

In the United States Court of Federal Claims
OFFICE OF SPECIAL MASTERS
No. 20-1912V

ASHLEY KOON,

Petitioner,

v.

SECRETARY OF HEALTH AND
HUMAN SERVICES,

Respondent.

Chief Special Master Corcoran

Filed: June 22, 2023

*Leah VaSahnja Durant, Law Offices of Leah V. Durant, PLLC, Washington, DC, for
Petitioner.*

Austin Joel Egan, U.S. Department of Justice, Washington, DC, for Respondent.

RULING ON ENTITLEMENT¹

On December 21, 2020, Ashley Koon filed a petition for compensation under the National Vaccine Injury Compensation Program, 42 U.S.C. §300aa-10, *et seq.*² (the “Vaccine Act”). On July 20, 2022, she filed an amended petition. ECF No. 22. Petitioner alleges that she suffered a shoulder injury related to vaccine administration (“SIRVA”), following the receipt of a tetanus, diphtheria, acellular pertussis (“Tdap”) vaccine³ on July

¹ Because this Ruling contains a reasoned explanation for the action taken in this case, it must be made publicly accessible and will be posted on the United States Court of Federal Claims' website, and/or at <https://www.govinfo.gov/app/collection/uscourts/national/cofc>, in accordance with the E-Government Act of 2002. 44 U.S.C. § 3501 note (2018) (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 (2018).

³ In her petition and amended petition, Ashley Koon describes the vaccine she received as the tetanus vaccine or Tdap vaccine. Petition at 1; Amended Petition at 1, ¶ 1. The vaccine record indicates Petitioner received a tetanus, diphtheria, pertussis or Tdap vaccine. Exhibit 1, filed Nov. 5, 2021, ECF No. 12.

30, 2020. Amended Petition at 1, ¶¶ 1, 9. Petitioner further alleges that she received the vaccination within the United States, that he suffered the residual effects of her injury for more than six months, and that neither she nor any other person has filed a civil action or received compensation for her injury, alleged as vaccine caused. Petition at ¶¶ 1, 8, 10. The case was assigned to the Special Processing Unit of the Office of Special Masters.

On June 22, 2023, 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 believes "that [P]etitioner's left shoulder injury is consistent with SIRVA as defined by the Vaccine Injury Table." *Id.* at 9. Respondent further agrees that "based on the record as it now stands, [P]etitioner has satisfied all legal prerequisites for compensation under the Act." *Id.* He asks that, as required under the Act, "[t]he scope of damages to be awarded is limited to [P]etitioner's left-sided SIRVA and its related 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