

In the United States Court of Federal Claims

OFFICE OF SPECIAL MASTERS

No. 21-400V

ELIZABETH COVEY,

Petitioner,

v.

SECRETARY OF HEALTH AND
HUMAN SERVICES,

Respondent.

Chief Special Master Corcoran

Filed: February 2, 2024

*Glen Howard Sturtevant, Jr., Rawls Law Group (Richmond), Richmond, VA, for
Petitioner.*

Nina Ren, U.S. Department of Justice, Washington, DC, for Respondent.

RULING ON ENTITLEMENT¹

On January 8, 2021, Elizabeth Covey 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 a Table injury - that she suffered a shoulder injury related to vaccine administration (“SIRVA”) after receiving an influenza (“flu”) vaccine on November 13, 2019. Petition at 1. Petitioner further alleges the vaccine was administered within the United States, that she suffered the residual effects of her injury for more than six months, and that there has been no prior award or settlement of a civil action on her behalf as a result of her injury. See Petition at ¶¶ 1-2, 11, 14-15. The case was assigned to the Special Processing Unit of the Office of Special Masters.

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.

On January 2, 2024, I issued a Findings of Facts concluding that “there is preponderant evidence to establish the vaccination alleged as causal in this case was administered to Petitioner in the right deltoid on November 13, 2019.” ECF No. 31 at 6. Thereafter on January 26, 2024, Respondent filed his Rule 4(c) report in which he states that while preserving his right to appeal my factual findings, he agrees “that [P]etitioner has otherwise satisfied the legal prerequisites for compensation under the Vaccine Act.” Respondent’s Rule 4(c) Report at 1-2 (citing 42 U.S.C. §§ 300aa-11(c)(1)(D), 300aa-13(a)(1)). Specifically, Respondent states that he

has concluded that [P]etitioner’s alleged injury is consistent with SIRVA as defined by the Vaccine Injury Table. Specifically, petitioner had no history of pain, inflammation, or dysfunction of her right shoulder prior to vaccination; pain occurred within forty-eight hours after receipt of an intramuscular vaccination; pain was limited to the shoulder in which the vaccine was administered; and no other condition or abnormality has been identified to explain [P]etitioner’s shoulder pain.

Id. at 6 (citing 42 C.F.R. §§ 100.3(a), (c)(10)). Respondent further agrees that Petitioner has suffered the sequela of her injury for more than six months, and otherwise satisfied all legal requirements for compensation under the Act. *Id.* (citing 42 U.S.C. § 300aa-13(a)(1)(B); 42 U.S.C. § 300aa-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