

In the United States Court of Federal Claims

OFFICE OF SPECIAL MASTERS

No. 21-0891V

UNPUBLISHED

PAUL BISHOP,

Petitioner,

v.

SECRETARY OF HEALTH AND
HUMAN SERVICES,

Respondent.

Chief Special Master Corcoran

Filed: May 8, 2023

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

Matthew F. Belanger, Faraci Lange, LLP, Rochester, NY, for Petitioner.

Naseem Kourosh, U.S. Department of Justice, Washington, DC, for Respondent.

RULING ON ENTITLEMENT¹

On February 8, 2021, Paul Bishop 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 alleged that he suffered a left shoulder injury related to vaccine administration (“SIRVA”), a defined Table Injury, after receiving a tetanus, diphtheria, acellular pertussis (“Tdap”) vaccine on March 12, 2020. Petition at ¶¶ 1-2, 6. Petitioner further alleges that he received the Tdap vaccine in the United States, that he suffered

¹ Because this Decision 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 Decision 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).

the residual effects of his SIRVA for more than six months, and that neither he nor any other party has filed a civil case or received compensation for his SIRVA injury. *Id.* at ¶¶ 2, 6, 16. The case was assigned to the Special Processing Unit of the Office of Special Masters.

Respondent initially opposed compensation, arguing that Petitioner had failed to satisfy the statutory six-month requirement. Rule 4(c) Report at 8-11, filed August 18, 2022, ECF No. 33. After I issued a fact ruling on March 14, 2023, finding Petitioner had suffered the residual effects of his alleged SIRVA Injury for more than six months (ECF No. 36), Respondent filed an amended Rule 4(c) Report (ECF No. 40).

In his amended Rule 4(c) Report, Respondent indicates that, while reserving his right to appeal my fact ruling, he “will not continue to contest that [P]etitioner suffered SIRVA as defined by the Vaccine Injury Table.” Amended Rule 4(c) Report at 7. Furthermore, “based on the record as it now stands and subject to his right to appeal the findings of fact and conclusions of law, [he] does not dispute that that [P]etitioner has satisfied all legal prerequisites for compensation under the Act.” *Id.* at 7-8.

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