

In the United States Court of Federal Claims

OFFICE OF SPECIAL MASTERS

No. 19-1481V

UNPUBLISHED

NIKKI AUNE,

Petitioner,

v.

SECRETARY OF HEALTH AND
HUMAN SERVICES,

Respondent.

Chief Special Master Corcoran

Filed: February 12, 2021

Special Processing Unit (SPU);
Ruling on Entitlement; Concession;
Table Injury; Hepatitis B (Hep B)
Vaccine; Shoulder Injury Related to
Vaccine Administration (SIRVA)

Jimmy A. Zgheib, Zgheib Sayad, P.C., White Plains, NY, for petitioner.

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

RULING ON ENTITLEMENT¹

On September 25, 2019, Nikki Aune 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 Table Injury – Shoulder Injury Related to Vaccine Administration (“SIRVA”) – as a result of her hepatitis B vaccination on December 15, 2017. Petition at 1. The case was assigned to the Special Processing Unit of the Office of Special Masters.

On February 10, 2021, Respondent filed his Rule 4(c) Report and Proffer on Damages in which he concedes that Petitioner is entitled to compensation in this case. Respondent’s Rule 4(c) Report and Proffer on Damages at 1. Specifically, Respondent

¹ Because this unpublished ruling contains a reasoned explanation for the action in this case, I am required to post it on the United States Court of Federal Claims' website in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

indicates that

[m]edical personnel at the Division of Injury Compensation Programs, Department of Health and Human Services (“DICP”), have reviewed the petition and medical records filed in the case and determined that petitioner has satisfied the criteria set forth in the Vaccine Injury Table (“Table”) and the Qualifications and Aids to Interpretation (“QAI”) for SIRVA due to an intramuscular hepatitis B vaccination. That is, petitioner had no relevant history of pain, inflammation, or dysfunction in her left shoulder; her pain and reduced range of motion occurred within 48 hours of receipt of an intramuscular vaccination; her symptoms were limited to the shoulder in which the vaccine was administered; and no other condition or abnormality was identified to explain her symptoms. 42 C.F.R. § 100.3(c)(10).

Id. at 5. Respondent further agrees that “based on the record as it now stands, petitioner has satisfied all legal prerequisites for compensation under the Vaccine Act.” *Id.* (citing §13(a)(1)(B); § 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