

In the United States Court of Federal Claims
OFFICE OF SPECIAL MASTERS
No. 21-841V

TONY MOYE,

Petitioner,

v.

SECRETARY OF HEALTH AND
HUMAN SERVICES,

Respondent.

Chief Special Master Corcoran

Filed: July 5, 2023

Leigh Finfer, Muller Brazil, LLP, Dresher, PA, for Petitioner.

Jamica Marie Littles, U.S. Department of Justice, Washington, DC, for Respondent.

RULING ON ENTITLEMENT¹

On February 2, 2021, Tony Moyer 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 he suffered a Table injury – shoulder injury related to vaccine administration (“SIRVA”) – as a result of his October 22, 2020 influenza (“flu”) vaccination. Petition at 1. Petitioner further alleges the vaccine was administered within the United States and that there has been no prior award or settlement of a civil action on his behalf as a result of his injury. See Petition at ¶¶ 1, 6-7. 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 June 29, 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 Recommending Compensation and Proffer of Compensation at 1. Specifically, Respondent indicates that he has

determined that petitioner has satisfied the Table criteria for SIRVA set forth in the Vaccine Injury Table ("Table") and the Qualifications and Aids to Interpretation ("QAIs"). Specifically, petitioner had no history of pain, inflammation, or dysfunction in his left shoulder before his October 2020 intramuscular vaccine administration; his symptoms were limited to the left shoulder in which the intramuscular vaccine was administered; he more likely than not suffered the onset of pain within forty-eight hours of vaccine administration; and there is no other condition or abnormality present that would explain petitioner's symptoms.

Id. at 5 (citing 42 C.F.R. § 100.3(a), (c)(10)). Respondent further agrees that "[w]ith respect to other statutory and jurisdictional issues, the records show that the case was timely filed, that the vaccine was received in the United States, and that petitioner satisfies the statutory severity requirement by suffering the residual effects or complications of his injury for more than six months after vaccine administration." *Id.* at 6 (citing 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