

# In the United States Court of Federal Claims

## OFFICE OF SPECIAL MASTERS

No. 18-1152V

UNPUBLISHED

ROBERT JAMISON,

Petitioner,

v.

SECRETARY OF HEALTH AND  
HUMAN SERVICES,

Respondent.

Chief Special Master Corcoran

Filed: April 7, 2020

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

*Scott William Rooney, Nemes, Rooney P.C., Farmington Hills, MI, for Petitioner.*

*Althea Walker Davis, U.S. Department of Justice, Washington, DC, for Respondent.*

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

On August 8, 2018, Robert Jamison 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 his receipt of an influenza (“flu”) vaccine on March 3, 2016, caused him to suffer a left-sided Shoulder Injury Related to Vaccine Administration (“SIRVA”). Petition at 2. The case was assigned to the Special Processing Unit of the Office of Special Masters.

On April 6, 2020, Respondent filed an Amended Rule 4(c) report in which he states that he does not contest that Petitioner is entitled to compensation in this case. Respondent’s Rule 4(c) Report at 1. Specifically, Respondent states that “while

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<sup>1</sup> Because this unpublished ruling contains a reasoned explanation for the action in this case, I am required to post it on the United States Court of Federal Claims’ website in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). **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, I agree that the identified material fits within this definition, I 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).

preserving his right to appeal the Chief Special Master's February 18, 2020 finding that the onset of petitioner's left shoulder pain occurred within forty-eight hours of his March 3, 2016 flu vaccination, respondent accepts this ruling as the law of the case for purposes of further proceedings before the Chief Special Master." *Id.* at 4.

Respondent further agrees that "DICP will not continue to contest that petitioner suffered SIRVA as defined by the Vaccine Injury Table. Specifically, petitioner had no recent history of pain, inflammation, or dysfunction of his left shoulder; the onset of pain occurred within 48 hours after receipt of an intramuscular vaccination; the pain was limited to the shoulder in which the vaccine was administered; and, no other condition or abnormality, such as brachial neuritis, has been identified to explain petitioner's left shoulder pain... in addition, petitioner suffered the residual effects of his condition for more than six months... Therefore, based on the record as it now stands and subject to the right to appeal the Findings of Fact, respondent does not dispute that petitioner has satisfied all legal prerequisites for compensation under the Act." *Id.* at 5-6 (internal citations omitted).

**In view of Respondent's position and the evidence of record, I find that Petitioner is entitled to compensation.**

**IT IS SO ORDERED.**

**s/Brian H. Corcoran**

Brian H. Corcoran  
Chief Special Master