

# In the United States Court of Federal Claims

## OFFICE OF SPECIAL MASTERS

No. 17-234V

Filed: August 18, 2017

UNPUBLISHED

MARIE FRANCIS,

Petitioner,

v.

SECRETARY OF HEALTH AND  
HUMAN SERVICES,

Respondent.

Special Processing Unit (SPU);  
Ruling on Entitlement; Concession;  
Causation-In-Fact; Diphtheria,  
Tetanus, and Pertussis (DTaP)  
Vaccine; Shoulder Injury Related to  
Vaccine Administration (SIRVA)

*Amy A. Senerth, Muller Brazil, LLP, Dresher, PA, for petitioner.*

*Douglas Ross, U.S. Department of Justice, Washington, DC, for respondent.*

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

**Dorsey**, Chief Special Master:

On February 17, 2017, 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 she suffered left shoulder injuries resulting from a Diphtheria, Tetanus, and Pertussis (“DTaP”) vaccination received on September 21, 2015. Pet. at 1. The case was assigned to the Special Processing Unit of the Office of Special Masters.

On August 14, 2017, respondent filed his Rule 4(c) report in which he concedes that petitioner’s alleged injury is consistent with a shoulder injury related to vaccine administration (“SIRVA”) and that petitioner is entitled to compensation in this case. Resp.’s R. 4(c) Rept. at 1. Specifically, respondent “concluded that petitioner suffered a

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 Because this unpublished ruling contains a reasoned explanation for the action in this case, the undersigned intends to post it on the United States Court of Federal Claims’ website,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

left-side shoulder injury and that the preponderance of the medical evidence indicated that the injury was causally related to the flu vaccination she received on September 21, 2015. *Id.* at 12. Respondent further agrees that no other causes for petitioner's injury were identified, that petitioner met the statutory requirements by suffering the condition for more than six months, and that petitioner has therefore satisfied all legal prerequisites for compensation under the Vaccine Act. *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