

In the United States Court of Federal Claims

OFFICE OF SPECIAL MASTERS

No. 17-108V

Filed: November 30, 2017

UNPUBLISHED

JEFFREY CAPUTO,

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)

Bruce William Slane, Law Office of Bruce W. Slane, P.C., White Plains, NY, for petitioner.

Jennifer Leigh Reynaud, U.S. Department of Justice, Washington, DC, for respondent.

RULING ON ENTITLEMENT¹

Dorsey, Chief Special Master:

On January 23, 2017, 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 he received a flu vaccine on October 2, 2015, and that he subsequently suffered a right shoulder injury that included an impingement syndrome, bicipital tendonitis, supraspinatus tendinosis, deltoid tendonitis, a rotator cuff arthropathy/tear, acromioclavicular synovitis, and bicipital tenosynovitis. Petition at 1. The case was assigned to the Special Processing Unit of the Office of Special Masters.

On November 30, 2017, respondent filed his Rule 4(c) report in which he concedes that petitioner is entitled to compensation in this case. Respondent’s Rule

¹ Because this unpublished ruling contains a reasoned explanation for the action in this case, the undersigned intends to post it on the United States Court of Federal Claims’ website,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

4(c) Report at 1. Specifically, respondent has determined that petitioner's alleged injury is consistent with a shoulder injury related to vaccine administration ("SIRVA") that was caused by the administration of petitioner's flu vaccination. Although there is some evidence that petitioner has arthritic changes in his shoulder joint, he was entirely asymptomatic before his vaccination, so that does not present a legal alternative cause. *Id.* at 4. Respondent further agrees that no other cause for petitioner's injury was identified, that he suffered residual effects of his condition for more than six months, and that all legal prerequisites to compensation under the Vaccine Act have been satisfied. *Id.*

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