

In the United States Court of Federal Claims

OFFICE OF SPECIAL MASTERS

No. 21-2007V

CINDY GAUGHAN,

Petitioner,

v.

SECRETARY OF HEALTH AND
HUMAN SERVICES,

Respondent.

Chief Special Master Corcoran

Filed: July 11, 2023

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

Joseph Adam Lewis, U.S. Department of Justice, Washington, DC, for Respondent.

RULING ON ENTITLEMENT¹

On October 21, 2021, Cindy Gaughan 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 she suffered from a left Shoulder Injury Related to Vaccine Administration (“SIRVA”) as a result of an influenza (“flu”) vaccination administered on September 30, 2020. Petition at 1. Petitioner further alleges that her vaccine-related injuries lasted for more than six months. Petition at 6. The case was assigned to the Special Processing Unit of the Office of Special Masters.

On July 6, 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. Specifically, Respondent states that:

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).

Medical personnel at the Division of Injury Compensation Programs, Department of Health and Human Services (“DICP”), have reviewed the petition and medical records filed in the case. It is respondent’s position that petitioner has satisfied the criteria set forth in the Vaccine Injury Table (“Table”) and the Qualifications and Aids to Interpretation (“QAI”) for SIRVA. 42 C.F.R. §§ 100.3(a)(XIV)(B), 100.3(c)(10). Specifically, petitioner had no history of pain, inflammation, or dysfunction of her left shoulder; her pain occurred within 48 hours after receipt of an intramuscular vaccination; her 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 4-5. Respondent further agrees that Petitioner timely filed her case, that she received the flu vaccine in the United States, and that she satisfies the statutory severity requirement by suffering the residual effects or complications of her injury for more than six months after vaccine administration. *Id.* at 5.

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