

In the United States Court of Federal Claims

OFFICE OF SPECIAL MASTERS

No. 16-0014V

Filed: April 6, 2016

Unpublished

BARBIE SMOOT,

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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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Amber Wilson, Maglio Christopher and Toale, PA, for petitioner.

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

RULING ON ENTITLEMENT¹

Dorsey, Chief Special Master:

On January 4, 2016, Barbie Smoot (“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 a tetanus-diphtheria-acellular pertussis (“Tdap”) vaccine on March 12, 2015, she suffered an injury to her left shoulder. Petition at 1-2. The case was assigned to the Special Processing Unit (“SPU”) of the Office of Special Masters.

On April 4, 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 concludes that petitioner’s alleged injury is consistent with shoulder injury related to vaccine administration (“SIRVA”). *Id.* at 3. Respondent further states that the records show that petitioner suffered the sequela of this injury for more than six months.

¹ Because this unpublished ruling contains a reasoned explanation for the action in this case, the undersigned intends to post it on the United States Court of Federal Claims’ website,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

Id. Therefore, based on the record as it now stands, petitioner has satisfied all legal prerequisites for compensation under the Act. *Id.*

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