

In the United States Court of Federal Claims

OFFICE OF SPECIAL MASTERS

No. 17-1193V

Filed: October 2, 2018

UNPUBLISHED

LAURA CARSON,

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)

Leah VaSahnja Durant, Law Offices of Leah V. Durant, PLLC, Washington, DC, for petitioner.

Ann Donohue Martin, U.S. Department of Justice, Washington, DC, for respondent.

RULING ON ENTITLEMENT¹

Dorsey, Chief Special Master:

On September 5, 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 her October 14, 2016 influenza (“flu”) vaccination caused her to suffer a Shoulder Injury Related to Vaccine Administration (“SIRVA”). Petition at 1. The case was assigned to the Special Processing Unit of the Office of Special Masters.

¹ The undersigned intends to post this ruling on the United States Court of Federal Claims' website. This means the ruling will be available to anyone with access to the Internet. 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. Because this unpublished ruling contains a reasoned explanation for the action in this case, undersigned is required to post it on the United States Court of Federal Claims' website in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).

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 September 27, 2018, 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 and Proffer on Damages at 1. Specifically, respondent indicates that "DICP has reviewed the facts of this case and concluded that petitioner's claim meets the Table criteria for SIRVA." *Id.* at 4. Respondent further agrees that

petitioner had no history of pain, inflammation or dysfunction of the affected shoulder prior to intramuscular vaccine administration that would explain the alleged signs, symptoms, examination findings, and/or diagnostic studies occurring after vaccine injection; she suffered the onset of pain within forty-eight hours of vaccine administration; her pain and reduced range of motion were limited to the shoulder in which the intramuscular vaccine was administered; and there is no other condition or abnormality present that would explain petitioner's symptoms. See 42 C.F.R. § 100.3(c)(10). Therefore, petitioner is entitled to a presumption of vaccine causation. Furthermore, there is not a preponderance of evidence that the injury is due to factors unrelated to the administration of the flu vaccine. See 42 U.S.C. § 300aa-13(a)(1)(B).

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