

In the United States Court of Federal Claims

OFFICE OF SPECIAL MASTERS

No. 16-1452V

Filed: April 27, 2017

Unpublished

LAUREL POWELL,

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Petitioner,

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v.

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Ruling on Entitlement; Concession;

Influenza Vaccination;

Shoulder Injury Related to Vaccine

Administration (“SIRVA”);

Special Processing Unit (“SPU”)

SECRETARY OF HEALTH

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AND HUMAN SERVICES,

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Respondent.

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Curtis Webb, Twin Falls, ID, for petitioner.

Mallori Openchowski, U.S. Department of Justice, Washington, DC, for respondent.

RULING ON ENTITLEMENT¹

Dorsey, Chief Special Master:

On November 3, 2016, Laurel Powell (“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 “[t]he trivalent influenza vaccination that she received on October 27, 2015 caused her to develop a Shoulder Injury Related to Vaccine Administration (SIRVA).” Petition at ¶ 2. Petitioner adds that she also hit her upper right arm and broke her right wrist after her injured left arm gave out while lifting herself out of the bathtub approximately one month later. *Id.* at ¶ 14. Petitioner further alleges that she has suffered the residual effects of her injury for more than six months as she continues to suffer pain in her right arm and left arm and shoulder, and that no one has filed a civil suit for compensation for her injury alleged as vaccine caused. *Id.* at ¶¶ 16-22, 25. 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¹ Because this unpublished ruling contains a reasoned explanation for the action in this case, the undersigned intends to post it on the United States Court of Federal Claims' website,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 April 27, 2017, respondent filed his Rule 4(c) report in which he concedes that petitioner is entitled to compensation in this case for her SIRVA of the left shoulder and its related sequelae. Respondent's Rule 4(c) Report at 1, 6. Specifically, respondent "has determined that petitioner's alleged injury is consistent with a shoulder injury related to vaccine administration ("SIRVA"), and it was caused by the flu vaccination that petitioner received on October 27, 2015." *Id.* at 6. Respondent further indicates that "based on the record as it now stands, petitioner has satisfied all legal prerequisites for compensation under the Act." *Id.*

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