

In the United States Court of Federal Claims

OFFICE OF SPECIAL MASTERS

No. 22-12V

Filed: January 8, 2026

WILLIAM RASH,

Petitioner,

v.

SECRETARY OF HEALTH AND
HUMAN SERVICES,

Respondent.

Special Master Horner

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

Joseph Douglas Leavitt, U.S. Department of Justice, Washington, DC, for respondent.

RULING ON ENTITLEMENT¹

On January 5, 2022, petitioner 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 as a result of his September 11, 2020 influenza (“flu”) vaccination he suffered a Table Injury of a shoulder injury related to vaccine administration (“SIRVA”), or alternatively, a shoulder injury caused-in-fact by his vaccination. (ECF No. 1, pp. 1, 7.)

After petitioner filed his vaccine administration record (Ex. 1), an affidavit (Ex. 2), medical records (Exs. 3-6), and an expert report supporting his claim by orthopedic specialist Brett Cascio, M.D. (Ex. 7), respondent initially filed a Rule 4(c) Report

¹ Because this document 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 document 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 “§” references to the Vaccine Act will be to the pertinent subparagraph of 42 U.S.C. § 300aa (2012).

recommending against compensation. (ECF No. 41.) Respondent contended that petitioner could not demonstrate a Table SIRVA because onset of his condition was 72-hours post-vaccination. (*Id.* at 5 n.2.) He further contended that Dr. Cascio's report lacked the specificity necessary to support a cause-in-fact claim. (*Id.* at 6.) Petitioner subsequently filed a supplemental expert report by Dr. Cascio (Ex. 10), and respondent was provided the opportunity to present a responsive expert report (Non-PDF Scheduling Order, filed Oct. 14, 2025). Instead, respondent filed an amended Rule 4(c) Report in which he indicated that he "maintains that petitioner has not met his burden of proof under the Vaccine Act. Nevertheless, in light of petitioner's expert reports, respondent no longer wishes to defend against petitioner's entitlement claim before the Office of Special Masters and requests a ruling on the record regarding petitioner's entitlement to compensation." (ECF No. 44, p. 7.)

In view of Respondent's position (see Vaccine Rule 8(f)) and based on my review of the evidentiary record as a whole, I find that petitioner is entitled to compensation. Compare, e.g., *Pitts v. Sec'y of Health & Human Servs.*, No. 18-1512V, 2023 WL 2770943, at *14 (Fed. Cl. Spec. Mstr. Apr. 4, 2023) (finding one-week post-vaccination onset does not support a vaccine-related shoulder injury), with *Murray v. Sec'y of Health & Human Servs.*, No. 17-1357V, 2022 WL 17829797, at *16-17 (Fed. Cl. Spec. Mstr. Oct. 27, 2022) (finding entitlement where onset of shoulder pain occurred within "a few days" and less than seven days post-vaccination), and *Jewell v. Sec'y of Health & Human Servs.*, No. 16-0670V, 2017 WL 7259139, at * 3 (Fed. Cl. Spec. Mstr. Aug. 4, 2017) (finding entitlement for shoulder injury occurring 72 hours post-vaccination).

IT IS SO ORDERED.

s/Daniel T. Horner
Daniel T. Horner
Special Master