In the United States Court of Federal Claims

OFFICE OF SPECIAL MASTERS

No. 19-2022V

UNPUBLISHED

ERIC KURTZ, M.D., Petitioner, v. SECRETARY OF HEALTH AND HUMAN SERVICES, Respondent.	Chief Special Master Corcoran Filed: September 27, 2021 Special Processing Unit (SPU); Ruling on Entitlement; Concession; Table Injury; Influenza (Flu) Vaccine; Shoulder Injury Related to Vaccine Administration (SIRVA)

Timothy J. Mason, Law Office of Sylvia Chin-Caplan, LLC, White Plains, NY, for Petitioner.

Debra A. Filteau Begley, U.S. Department of Justice, Washington, DC, for Respondent.

RULING ON ENTITLEMENT[1]

On December 31, 2019, Eric Kurtz, M.D. 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 a should injury related to vaccine administration (SIRVA) as a result of an influenza (flu) vaccine that he received on September 12, 2018. Petition at 1. Petitioner further alleges that the vaccine was administered in the United States, the residual effects or sequelae of Petitioner's shoulder injuries have persisted for more than six months, and no lawsuits have been filed or settlements or awards accepted by anyone, including the Petitioner, due to his vaccine injury. Petition at 10. 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[1] Because this unpublished Ruling contains a reasoned explanation for the action in this case, I am required to post it on the United States Court of Federal Claims' website in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 section references to the Vaccine Act will be to the pertinent subparagraph of 42 U.S.C. § 300aa (2012).

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On September 17, 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 has concluded that compensation is appropriate because Petitioner meets the criteria for a presumed SIRVA, as defined by the Vaccine Injury Table. *Id.* at 3. Respondent further agrees that the scope of damages to be awarded are limited to Petitioner's left-sided SIRVA and its resulting sequelae only. *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