

# In the United States Court of Federal Claims

## OFFICE OF SPECIAL MASTERS

No. 16-1564V

Filed: July 14, 2017

UNPUBLISHED

RON W. FLOOD,

Petitioner,

v.

SECRETARY OF HEALTH AND  
HUMAN SERVICES,

Respondent.

Special Processing Unit (SPU);  
Ruling on Entitlement; Concession;  
Causation-In-Fact; Influenza (Flu)  
Vaccine; Shoulder Injury Related to  
Vaccine Administration (SIRVA)

*Glen Howard Sturtevant, Jr., Rawls, McNelis and Mitchell, P.C., Richmond, VA, for petitioner.*

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

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

**Dorsey**, Chief Special Master:

On November 22, 2016, 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 he suffered a right shoulder injury as a result of his October 16, 2014 influenza (“flu”) vaccination. See Petition at 1-8. The case was assigned to the Special Processing Unit of the Office of Special Masters.

On July 13, 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.

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 Because this unpublished ruling contains a reasoned explanation for the action in this case, the undersigned intends to post it on the United States Court of Federal Claims’ website,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

Specifically, respondent indicates

that petitioner experienced SIRVA [Shoulder Injury Related to Vaccine Administration] of the right upper extremity within 48 hours of flu vaccine administration. No other causes for petitioner's SIRVA have been identified. See 42 U.S.C. § 300aa-13(a)(1)(B). As such, DICEP agrees that petitioner's SIRVA was more likely than not caused by the October 16, 2014, flu vaccination. In addition, given the medical records outlined above, the statutory six month sequela requirement has been satisfied. See 42 U.S.C. § 300aa-11(c)(1)(D)(i). Therefore, based on the record as it now stands, petitioner has satisfied all legal prerequisites for compensation under the Act.

*Id.* at 5-6.

**In view of respondent's position 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