

# In the United States Court of Federal Claims

## OFFICE OF SPECIAL MASTERS

No. 18-1872V

Filed: October 24, 2019

UNPUBLISHED

KELVIN HERNANDEZ GONZALEZ,

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)

*Roberto Ruiz-Comas, RC Legal & Litigation Services PSC, San Juan, PR, for petitioner.  
Darryl R. Wishard, U.S. Department of Justice, Washington, DC, for respondent.*

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

**Corcoran**, Chief Special Master:

On December 6, 2018, 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 he suffered Guillain-Barré Syndrome (GBS) as a result of receiving the influenza vaccination on November 18, 2015. Petition at 1, ¶¶ 2, 7. Petitioner further alleges that he received the vaccination in the United States or its trust territories, that he suffered the residual effects of his GBS for more than six months, and that neither he nor any other party has filed a civil action or received

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<sup>1</sup> I intend to post this decision on the United States Court of Federal Claims' website. **This means the decision 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. Because this unpublished decision contains a reasoned explanation for the action in this case, I am required to post it on the United States Court of Federal Claims' website in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).

<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).

compensation for his GBS. *Id.* at ¶¶ 2, 8, 9. The case was assigned to the Special Processing Unit of the Office of Special Masters.

On October 23, 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 concluded that "petitioner suffered the Table injury of GBS following a flu vaccine within the Table time period, and that there is a not a preponderance of the medical evidence that petitioner's GBS was due to a factor unrelated to the vaccination . . . . The claim also meets the statutory severity requirements because petitioner experienced sequelae of his GBS for more than six months." *Id.* at 4 (citing 42 C.F.R. § 100.3(a); 42 U.S.C. §§ 300aa-13(a)(1), 300aa-11(c)(1)(D)(i)).

**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