

# In the United States Court of Federal Claims

## OFFICE OF SPECIAL MASTERS

No. 15-1172V

Filed: December 10, 2015

UNPUBLISHED

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CAROL A. MARSYLA,

Petitioner,

SECRETARY OF HEALTH  
AND HUMAN SERVICES,

Respondent.

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Ruling on Entitlement; Concession;  
Tetanus, Diphtheria, Acellular, Pertussis  
Vaccine (Tdap); Shoulder Injury  
Related to Vaccine Administration  
(SIRVA); Special Processing Unit (SPU)

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*Kate Gerayne Westad, Lommen Abdo Law Firm, Minneapolis, MN, for petitioner.*

*Debra A. Filteau Begley, U.S. Department of Justice, Washington, DC, for respondent.*

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

**Dorsey**, Chief Special Master:

On October 9, 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 tetanus, diphtheria, acellular pertussis (“Tdap”) vaccine on November 8, 2013, and subsequently suffered a shoulder injury related to vaccine administration (“SIRVA”). Petition at 1. The case was assigned to the Special Processing Unit of the Office of Special Masters.

On December 9, 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 she believes that the alleged injury is consistent with SIRVA and that it was caused by the administration of petitioner’s Tdap vaccination. *Id.* at 3. Respondent further agrees that petitioner has met the statutory requirements by suffering the condition for more than six months. *Id.*

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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 Because this unpublished ruling contains a reasoned explanation for the action in this case, the undersigned intends to post it on the United States Court of Federal Claims’ website,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).

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