

In the United States Court of Federal Claims

OFFICE OF SPECIAL MASTERS

Filed: May 11, 2018

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PHYLLIS WEIR,

Petitioner,

v.

SECRETARY OF HEALTH
AND HUMAN SERVICES,

Respondent.

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No. 15-1491V
Special Master Sanders

Ruling on Entitlement; Uncontested;
Influenza (“Flu”) Vaccine; Guillain-Barré
Syndrome (“GBS”)

Michael G. McLaren, Black McLaren, et al., PC, Memphis, TN, for Petitioner.

Robert P. Coleman, United States Department of Justice, Washington, DC, for Respondent.

RULING ON ENTITLEMENT¹

On December 9, 2015, Phyllis Weir (“Petitioner”) filed a petition for compensation pursuant to the National Vaccine Injury Compensation Program.² 42 U.S.C. §§ 300aa-10 to -34 (2012). Petitioner alleged that the seasonal influenza vaccine she received on February 16, 2013 caused her to develop “Guillain-Barré Syndrome (“GBS”) and/or other neurologic and physical impairments and other injuries.” Pet. at 1, ECF No. 1. Petitioner further alleged that she experienced residual effects of her injury for more than six months. *Id.* at 8.

On May 10, 2018, Respondent filed his Rule 4(c) Report. ECF No. 48. In his report, Respondent states that he “does not contest entitlement in this matter.” *Id.* at 1. Specifically, Respondent states that “[P]etitioner has satisfied the criteria set forth in the newly revised Vaccine Injury Table (“Table”) and the Qualifications and Aids to Interpretation (“QAI”).” *Id.* at 3.

¹ This decision shall be posted 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), a party has 14 days to identify and move to delete medical or other information that satisfies the criteria in § 300aa-12(d)(4)(B). Further, consistent with the rule requirement, a motion for redaction must include a proposed redacted decision. If, upon review, the undersigned agrees that the identified material fits within the requirements of that provision, such material will be deleted from public access.

² National Childhood Vaccine Injury Act of 1986, Pub L. No. 99-660, 100 Stat. 3755.

Respondent further states that “[a]lthough the revised Table only governs petitions filed on or after the effective date of the final rule, the evidence shows that [P]etitioner suffered GBS following the administration of an influenza vaccine, and that the onset of the condition occurred within the time period specified in the Table. Recognizing that [P]etitioner may re-file this petition and be afforded a presumption of causation under the revised Table . . . , [R]espondent will not contest entitlement to compensation in this case.” *Id.*

In light of Respondent’s position and the evidence of record, the undersigned finds that Petitioner is entitled to compensation. In accordance with the undersigned’s May 3, 2018 Order, the parties shall file information on damages no later than **May 16, 2018**.

IT IS SO ORDERED.

s/Herbrina D. Sanders
Herbrina D. Sanders
Special Master