

In the United States Court of Federal Claims

OFFICE OF SPECIAL MASTERS

No. 15-1432V

Filed: April 8, 2016

Unpublished

ROBERT T. FERENC,

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Petitioner,

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v.

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SECRETARY OF HEALTH

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AND HUMAN SERVICES,

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Respondent.

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Robert P. Goodwin, Walsh Roberts & Grace, Buffalo, NY, for petitioner.

Ryan D. Pyles, U.S. Department of Justice, Washington, DC, for respondent.

RULING ON ENTITLEMENT¹

Dorsey, Chief Special Master:

On November 30, 2015, Robert T. Ferenc (“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 as a result of receiving an influenza (“flu”) vaccine on September 11, 2013, he suffered an injury to his left shoulder. Petition at 1. The case was assigned to the Special Processing Unit (“SPU”) of the Office of Special Masters.

On April 7, 2016, respondent filed her Rule 4(c) Report in which she concedes that petitioner is entitled to compensation in this case. Rule 4(c) Rep. at 1. Specifically, respondent concluded that petitioner’s alleged injury is consistent with shoulder injury related to vaccine administration (“SIRVA”), and that a preponderance of the evidence establishes that it was caused-in-fact by the flu vaccine he received on September 11, 2013. *Id.* at 2. Respondent further stated that she did not identify any other causes for

¹ Because this unpublished ruling contains a reasoned explanation for the action in this case, the undersigned intends to post it on the United States Court of Federal Claims’ website,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

petitioner's SIRVA, and that the records show petitioner has suffered the sequela of this injury for more than six months. *Id.* at 2-3. Therefore, based on the current record, petitioner has satisfied all legal prerequisites for compensation under the Act. *Id.* at 3.

In view of respondent's concession and the evidence of record, the undersigned finds that petitioner is entitled to compensation.

IT IS SO ORDERED.

s/Nora Beth Dorsey
Nora Beth Dorsey
Chief Special Master