

In the United States Court of Federal Claims

OFFICE OF SPECIAL MASTERS

No. 17-815V

Filed: May 15, 2018

UNPUBLISHED

SHIRLEY GARRETT,

Petitioner,

v.

SECRETARY OF HEALTH AND
HUMAN SERVICES,

Respondent.

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

*Ann Mayhew Golski, Maglio Christopher and Toale, PA, Washington, DC, for petitioner.
Sherry Denise Soanes, U.S. Department of Justice, Washington, DC, for respondent.*

RULING ON ENTITLEMENT¹

Dorsey, Chief Special Master:

On June 16, 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 she suffered a right shoulder injury that was caused-in-fact by an influenza (“flu”) vaccination she received on October 12, 2015. Petition at 1-2; see also Pet.’s Ex. 1 & 10 (vaccination records). The case was assigned to the Special Processing Unit of the Office of Special Masters.

On May 15, 2018, respondent filed his Rule 4(c) report stating:

¹ Because this unpublished ruling contains a reasoned explanation for the action in this case, the undersigned intends to post it on the United States Court of Federal Claims' website,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

Recognizing that the Chief Special Master's factual finding that petitioner received a flu vaccination in her right shoulder on October 12, 2015, is the law of the case, respondent advises that he will not defend the case on other grounds during further proceedings before the Office of Special Masters. While preserving his right to appeal the Chief Special Master's March 15, 2018 Ruling on Facts, respondent submits that petitioner has otherwise satisfied the criteria set forth in the Vaccine Injury Table and the Qualifications and Aids to Interpretation ("QAI") for Shoulder Injury Related to Vaccine Administration ("SIRVA").

Respondent's Rule 4(c) Report at 2.

Respondent states that the Division of Injury Compensation Programs "has concluded that petitioner suffered SIRVA as defined by the Vaccine Injury Table." *Id.* at 5. Respondent further agrees that "petitioner suffered the residual effects of her condition for more than six months." *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