

In the United States Court of Federal Claims

OFFICE OF SPECIAL MASTERS

No. 21-1132V

DONALD HOLMBERG,

Petitioner,

v.

SECRETARY OF HEALTH AND
HUMAN SERVICES,

Respondent.

Chief Special Master Corcoran

Filed: September 7, 2023

Alison H. Haskins, Maglio Christopher & Toale, PA, Sarasota, FL, for Petitioner.

Jennifer A. Shah, U.S. Department of Justice, Washington, DC, for Respondent.

RULING ON ENTITLEMENT¹

On March 29, 2021, Donald Holmberg 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 following his receipt of an influenza (“flu”) vaccine on January 28, 2020, he developed Guillain-Barré syndrome (“GBS”). Petition at ¶¶ 1, 24-25. The case was assigned to the Special Processing Unit (“SPU”) of the Office of Special Masters.

On June 23, 2023, I concluded that (under the “more likely than not” preponderant standard), onset occurred no more than 42 days after receipt of the flu vaccine. Findings of Fact and Conclusions of Law, ECF No. 38.

¹ Because this unpublished Ruling contains a reasoned explanation for the action taken in this case, it must be made publicly accessible and will be posted on the United States Court of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).

On September 7, 2023, Respondent filed his Rule 4(c) report in which he recognizes my onset determination as the law of the case, and he advises that he will not defend the cause on other grounds during further proceedings before the Office of Special Masters. Respondent's Rule 4(c) Report at 7. Respondent submits that Petitioner has otherwise satisfied the criteria set forth in the Vaccine Injury Table and the Qualifications and Aids to Interpretation ("QAI") for GBS following flu vaccination. *Id.* at 8 (citing 42 C.F.R. §§ 100.3(a)(XIV)(D), (c)(15)). Respondent further agrees that Petitioner has satisfied all legal requisites 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