

# In the United States Court of Federal Claims

## OFFICE OF SPECIAL MASTERS

No. 22-0277V

JOHN PIERMATTEO,

Petitioner,

v.

SECRETARY OF HEALTH AND  
HUMAN SERVICES,

Respondent.

Chief Special Master Corcoran

Filed: November 6, 2023

*Leah VaSahnja Durant, Law Offices of Leah V. Durant, PLLC, Washington, DC, for  
Petitioner.*

*Mallori Browne Openchowski, U.S. Department of Justice, Washington, DC, for  
Respondent.*

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

On March 10, 2022, John Piermatteo 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 he suffered Guillain-Barre Syndrome (“GBS”) resulting from an influenza (“flu”) vaccine received on December 11, 2019. Petition at 1. Petitioner further alleges that the vaccine was administered in the United States, his injury has lasted for longer than six months, and neither Petitioner, nor any other party, has ever received compensation in the form of an award or settlement for his vaccine-related injury.

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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).

Petition at ¶¶ 1, 10, 11; Ex. 1. The case was assigned to the Special Processing Unit of the Office of Special Masters.

On November 6, 2023, Respondent filed an amended Rule 4(c) report in which he concedes that Petitioner is entitled to compensation in this case. Respondent's Rule 4(c) Report at 1-2. Specifically, Respondent agrees that "petitioner has satisfied the criteria set forth in the Table and the Qualifications and Aids to Interpretation for GBS, which afford him a presumption of vaccine causation if the onset occurs between three and forty-two days after a seasonal flu vaccination and there is no more likely alternative diagnosis and no apparent alternative cause." *Id.* at 6-7. Respondent further agrees that the record shows that the case was timely filed, the vaccine was received in the United States, and Petitioner satisfies the statutory severity requirement by suffering the residual effects of his injury for more than six months. *Id.* at 7. Respondent adds that Petitioner has averred that no civil action or proceedings have been pursued in connection with the vaccine-related injury. *Id.*

**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