

In the United States Court of Federal Claims

OFFICE OF SPECIAL MASTERS

Filed: February 14, 2023

ALAN LIEN,	*	No. 21-2006V
	*	
Petitioner,	*	Special Master Sanders

v.

SECRETARY OF HEALTH	*	Ruling on Entitlement; Influenza
AND HUMAN SERVICES,	*	("Flu") Vaccine; Guillain-Barré
	*	Syndrome ("GBS")
Respondent.	*	

Randall G. Knutson, Knutson & Casey Law Firm, Mankato, MN, for Petitioner.
Felicia Langel, U.S. Department of Justice, Washington, DC, for Respondent.

RULING ON ENTITLEMENT¹

On October 12, 2021, Alan Lien ("Petitioner") filed a petition for compensation under the National Vaccine Injury Compensation Program² ("Vaccine Program" or "Program"). 42 U.S.C. § 300aa-10 to 34 (2012). Petitioner alleged that an influenza ("flu") vaccine administered on October 22, 2019, caused him to suffer from encephalitis, encephalomyelitis, and vestibular neuronitis. Pet. at 1, ECF No. 1.

On August 26, 2022, Respondent filed his report pursuant to Vaccine Rule 4(c). Resp't's Report, ECF No. 15. Respondent stated that it is his "position that [P]etitioner is entitled to compensation for his Guillain-Barré Syndrome ("GBS"). *Id.* at 1. Respondent asserted that "[P]etitioner has satisfied the criteria set forth in the Table and the Qualifications and Aids to Interpretation for GBS." *Id.* at 12 (citing 42 C.F.R. §§ 100.3(a)(XIV)(D), 100.3(c)(15)). Respondent stated that "[w]ith respect to other statutory and jurisdictional issues, the record shows that this case was timely filed, the vaccine was received in the United States, and [P]etitioner satisfies the severity requirement by suffering from the residual effects of his GBS injury for more than six months after vaccine administration." *Id.* at 13. Respondent noted that "[t]he scope of

¹ This Ruling shall be posted on the United States Court of Federal Claims' website, in accordance with the E-Government Act of 2002, 44 U.S.C. § 3501 note (2012) (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), a party has 14 days to identify and move to delete medical or other information that satisfies the criteria in § 300aa-12(d)(4)(B). Further, consistent with the rule requirement, a motion for redaction must include a proposed redacted ruling. If, upon review, the I agree that the identified material fits within the requirements of that provision, such material will be deleted from public access.

² National Childhood Vaccine Injury Act of 1986, Pub L. No. 99-660, 100 Stat. 3755 ("the Vaccine Act" or "Act"). Hereinafter, for ease of citation, all "§" references to the Vaccine Act will be to the pertinent subparagraph of 42 U.S.C. § 300aa (2012).

damages to be awarded is limited to [P]etitioner's GBS and its related sequelae only." *Id.* Respondent did not concede that Petitioner is entitled to compensation for encephalitis, encephalomyelitis, or vestibular neuronitis. *See id.* at 12–13. Petitioner indicated via email that he accepts Respondent's terms regarding entitlement for GBS but not for encephalitis, encephalomyelitis, or vestibular neuronitis. *See* Informal Comm., docketed Feb. 10, 2023.

A special master may determine whether a petitioner is entitled to compensation based upon the record. A hearing is not required. §300aa-13; Vaccine Rule 8(d). In light of Respondent's concession and a review of the record, I find that Petitioner is entitled to compensation. This matter shall now proceed to the damages phase.

IT IS SO ORDERED.

s/Herbrina D. Sanders
Herbrina D. Sanders
Special Master