

In the United States Court of Federal Claims

OFFICE OF SPECIAL MASTERS

No. 21-0822V

MARLENE KOENIG-WILTSE,

Petitioner,

v.

SECRETARY OF HEALTH AND
HUMAN SERVICES,

Respondent.

Chief Special Master Corcoran

Filed: July 18, 2023

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

Parisa Tabbassian, U.S. Department of Justice, Washington, DC, for Respondent.

RULING ON ENTITLEMENT¹

On January 29, 2021, Marlene Koenig-Wiltse (“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 received an influenza (“flu”) vaccine on October 29, 2020, in her left deltoid, and thereafter suffered from a left-sided shoulder injury related to vaccine administration (“SIRVA”). Petition at 1. The case was assigned to the Special Processing Unit of the Office of Special Masters.

On July 17, 2023, Respondent filed a combined Rule 4(c) Report and Proffer in which he concedes that Petitioner is entitled to compensation in this case. Respondent’s Rule 4(c) Report and Proffer at 1. Specifically, Respondent states that Petitioner’s claim meets the Vaccine Injury Table (“Table”) criteria for SIRVA. *Id.* at 4 (citing 42 C.F.R. §§

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 (2012).

100.3(a)(XIV)(B), (c)(10)). Respondent further agrees that Petitioner has satisfied all legal prerequisites for compensation under the Act. *Id.* at 3-4 (citing Section 13(a)(1)(B); Section 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