

In the United States Court of Federal Claims

OFFICE OF SPECIAL MASTERS

No. 18-771V

Filed: June 12, 2019

UNPUBLISHED

HENRY MILLIGAN, JR.,

Petitioner,

v.

SECRETARY OF HEALTH AND
HUMAN SERVICES,

Respondent.

Special Processing Unit (SPU);
Ruling on Entitlement; Concession;
Table Injury; Tetanus Diphtheria
acellular Pertussis (Tdap) Vaccine;
Shoulder Injury Related to Vaccine
Administration (SIRVA)

Jeffrey S. Pop, Jeffrey S. Pop & Associates, Beverly Hills, CA, for petitioner.

Jennifer Leigh Reynaud, U.S. Department of Justice, Washington, DC, for respondent.

RULING ON ENTITLEMENT¹

Dorsey, Chief Special Master:

On May 31, 2018, 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 he suffered a shoulder injury related to vaccine administration (“SIRVA”) as a result of the adverse effects of the tetanus-diphtheria-acellular pertussis (“Tdap”) vaccine administered on August 31, 2016. 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 Because this unpublished ruling contains a reasoned explanation for the action in this case, undersigned is required to post it on the United States Court of Federal Claims' website in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 June 11, 2019, 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 notes that "petitioner's alleged injury is consistent with SIRVA that was caused by the administration of petitioner's Tdap vaccination."³ *Id.* at 3. Respondent further notes that respondent "did not identify any other cause for petitioner's shoulder injury" and that the medical records "demonstrate that [petitioner] suffered the residual effects of his condition for more than six months." *Id.* at 3-4.

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

³ The OSM staff attorney managing this case e-mailed respondent's counsel on June 11, 2019 to inquire whether this case was being conceded as a Table or Non-Table case. In a reply e-mail dated June 11, 2019, respondent's counsel confirmed that this case was being conceded as a Table case.