

# In the United States Court of Federal Claims

## OFFICE OF SPECIAL MASTERS

No. 17-1302V

Filed: July 31, 2018

UNPUBLISHED

GAIL TOMASHEFSKI,

Petitioner,

v.

SECRETARY OF HEALTH AND  
HUMAN SERVICES,

Respondent.

Special Processing Unit (SPU);  
Ruling on Entitlement; Concession;  
Table Injury; Influenza (Flu) Vaccine;  
Guillain-Barre Syndrome (GBS)

*Randall g. Knutson, Knutson & Casey Law Firm, Mankato, MN, for petitioner.*

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

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

**Dorsey**, Chief Special Master:

On September 21, 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 Guillain-Barre Syndrome (“GBS”) as a result of her November 7, 2015 influenza vaccination. . Petition at 1. The case was assigned to the Special Processing Unit of the Office of Special Masters.

On July 10, 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 at 1. Specifically, respondent “concluded that petitioner suffered the Table injury of GBS following a flu vaccine within the Table time period. Further, there is no a preponderance of medical evidence demonstrating that petitioner’s condition was due to

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 Because this unpublished ruling contains a reasoned explanation for the action in this case, the undersigned intends to post it on the United States Court of Federal Claims' website,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

a factor unrelated to the flu vaccine.” *Id.* at 4 (internal citations omitted). Respondent further agrees that petitioner has suffered residual effects of her GBS for more than six months and that she has met the statutory requirements for entitlement to 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