

# In the United States Court of Federal Claims

## OFFICE OF SPECIAL MASTERS

No. 17-454V

Filed: November 13, 2017

UNPUBLISHED

DUSTIN MOBLEY,

Petitioner,

v.

SECRETARY OF HEALTH AND  
HUMAN SERVICES,

Respondent.

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

*Amber Diane Wilson, Maglio Christopher & Toale, PA, Washington, DC, for petitioner.  
Sarah Christina Duncan, U.S. Department of Justice, Washington, DC, for respondent.*

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

**Dorsey**, Chief Special Master:

On March 29, 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 he suffered a left shoulder injury caused by his November 11, 2015 influenza (“flu”) vaccination. Petition at 1. The case was assigned to the Special Processing Unit of the Office of Special Masters.

On November 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. Specifically, respondent “has concluded that petitioner’s alleged injury is consistent with SIRVA [Shoulder Injury Related to Vaccine Administration] as defined on the Vaccine Injury Table. Specifically, petitioner had no history of pain, inflammation,

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 Because this unpublished ruling contains a reasoned explanation for the action in this case, the undersigned intends to post it on the United States Court of Federal Claims’ website,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

or dysfunction of his left shoulder, pain occurred within 48 hours after receipt of an intramuscular vaccination, pain was limited to the shoulder in which the vaccine was administered, and no other condition or abnormality has been identified to explain petitioner's shoulder pain" *Id.* at 4. Respondent further agrees that petitioner suffered residual effects of his condition for more than six months and that petitioner has 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