In the United States Court of Federal Claims

OFFICE OF SPECIAL MASTERS
No. 16-1448V
Filed: March 22, 2017
UNPUBLISHED

KATHLEEN SCARPATO,	*	
	*	
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.	*	
	*	

William E. Cochran, Jr., Black McLaren, et al., PC, Memphis, TN, for petitioner.
Glenn A. MacLeod, U.S. Department of Justice, Washington, DC, for respondent.

RULING ON ENTITLEMENT[1]

Dorsey, Chief Special Master:

On November 2, 2016, Kathleen Scarpato ("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 she suffered a right shoulder injury as a result of receiving an influenza ("flu") vaccine on November 3, 2014. Petition at 1-2. The case was assigned to the Special Processing Unit of the Office of Special Masters.

On March 22, 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 concludes that petitioner's alleged right shoulder injury is consistent with a shoulder injury related to vaccine administration ("SIRVA"), and that it was caused-in-fact by the flu vaccine she received on November 3, 2014 *Id.* at 4. Respondent further agrees that no other causes for petitioner's right shoulder injury

[1] Because this unpublished ruling contains a reasoned explanation for the action in this case, the undersigned intends to post it on the United States Court of Federal Claims' website,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

AUTHENTICATED U.S. GOVERNMENT INFORMATION GPO

were identified and that petitioner's injury persisted for more than six months after administration of the vaccine. *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