

In the United States Court of Federal Claims

OFFICE OF SPECIAL MASTERS

No. 19-1491V

UNPUBLISHED

BRIAN OBERSCHMID and HEATHER
OBERSCHMID, as parents and natural
guardians of minor child, J.O.,

Petitioner,

v.

SECRETARY OF HEALTH AND
HUMAN SERVICES,

Respondent.

Chief Special Master Corcoran

Filed: February 18, 2020

Special Processing Unit (SPU);
Ruling on Entitlement; Concession;
Table Injury; Influenza (Flu) Vaccine;
Guillain-Barre Syndrome (GBS)

Kate Gerayne Westad, SiebenCarey, Minneapolis, MN, for petitioner.

Laurie Wiesner, U.S. Department of Justice, Washington, DC, for respondent.

RULING ON ENTITLEMENT¹

On September 26, 2019, Brian and Heather Oberschmid filed a petition for compensation, on behalf of their minor child, J.O., under the National Vaccine Injury Compensation Program, 42 U.S.C. §300aa-10, *et seq.*,² (the “Vaccine Act”). Petitioners allege that J.O. suffered Guillain-Barré Syndrome (GBS), which meets the Table definition for GBS, after receiving the influenza vaccination on September 27, 2016. Petition at 1, ¶¶ 1, 12. The case was assigned to the Special Processing Unit of the Office of Special Masters.

¹ Because this unpublished ruling contains a reasoned explanation for the action in this case, I am required to post it on the United States Court of Federal Claims' website in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

On February 13, 2020, Respondent filed his Rule 4(c) report in which he concedes that Petitioners are entitled to compensation in this case. Respondent's Rule 4(c) Report at 1. Specifically, Respondent concludes "that petitioners have satisfied the criteria set forth in the revised Vaccine Injury Table (Table) and the Qualifications and Aids to Interpretation (QAI), which afford petitioners a presumption of causation if the onset of GBS occurs between three and forty-two days after a seasonal flu vaccination and there is no apparent alternative cause." *Id.* at 4. Respondent further agrees that "based on the current record, petitioners have satisfied all legal prerequisites for compensation under the Act." *Id.*

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