

In the United States Court of Federal Claims
OFFICE OF SPECIAL MASTERS
No. 21-1953V

STEPHEN SMITH,

Petitioner,

v.

SECRETARY OF HEALTH AND
HUMAN SERVICES,

Respondent.

Chief Special Master Corcoran

Filed: June 21, 2023

David John Carney, Green & Schafle LLC, Philadelphia, PA, for Petitioner.

Rachelle Bishop, U.S. Department of Justice, Washington, DC, for Respondent.

RULING ON ENTITLEMENT¹

On October 4, 2021, Stephen Smith 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 September 15, 2020 influenza (“flu”) vaccination. Petition at 1. Petitioner further alleges the vaccine was administered within the United States, that he suffered the residual effects of his injury for more than six months, 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 ¶¶ 3, 12, 17. 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 21, 2023, Respondent filed his Rule 4(c) Report and Proffer in which he concedes that Petitioner is entitled to compensation in this case. See Respondent's Rule 4(c) Report and Proffer at 1. Specifically, Respondent "submits that [P]etitioner has satisfied the criteria set forth in the Vaccine Injury Table and the Qualifications and Aids to Interpretation for SIRVA." *Id.* at 4 (citing 42 C.F.R. §§ 100.3(a)(XIV)(B), 100.3(c)(10)). Respondent further agrees that "the records show that [P]etitioner timely filed his case, that he received the flu vaccine in the United States, and that he satisfies the statutory severity requirement by suffering the residual effects or complications of his SIRVA for more than six months after vaccine administration." *Id.* at 4-5 (citing Section 11(c)(1)).

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