

In the United States Court of Federal Claims

OFFICE OF SPECIAL MASTERS

No. 15-1264V

Filed: February 22, 2016

Unpublished

LINDA K. SCHUPP,

Petitioner,

SECRETARY OF HEALTH
AND HUMAN SERVICES,

Respondent.

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

Brian L. Cinelli, Marcus & Cinelli, LLP, Williamsville, NY, for petitioner.

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

RULING ON ENTITLEMENT¹

Dorsey, Chief Special Master:

On October 27, 2015, Ms. Schupp filed a petition for compensation under the National Vaccine Injury Compensation Program, 42 U.S.C. §300aa-10, *et seq.*,² [the "Vaccine Act"]. Petitioner alleged that she received a trivalent influenza ("flu") vaccine in her left arm on September 17, 2013, and subsequently suffered pain in her left shoulder secondary to the vaccination. Petition at 1. The case was assigned to the Special Processing Unit of the Office of Special Masters.

On February 22, 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. Specifically, respondent states that compensation is appropriate in this case *Id.* at 1. Respondent further agrees that petitioner's injury is consistent with a shoulder injury related to vaccine administration (SIRVA), that petitioner suffered her

¹ Because this unpublished ruling contains a reasoned explanation for the action in this case, the undersigned intends to post it on the United States Court of Federal Claims' website,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. 44 U.S.C. § 3501 note (2012)(Federal Management and Promotion of Electronic Government Services). 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).

condition for more than six months, and thus, petitioner has satisfied all legal prerequisites for compensation under the Vaccine Act. *Id.*

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