

In the United States Court of Federal Claims

OFFICE OF SPECIAL MASTERS

No. 23-0864V

JUDY MCMAHON,

Petitioner,

v.

SECRETARY OF HEALTH AND
HUMAN SERVICES,

Respondent.

Chief Special Master Corcoran

Filed: September 11, 2024

Bridget Candace McCullough, Muller Brazil, LLP, Dresher, PA, for Petitioner.

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

RULING ON ENTITLEMENT¹

On June 9, 2023, Judy McMahon filed a petition for compensation under the National Vaccine Injury Compensation Program, 42 U.S.C. §300aa-10, *et seq.*¹ (the “Vaccine Act”). Petitioner alleges that she suffered a shoulder injury related to vaccine administration (“SIRVA”) as the result of an influenza (“flu”) vaccine received on September 13, 2021. Petition (ECF No. 1). The case was assigned to the Special Processing Unit of the Office of Special Masters.

On July 25, 2024, I concluded that the at-issue vaccine was most likely administered in Petitioner’s right arm, as alleged. Findings of Fact and Conclusions of Law (ECF No. 20). That review of the evidence is fully incorporated and relied upon herein.

On September 4, 2024, Respondent filed an amended Rule 4(c) report, in which Respondent advised that he will not continue to defend this case during further

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.

proceedings on entitlement before the Office of Special Masters, and Respondent requests a ruling on the record regarding Petitioner's entitlement to compensation. Amended Rule 4(c) Report (ECF No. 22) at 1, 5.

Based on the lack of any other objections from Respondent and my independent review of the evidence, Petitioner has preponderantly established an injury which is consistent with SIRVA as defined by the Vaccine Injury Table. 42 C.F.R. §§ 100.3(a), (c)(10)). Petitioner has satisfied all other legal prerequisites for compensation under the Vaccine Act. Section 13(a)(1)(B); Section 11(c)(1)(D)(i).

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