

# In the United States Court of Federal Claims

## OFFICE OF SPECIAL MASTERS

No. 15-1061V

Filed: December 2, 2015

Unpublished

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TENAYA BANKO,

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Petitioner,

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SECRETARY OF HEALTH  
AND HUMAN SERVICES,

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Respondent.

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*Tara Cristin O'Mahoney, Law Offices of Chicago-Kent College of Law, Chicago, IL, for petitioner.*

*Julia Wernett McInerney, U.S. Department of Justice, Washington, DC, for respondent.*

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

**Dorsey**, Chief Special Master:

On September 22, 2015, 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"]. Petitioner alleges that she received a seasonal influenza ("flu") vaccine in her left arm on October 4, 2012, and subsequently suffered a shoulder injury related to vaccine administration ("SIRVA"). Petition at 7. The case was assigned to the Special Processing Unit of the Office of Special Masters.

On December 2, 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 1. Specifically, respondent states that the "alleged injury is consistent with SIRVA. Based on the medical records outlined above, petitioner meets the six month statutory requirement. Therefore, based on the record as it now stands,

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<sup>1</sup> Because this unpublished ruling contains a reasoned explanation for the action in this case, the undersigned intends to post it on the United States Court of Federal Claims' website,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.

<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).

petitioner has satisfied all legal prerequisites for compensation under the Act.” *Id.* at 4 (citations omitted).

**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