

In the United States Court of Federal Claims

OFFICE OF SPECIAL MASTERS

No. 21-830V

UNPUBLISHED

LAURA O'HARA,

Petitioner,

v.

SECRETARY OF HEALTH AND
HUMAN SERVICES,

Respondent.

Chief Special Master Corcoran

Filed: May 31, 2023

Special Processing Unit (SPU);
Ruling on Entitlement; Uncontested;
Table Injury; Influenza (Flu) Vaccine;
Guillain-Barre Syndrome (GBS)

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

Andrew Henning, U.S. Department of Justice, Washington, DC, for Respondent.

RULING ON ENTITLEMENT¹

On February 1, 2021, Laura O'Hara 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 Guillain-Barre Syndrome (GBS) resulting from adverse effects of an influenza (flu) vaccination she received on September 20, 2019. Petition at 1. Petitioner further alleges that the vaccination was administered within the United States, her injury lasted longer than six months, and neither Petitioner, nor any other party, has ever received compensation in the form of an award or settlement

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).

for her vaccine-related injury. Petition at 1, 6. The case was assigned to the Special Processing Unit of the Office of Special Masters.

Respondent initially opposed compensation, arguing that Petitioner had not established that she suffered a GBS Table injury, and therefore she was not entitled to a presumption of vaccine causation. Respondent's Rule 4(c) Report at 12. Specifically, Respondent determined that "Petitioner's medical records do not provide evidence that she experienced both bilateral flaccid limb weakness and decreased or absent deep tendon reflexes in weak limbs, as required by the QAI for GBS." *Id.* at 13-14 (citing 42 C.F.R. § 100.3(c)(15)(ii)(A)). Additionally, Respondent argued that Petitioner had not established that her GBS was caused-in-fact by her flu vaccination. *Id.* at 14.

On May 15, 2023, Respondent filed an Amended Rule 4(c) report in which he states that "he will not continue to defend this case during further proceedings on entitlement before the Office of Special Masters" and "reserves his right to a potential appeal of the entitlement decision." Respondent's Amended Rule 4(c) Report at 1, n. 1. Specifically, "[R]espondent maintains that [P]etitioner has not met her burden of proof under the Vaccine Act, for the reasons set forth in his initial Rule 4(c) Report. See ECF No. 23. However, in light of the Court's findings of fact, [R]espondent no longer wishes to defend against [P]etitioner's entitlement claim before the Office of Special Masters and requests a ruling on the record regarding [P]etitioner's entitlement to compensation." *Id.* at 13.

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