

# In the United States Court of Federal Claims

## OFFICE OF SPECIAL MASTERS

No. 14-1086V

Filed: March 19, 2015

Unpublished

\*\*\*\*\*

MARILYN WITBRODT,

\*

\*

Petitioner,

\*

\*

\*

SECRETARY OF HEALTH  
AND HUMAN SERVICES,

\*

\*

\*

Respondent.

\*

\*

\*\*\*\*\*

*Alison Haskins, Esq., Maglio Christopher and Toale, PA, Sarasota, FL for petitioner.  
Linda Renzi, Esq., U.S. Department of Justice, Washington, DC for respondent.*

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

**Vowell**, Chief Special Master:

On November 7, 2014, Marilyn Witbrodt 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” or “Program”]. Petitioner alleges that she suffered a shoulder injury caused by the influenza vaccination she received on September 30, 2013.<sup>3</sup> The case was assigned to the Special Processing Unit of the Office of Special Masters.

On March 18, 2015, respondent filed her Rule 4(c) report in which she concedes “compensation is appropriate” in this case. Respondent’s Rule 4(c) Report at 3. Specifically, respondent “concludes that petitioner suffered a Shoulder Injury Related to Vaccine Administration, a non-Table injury, and that the preponderance of the medical

---

<sup>1</sup> Because this unpublished ruling contains a reasoned explanation for the action in this case, I intend to post it on the United States Court of Federal Claims’ website, in accordance with the E-Government Act of 2002, Pub. L. No. 107-347, § 205, 116 Stat. 2899, 2913 (codified as amended at 44 U.S.C. § 3501 note (2006)). 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 “§” references to the Vaccine Act will be to the pertinent subparagraph of 42 U.S.C. § 300aa (2006).

<sup>3</sup> Petition at 1, 3. Although the petition is titled “‘On-Table’ Petition for Compensation,” petition alleges her injuries are causally related to her vaccination.

evidence indicates that the injury was causally related to the flu vaccination” she received on September 30, 2013. *Id.*

**In view of respondent’s concession and the evidence before me, I find that petitioner is entitled to compensation.**

**s/Denise K. Vowell**  
Denise K. Vowell  
Chief Special Master