

In the United States Court of Federal Claims

OFFICE OF SPECIAL MASTERS

No. 21-0055V

UNPUBLISHED

ELLEN RODRIGUEZ,

Petitioner,

v.

SECRETARY OF HEALTH AND
HUMAN SERVICES,

Respondent.

Chief Special Master Corcoran

Filed: September 7, 2022

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

Bridget Candace McCullough, Muller Brazil, LLP, Dresher, PA, for Petitioner.

Mark Kim Hellie, U.S. Department of Justice, Washington, DC, for Respondent.

RULING ON ENTITLEMENT¹

On January 5, 2021, Ellen Rodriguez 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 she suffered a left shoulder injury related to vaccine administration (“SIRVA”), as defined in the Vaccine Table, after receiving the influenza (“flu”) vaccine on November 14, 2018. Petition at 1, ¶¶ 2, 19. Petitioner further alleges she received the vaccine in the United States, that she continues to suffer the residual effects of her SIRVA more than six months post-vaccination, and that neither she nor any other person has filed a civil action or received compensation for her SIRVA. *Id.* at ¶¶ 2,

¹ Because this unpublished Ruling contains a reasoned explanation for the action in this case, I am required to post it on the United States Court of Federal Claims' website in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

19-21. The case was assigned to the Special Processing Unit of the Office of Special Masters.

On July 11, 2022, the parties requested a factual finding regarding the site of vaccination. Joint Motion for Fact Ruling, ECF No. 26. On August 23, 2022, I issued a ruling, finding the flu vaccine was most likely administered in Petitioner's left deltoid, as alleged. ECF No. 30.

On September 7, 2022, Respondent filed a Rule 4(c) Report in which he states that he does not contest that Petitioner is entitled to compensation in this case. Respondent's Rule 4(c) Report at 1, ECF No. 33. Specifically, he indicates that he "has elected not to defend the issue of entitlement for this case . . . [and] does not contest that [P]etitioner has satisfied the criteria set forth in the Vaccine Injury Table ("Table") and the Qualifications and Aids to Interpretation ("QAI") for SIRVA." *Id.* at 4-5.

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