

In the United States Court of Federal Claims

OFFICE OF SPECIAL MASTERS

No. 20-0492V

UNPUBLISHED

GLENN SMITH, JR.,

Petitioner,

v.

SECRETARY OF HEALTH AND
HUMAN SERVICES,

Respondent.

Chief Special Master Corcoran

Filed: December 10, 2021

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

Leigh Finfer, Muller Brazil, LLP, Dresher, PA, for Petitioner.

Emilie Williams, U.S. Department of Justice, Washington, DC, for Respondent.

RULING ON ENTITLEMENT¹

On April 23, 2020, Glenn Smith, Jr. 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 left shoulder injury related to vaccine administration (SIRVA) after an influenza (“flu”) vaccination received on December 6, 2017. Petition at ¶¶ 2, 9. Petitioner further alleges that his symptoms lasted for more than six months. Petition at ¶ 9. The case was assigned to the Special Processing Unit of the Office of Special Masters.

On December 10, 2021, Respondent filed his Rule 4(c) report in which he concedes that Petitioner is entitled to compensation in this case because his “claim meets the Table criteria for SIRVA.” Respondent’s Rule 4(c) Report at 1, 3. Specifically,

¹ Because this unpublished Ruling contains a reasoned explanation for the action in this case, I am required to post it on the United States Court of Federal Claims’ website in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

Petitioner had no apparent history of pain, inflammation, or dysfunction of the affected shoulder prior to intramuscular vaccine administration that would explain the alleged signs, symptoms, examination findings, and/or diagnostic studies occurring after vaccine injection; Petitioner more likely than not suffered the onset of pain within 48 hours of vaccine administration; Petitioner's pain and reduced range of motion were limited to the shoulder in which the intramuscular vaccine was administered; and there is no condition or abnormality present that would explain Petitioner's symptoms. *Id.* at 3-4. Respondent further agrees that the case was timely filed, the vaccine was received in the United States, and the statutory severity requirement is satisfied because Petitioner suffered the residual effects or complications of his injury for more than six months after vaccination. *Id.* at 4.

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