

In the United States Court of Federal Claims

OFFICE OF SPECIAL MASTERS

No. 20-1730V

UNPUBLISHED

STEVEN ROTHENBERG,

Petitioner,

v.

SECRETARY OF HEALTH AND
HUMAN SERVICES,

Respondent.

Chief Special Master Corcoran

Filed: December 16, 2022

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

Ronald Craig Homer, Conway, Homer, P.C., Boston, MA, for Petitioner.

Benjamin Patrick Warder, U.S. Department of Justice, Washington, DC, for Respondent.

RULING ON ENTITLEMENT¹

On December 2, 2020, Steven Rothenberg 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 received an influenza (“flu”) vaccination on October 7, 2019, and thereafter suffered a shoulder injury related to vaccine administration (“SIRVA”). Petition (ECF No. 1) at 1; see *also* Amended Petition (ECF No. 31). 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¹ Because this unpublished Ruling contains a reasoned explanation for the action in this case, I am required to post it on the United States Court of Federal Claims' website in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).

On December 16, 2022, 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 states that Petitioner has satisfied the criteria set forth in the Vaccine Injury Table ("Table") and the Qualifications and Aids for Interpretation ("QAI") for SIRVA. *Id.* at 10 (citing 42 C.F.R. §§ 100.3(a), (c)(10)). Respondent also agrees that the case was timely filed, that the vaccine was received in the United States, and that Petitioner suffered the statutory severity requirement by suffering the residual effects or complications of his injury for more than six months after vaccine administration. *Id.* at 11 (citing Section 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