

In the United States Court of Federal Claims

OFFICE OF SPECIAL MASTERS

No. 22-1457V

KENNETH INGALSBE,

Petitioner,

v.

SECRETARY OF HEALTH AND
HUMAN SERVICES,

Respondent.

Chief Special Master Corcoran

Filed: September 22, 2023

Timothy James Lessman, Knutson & Casey Law Firm, Mankato, MN, for Petitioner.

Naseem Kourosh, U.S. Department of Justice, Washington, DC, for Respondent.

RULING ON ENTITLEMENT¹

On October 6, 2022, Kenneth Ingalsbe, 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 that he suffered a Table case - Guillain-Barré Syndrome (“GBS”) – as the result of an influenza (“flu”) vaccination administered on December 18, 2019. Petition at 1. Petitioner further alleges the vaccine was administered within the United States, that he suffered the residual effects of his injury for more than six months, and that there has been no prior award or settlement of a civil action on his behalf as a result of his injury. See Petition at 1, ¶¶ 19-20. The case was assigned to the Special Processing Unit of the Office of Special Masters.

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).

On September 20, 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 indicates that he

has concluded that petitioner's claim satisfies the Table criteria for GBS resulting from a seasonal flu vaccine, with onset occurring between three and forty-two days after vaccination, with no more likely alternative diagnosis and no clear alternative cause. 42 C.F.R. § 100.3(a)(XIV)(D), § 100.3(c)(15); *see also* 42 U.S.C. § 300aa-13(a)(1)(B). Petitioner is therefore entitled to a presumption of vaccine causation. *See* 42 U.S.C. § 300aa-11(c)(1)(C)(i).

With respect to other statutory issues, the records show that the case was timely filed, 42 U.S.C. § 300aa-16(a)(2); that petitioner received the flu vaccine in the United States, 42 U.S.C. § 300aa-11(c)(1)(B)(i)(I); that the flu vaccine that petitioner received is set forth in the Vaccine Injury Table, 42 C.F.R. § 100.3(a)(I)-(II); *see also* 42 U.S.C. § 300aa-14(c); that petitioner's injury lasted for more than six months, 42 U.S.C. § 300aa-11(c)(1)(D)(i); and that petitioner has not filed a prior action or received any prior compensation or award for an injury related to this vaccine. 42 U.S.C. § 300aa-11(c)(1)(E). Therefore, based on the record as it now stands, petitioner has satisfied all legal prerequisites for compensation under the Act.

Id. at 9.

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