

In the United States Court of Federal Claims
OFFICE OF SPECIAL MASTERS
No. 23-0861V

SHARON BEASLEY,

Petitioner,

v.

SECRETARY OF HEALTH AND
HUMAN SERVICES,

Respondent.

Chief Special Master Corcoran

Filed: October 22, 2024

Jonathan Joseph Svitak, Shannon Law Group, P.C., Woodridge, IL, for Petitioner.

Mary Eileen Holmes, U.S. Department of Justice, Washington, DC, for Respondent.

DECISION¹

On June 9, 2023, Sharon Beasley 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 alleged that she suffered a right shoulder injury related to vaccine administration (“SIRVA”), a defined Table Injury, after receiving an influenza (“flu”) vaccine on October 9, 2021. Petition at 1, ¶¶ 2, 23-24. Regarding pain onset, she insisted that she suffered pain at a level of two out of ten upon vaccination, increasing to seven within 48 hours of vaccination. Petition at ¶¶ 5, 25; see also Exhibit 1 at ¶¶ 6, 18 (Petitioner’s declaration).

¹ Because this Decision 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 Decision 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).

After determining there were multiple deficiencies related to Petitioner’s claim, including insufficient evidence of immediate (i.e., within 48 hours) pain after receipt of the vaccine at issue,³ I issued an order to show cause on August 23, 2024. ECF No. 23. I required Petitioner to address these deficiencies or to otherwise show cause why her claim should not be dismissed due to insufficient proof. *Id.*

On October 18, 2024, Petitioner moved for a decision dismissing her petition. ECF No. 26. In the motion, Petitioner acknowledged that “she will be unable to prove that she is entitled to compensation under the Vaccine Program” (*id.* at ¶ 1) and “to proceed further would be unreasonable and would waste the resources of the Court, the [R]espondent, and the Vaccine Program” (*id.* at ¶ 2). Petitioner expressed her understanding that “a decision by the Special Master dismissing her petition will result in a judgment against her . . . [and] will end all of her rights in the Vaccine Program.” *Id.* at ¶ 3. She indicated that she “intends to elect to reject the Vaccine Program judgment against her and elect to file a civil action.” *Id.* at ¶ 5.

To receive compensation under the Program, Petitioner must prove that she received a vaccine covered by the Vaccine Program and then suffered either 1) a “Table Injury” – i.e., an injury falling within the Vaccine Injury Table – corresponding to a covered vaccine, or 2) an injury that was actually caused by a covered vaccine, a “non-Table claim.” See Sections 13(a)(1)(A) and 11(c)(1). Under the Vaccine Act, a petitioner may not be awarded compensation based on the petitioner’s claims alone. Rather, the petition must be supported by either the medical records or by a medical opinion. Section 13(a)(1).

In this case, the record does not contain medical records or a medical opinion sufficient to demonstrate that Petitioner has satisfied the requirements of a Table SIRVA or proven causation-in-fact. For these reasons, and in accordance with Section 12(d)(3)(A), **Petitioner’s motion is GRANTED. Petitioner’s claim for compensation is DENIED and this case is DISMISSED for insufficient proof. The Clerk shall enter judgment accordingly.**⁴

IT IS SO ORDERED.

s/Brian H. Corcoran

Brian H. Corcoran

Chief Special Master

³ 42 C.F.R. § 100.3(a) XIV.B. & (c)(10) (requirements for a Table SIRVA following receipt of the influenza vaccine); *Althen v. Sec’y of Health & Human Servs.*, 418 F.3d 1274, 1278 (Fed. Cir. 2005) (setting out the three-pronged, including the need for an appropriate temporal relationship, which must be met to establish causation).

⁴ Pursuant to Vaccine Rule 11(a), entry of judgment can be expedited by the parties’ joint filing of notice renouncing the right to seek review.