

# In the United States Court of Federal Claims

## OFFICE OF SPECIAL MASTERS

No. 15-684V

Filed: September 28, 2015

UNPUBLISHED

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ROBERT NOLOP,

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Petitioner,

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SECRETARY OF HEALTH

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AND HUMAN SERVICES,

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Respondent.

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Mark Paul Schloegel, Popham Law Firm, Kansas City, MO, for petitioner.

Claudia Barnes Gangi, U.S. Department of Justice, Washington, DC, for respondent.

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

**Dorsey**, Chief Special Master:

On June 30, 2015, Robert Nolop (“petitioner”) 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 as a result of receiving the influenza (“flu”) vaccine on October 24, 2012, he suffered a left shoulder injury that was caused in fact by his flu vaccination. Petition at 1. The case was assigned to the Special Processing Unit of the Office of Special Masters.

On September 28, 2015, respondent filed her Rule 4(c) report in which she concedes that petitioner is entitled to compensation in this case. Respondent’s Rule 4(c) Report at 3. Specifically, respondent states that petitioner suffered a non-Table injury of a shoulder injury related to vaccine administration (SIRVA), and “that a preponderance of the medical evidence indicates that the injury was causally related to

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<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 Because this unpublished ruling contains a reasoned explanation for the action in this case, I intend to post it on the United States Court of Federal Claims’ website, in accordance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 (2012).

the flu vaccine he received on October 24, 2012.” Id. at 3. Respondent further states that the records show that petitioner suffered the sequela of his injury for more than six months. Id. Thus, respondent states that “petitioner met the statutory requirements by suffering the condition for more than six months. Therefore, compensation is appropriate.” Id. (citations omitted).

**In view of respondent’s concession and the evidence presented, the undersigned finds that petitioner is entitled to compensation.**

**s/Nora Beth Dorsey**  
Nora Beth Dorsey  
Chief Special Master