

In the United States Court of Federal Claims

OFFICE OF SPECIAL MASTERS

No. 21-0668V

UNPUBLISHED

KATHLEEN KELEHER,

Petitioner,

v.

SECRETARY OF HEALTH AND
HUMAN SERVICES,

Respondent.

Chief Special Master Corcoran

Filed: January 25, 2023

Special Processing Unit (SPU);
Ruling on Entitlement; Concession;
Table Injury; Tetanus Diphtheria
acellular Pertussis (Tdap) Vaccine;
Shoulder Injury Related to Vaccine
Administration (SIRVA)

*Joseph Alexander Vuckovich, Maglio Christopher & Toale, PA, Washington, DC, for
Petitioner.*

Mitchell Jones, U.S. Department of Justice, Washington, DC, for Respondent.

RULING ON ENTITLEMENT¹

On January 12, 2021, Kathleen Keleher 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”), a defined Table Injury, or, in the alternative caused by the vaccination she received, following the administration of a tetanus, diphtheria, acellular pertussis (“Tdap”) vaccine in her left deltoid on June 9, 2020. Petition at 1, ¶¶ 1, 9-10. Petitioner further alleges that she received the vaccine within the United States, that she suffered the residual effects of her SIRVA injury for more than six months, and that neither she nor any other party has filed a civil action or received compensation for her SIRVA.

¹ Because this unpublished Ruling contains a reasoned explanation for the action in this case, I am required to post it on the United States Court of Federal Claims' website in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

Id. at ¶¶ 11, 13-14. The case was assigned to the Special Processing Unit of the Office of Special Masters.

On January 25, 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 has satisfied the criteria set forth in the Vaccine Injury Table ("Table") and the Qualifications and Aids to Interpretation ("QAI") for SIRVA following intramuscular administration of a Tdap vaccine." *Id.* at 5. Respondent further agrees that "[P]etitioner has satisfied all legal prerequisites for compensation under the Vaccine Act." *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