

In the United States Court of Federal Claims

OFFICE OF SPECIAL MASTERS

No. 15-1045V

Filed: January 22, 2016

Unpublished

RICHARD KAUFMAN,

Petitioner,

SECRETARY OF HEALTH
AND HUMAN SERVICES,

Respondent.

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Ruling on Entitlement; Concession;
Influenza ("Flu") Vaccination;
Shoulder Injury Related to Vaccine
Administration ("SIRVA"); Special
Processing Unit ("SPU")

*Amber Diane Wilson, Maglio Christopher and Toale, PA, Washington, DC, for petitioner.
Robert Paul Coleman, III, U.S. Department of Justice, Washington, DC, for respondent.*

RULING ON ENTITLEMENT¹

Dorsey, Chief Special Master:

On September 21, 2015, 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" or "Program"]. Petitioner alleges that he suffered a right shoulder injury as a result of his September 10, 2014 influenza vaccination. Petition at 1-3. The case was assigned to the Special Processing Unit of the Office of Special Masters.

On January 20, 2016, 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 1-2. Specifically, respondent "concluded that a preponderance of the evidence established that petitioner's injury is consistent with a shoulder injury related to vaccine administration ('SIRVA'), and that petitioner's injury is not due to factors unrelated to the influenza vaccination he received on September 10, 2014." *Id.* at 3.

¹ Because this unpublished ruling contains a reasoned explanation for the action in this case, the undersigned intends to post it on the United States Court of Federal Claims' website,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, the undersigned agrees that the identified material fits within this definition, the undersigned 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 "§" references to the Vaccine Act will be to the pertinent subparagraph of 42 U.S.C. § 300aa (2012).

Respondent further agrees that “petitioner’s right shoulder injury is compensable as a ‘caused-in-fact’ injury under that Vaccine Act.” *Id.* Additionally, respondent indicates that the records demonstrate the claim was timely filed, “that petitioner received a vaccine set forth in the Vaccine Injury Table, and that the vaccine was received in the United States.” *Id.* Respondent further indicates that petitioner met the statutory requirements by suffering his condition for more than six months, and that the petition indicates petitioner has received no prior compensation in the form of an award or settlement related to his vaccine injury. *Id.* at 3-4.

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

IT IS SO ORDERED.

s/Nora Beth Dorsey
Nora Beth Dorsey
Chief Special Master