

In the United States Court of Federal Claims

OFFICE OF SPECIAL MASTERS

No. 21-1688V

UNPUBLISHED

KEITH TILLMAN,

Petitioner,

v.

SECRETARY OF HEALTH AND
HUMAN SERVICES,

Respondent.

Chief Special Master Corcoran

Filed: May 26, 2023

Special Processing Unit (SPU);
Ruling on Entitlement; Concession;
Table Injury; Influenza (Flu) Vaccine;
Shoulder Injury Related to Vaccine
Administration (SIRVA)

*Bruce William Slane, Law Office of Bruce W. Slane, P.C., White Plains, NY, for
Petitioner.*

Alec Saxe, U.S. Department of Justice, Washington, DC, for Respondent.

RULING ON ENTITLEMENT¹

On August 12, 2021, Keith Tillman 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 shoulder injury related to vaccine administration (SIRVA) caused by the adverse effects of an influenza (flu) vaccination and/or the administration thereof received on August 30, 2020. Petition at 1. Petitioner further alleges that the vaccination was administered within the United States, he suffered the residual effects or complications from his left shoulder injury for more than six months, and neither he, nor any other party, has ever filed any action or received compensation

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).

in the form of an award or settlement for Petitioner's vaccine-related injury. Petition at 1, 7. The case was assigned to the Special Processing Unit of the Office of Special Masters.

On May 25, 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 at 1. Respondent found that Petitioner's claim meets the Table criteria for SIRVA. *Id.* at 7. Specifically, Respondent determined that "[P]etitioner had no history of pain, inflammation, or dysfunction of his left shoulder prior to his receipt of the subject vaccination; his pain occurred within forty-eight hours of the subject vaccination; his pain was limited to the shoulder in which the vaccine was administered; and no other condition or abnormality has been identified to explain petitioner's shoulder pain." *Id.* at 7-8. Respondent further agrees that "the petition was timely filed, that the vaccine was received in the United States, and that [P]etitioner satisfies the statutory severity requirement by suffering the residual effects or complications of his injury for more than six months after vaccine administration." *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