

In the United States Court of Federal Claims

OFFICE OF SPECIAL MASTERS

No. 21-630V

CARMEN KIENOW,

Petitioner,

v.

SECRETARY OF HEALTH AND
HUMAN SERVICES,

Respondent.

Chief Special Master Corcoran

Filed: July 24, 2024

*Catherine Wallace Costigan, Maglio, Christopher & Toale, Washington, DC, for
Petitioner.*

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

RULING ON ENTITLEMENT¹

On January 12, 2021, Carmen Kienow (“Petitioner”) 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 from a shoulder injury related to vaccine administration (“SIRVA”) as a result of receiving an influenza (“flu”) vaccination on September 26, 2019. Pet., ECF No. 1. Petitioner further alleges that she suffered the residual effects of her injury for more than six months. *Id.* 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. 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).

On May 9, 2023, Respondent filed a Rule 4(c) report stating that this case is not appropriate for compensation. ECF No. 43. In response, on May 1, 2024, I issued a fact ruling finding that Petitioner received the subject flu vaccination in her right arm, as alleged, and that the onset of her injury occurred within 48 hours of the subject vaccination. ECF No. 53.

On July 15, 2024, Respondent filed his Amended Rule 4(c) report in which he “elects not to further defend entitlement in this case.” Respondent’s Rule 4(c) Report at 2, 12, ECF No. 58.

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