

In the United States Court of Federal Claims

OFFICE OF SPECIAL MASTERS

No. 16-1612V

Filed: July 14, 2017

Unpublished

MARY MANCINA,

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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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Tammy M. Nick, Nick Law Firm, L.C., Slidell, LA, for petitioner.

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

RULING ON ENTITLEMENT¹

Dorsey, Chief Special Master:

On December 5, 2016, Mary Mancina ("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 she suffered an injury to her left shoulder and arm caused from the improper administration of the influenza vaccine she received on December 5, 2014. Petition at 1, ¶¶ 2, 11. Petitioner further alleges that she received the vaccination in the United States, has suffered the residual effects of her injury for more than six months, filed but then dismissed a civil action for her injury alleged as vaccine caused, and has not received compensation for this injury. *Id.* at ¶¶ 2, 12-14; see Exhibit E (re-designated as Exhibit 5), filed Dec. 6, 2016 (ECF No. 4-7) (dismissal of civil action). 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¹ Because this unpublished ruling contains a reasoned explanation for the action in this case, the undersigned intends to post it on the United States Court of Federal Claims' website,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 July 12, 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 "opines that petitioner experienced SIRVA of the left upper extremity within 48 hours of flu vaccine administration . . . [and] agrees that petitioner's SIRVA was more likely than not caused by the December 5, 2014 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