

In the United States Court of Federal Claims

OFFICE OF SPECIAL MASTERS

No. 19-0784V

UNPUBLISHED

LINDA BERGSTROM,

Petitioner,

v.

SECRETARY OF HEALTH AND
HUMAN SERVICES,

Respondent.

Chief Special Master Corcoran

Filed: January 7, 2021

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

Edward M. Kraus, Law Offices of Chicago Kent, Chicago, IL, for petitioner.

Mark Kim Hellie, U.S. Department of Justice, Washington, DC, for respondent.

RULING ON ENTITLEMENT¹

On May 28, 2019, Linda Bergstrom 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 she suffered a shoulder injury related to vaccine administration (“SIRVA”) which meets the Table Injury requirements, after receiving the influenza (“flu”) vaccine on January 29, 2018. Petition at 1, ¶¶ 1, 20. The case was assigned to the Special Processing Unit of the Office of Special Masters.

On December 4, 2020, I issued a fact ruling, finding there is preponderant evidence to establish that “the onset of Petitioner’s pain occurred within 24 hours of vaccination.”

¹ Because this unpublished ruling contains a reasoned explanation for the action in this case, I am required to post it on the United States Court of Federal Claims' website in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.

² National Childhood Vaccine Injury Act of 1986, Pub. L. No. 99-660, 100 Stat. 3755. Hereinafter, for ease of citation, all section references to the Vaccine Act will be to the pertinent subparagraph of 42 U.S.C. § 300aa (2012).

Fact Ruling at 6, ECF No. 22. On January 7, 2021, Respondent filed a supplemental Rule 4 Report indicating he “will not defend the issue of entitlement for this case.” Amended Rule 4 Report at 1, ECF No. 24. I have determined that Petitioner has met all requirements of a Table SIRVA, including the requirement that Petitioner’s pain occurs within 48 hours of vaccination. See 42 C.F.R. § 100.3(c)(10)(ii) (required onset for pain listed in the QAI).

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