ruling on Entitlement; Concession;
Influenza Vaccination;

*

Shoulder Injury Related to Vaccine
Administration (“SIRVA”);

SECRETARY OF HEALTH *

AND HUMAN SERVICES, *

Special Processing Unit (“SPU”)

*

Respondent. *

*

Tara O’Mahoney, Law Offices of Chicago-Kent College of Law, Chicago, IL, for petitioner.

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

RULING ON ENTITLEMENT¹

Dorsey, Chief Special Master:

On October 18, 2016, Douglas A. Freedman (“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 shoulder pain and restricted range of motion caused-in-fact by the influenza vaccine he received on October 23, 2013. Petition at 1, ¶¶ 4, 41. Petitioner further alleges that he received the vaccination in the United States, has suffered the residual effects of his injury for more than six months, and that he has never received compensation for his injury alleged as vaccine caused. *Id.* at ¶¶ 4, 19 45. 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¹ Because this unpublished ruling contains a reasoned explanation for the action in this case, the undersigned intends to post it on the United States Court of Federal Claims’ website,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 March 23, 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 "agrees that petitioner's SIRVA was more likely than not caused by the October 23, 2013, flu vaccination." *Id.* at 4. Respondent further indicates that "based on the record as it now stands, petitioner has satisfied all legal prerequisites for compensation under the Act." *Id.* at 5.

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