

In the United States Court of Federal Claims

OFFICE OF SPECIAL MASTERS

No. 19-1255V

UNPUBLISHED

WESLEY GREENE,

Petitioner,

v.

SECRETARY OF HEALTH AND
HUMAN SERVICES,

Respondent.

Chief Special Master Corcoran

Filed: March 31, 2021

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

Maximillian J. Muller, Muller Brazil, LLP, Dresher, PA, for petitioner.

Naseem Kourosh, U.S. Department of Justice, Washington, DC, for respondent.

RULING ON ENTITLEMENT¹

On August 22, 2019, Wesley Greene 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 left shoulder injuries related to vaccine administration (“SIRVA”) as a result of a Tetanus, Diphtheria and Pertussis (“Tdap”) vaccine received on May 7, 2018. Petition at 1. The case was assigned to the Special Processing Unit of the Office of Special Masters.

On March 29, 2021, 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 agrees that “petitioner’s claim meets the Table criteria for

¹ Because this unpublished ruling contains a reasoned explanation for the action in this case, I am required to post it on the United States Court of Federal Claims' website in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 “§” references to the Vaccine Act will be to the pertinent subparagraph of 42 U.S.C. § 300aa (2012).

SIRVA. Specifically, petitioner's prior left shoulder injury had apparently resolved over one year before his May 7, 2018 Tdap vaccination, and he therefore had no apparent history of pain, inflammation, or dysfunction of the affected shoulder prior to the vaccination that would explain the alleged signs, symptoms, examination findings, and/or diagnostic studies occurring after vaccination. Additionally, Petitioner more likely than not suffered the onset of pain within forty-eight hours of vaccination; his pain and reduced range of motion were limited to the shoulder in which the vaccine was administered; and no other condition or abnormality has been identified that would explain his symptoms." *Id.* at 7-8. Respondent further agrees that the case was timely filed; Petitioner received the Tdap vaccine in the United States; the Tdap vaccine is set forth in the Table; Petitioner's injury lasted for at least six months; and Petitioner has not filed a prior action or received any prior compensation or award for an injury related to this vaccine. *Id.* Thus, Respondent agrees that Petitioner has satisfied all legal prerequisites for compensation under the Act.

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