

In the United States Court of Federal Claims

OFFICE OF SPECIAL MASTERS

No. 17-1489V

Filed: August 30, 2018

Not to be Published

ELMER J. GEORGE, Executor of the *
Estate of JAMES C. MCMURTRY, *
Deceased, *

Petitioner, *

v. *

SECRETARY OF HEALTH *
AND HUMAN SERVICES, *

Respondent. *

Joseph H. Mattingly, III, Lebanon, KY, for petitioner.
Colleen C. Hartley, Washington, DC, for respondent.

Influenza vaccine; Table Guillain-Barré syndrome (“GBS”); respondent agrees compensation is appropriate

MILLMAN, Special Master

RULING ON ENTITLEMENT¹

On October 10, 2017, petitioner filed a petition under the National Childhood Vaccine Injury Act, 42 U.S.C. § 300aa-10-34 (2012), alleging that influenza (“flu”) vaccine administered on September 18, 2009 caused Mr. James C. McMurtry Guillain-Barré syndrome (“GBS”). Pet. at ¶¶ 2-5. Petitioner claims that Mr. McMurtry succumbed to complications arising from GBS. Pet. Preamble. Mr. McMurtry died on November 25, 2009.

¹ Because this unpublished ruling on entitlement contains a reasoned explanation for the special master’s action in this case, the special master intends to post this unpublished ruling on entitlement on the United States Court of Federal Claims’ website, in accordance with the E-Government Act of 2002, 44 U.S.C. § 3501 note (2012)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). Vaccine Rule 18(b) states that all decisions of the special masters will be made available to the public unless they contain trade secrets or commercial or financial information that is privileged and confidential, or medical or similar information whose disclosure would constitute a clearly unwarranted invasion of privacy. When such a ruling on entitlement is filed, petitioner has 14 days to identify and move to redact such information prior to the document’s disclosure. If the special master, upon review, agrees that the identified material fits within the banned categories listed above, the special master shall redact such material from public access.

On August 30, 2018, respondent filed a Rule 4(c) Report stating “petitioner has satisfied all legal prerequisites for compensation under the Act” and “this case is appropriate for compensation under the terms of the Act.” Resp’t’s Rep. at 2, 5. Respondent recommends further proceedings to determine damages. Id. at 6.

This case is now in damages.

By October 30, 2018, petitioner shall file (1) documents listed on page 5 of respondent’s Rule 4(c) Report to determining appropriate damages and (2) a status report stating how the settlement negotiations are proceeding.

IT IS SO ORDERED.

Dated: August 30, 2018

s/ Laura D. Millman
Laura D. Millman
Special Master