

# In the United States Court of Federal Claims

## OFFICE OF SPECIAL MASTERS

No. 21-2222V

KELLY WYBLE,

Petitioner,

v.

SECRETARY OF HEALTH AND  
HUMAN SERVICES,

Respondent.

Chief Special Master Corcoran

Filed: June 21, 2023

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

*Matthew Murphy, U.S. Department of Justice, Washington, DC, for Respondent.*

### **RULING ON ENTITLEMENT**<sup>1</sup>

On November 29, 2021, Kelly Wyble filed a petition for compensation under the National Vaccine Injury Compensation Program, 42 U.S.C. §300aa-10, *et seq.*<sup>2</sup> (the “Vaccine Act”). Petitioner alleges that, as a result of receiving a seasonal influenza (“flu”) vaccine in her left shoulder on October 3, 2020, she suffered a shoulder injury related to vaccine administration (“SIRVA”). Petition at 5. Petitioner further alleges that her injuries lasted for more than six months. Petition at 5. The case was assigned to the Special Processing Unit of the Office of Special Masters.

On June 21, 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 “[s]pecifically, DICI has concluded that the evidence

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<sup>1</sup> 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.

<sup>2</sup> 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).

filed satisfies the requirements for a Vaccine Injury Table ('Table') claim for SIRVA following a flu vaccination on October 3, 2020. 42 C.F.R. § 100.3(a)(XIV)(D), (c)(15). DICP did not identify any other causes for petitioner's injury. Furthermore, the records show that petitioner suffered the sequela of this injury for more than the required six months, with a full twelve-month period in between her vaccination date and her final post-operative checkup." *Id.* at 4. Respondent further agrees that "[P]etitioner has satisfied all legal prerequisites for compensation under the Act." *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