In the United States Court of Federal Claims

OFFICE OF SPECIAL MASTERS
No. 16-858V
Filed: October 14, 2016
UNPUBLISHED

BRENDA SMITH,	*	
	*	
Petitioner,	*	Ruling on Entitlement; Concession;
v.	*	Influenza;
	*	Shoulder Injury; SIRVA;
SECRETARY OF HEALTH AND HUMAN SERVICES,	*	Special Processing Unit ("SPU")
	*	
	*	
Respondent.	*	
	*	

Maximillian J. Muller, Muller Brazil LLP, Dresher, PA, for petitioner.
Lara Ann Englund, U.S. Department of Justice, Washington, DC, for respondent.

RULING ON ENTITLEMENT[1]

Dorsey, Chief Special Master:

On July 21, 2016, 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"). Petitioner alleges that she suffered a shoulder injury as a result of the administration of her October 9, 2015 influenza vaccination. Petition at 1. The case was assigned to the Special Processing Unit of the Office of Special Masters.

On October 11, 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 "opines that petitioner's alleged injury is consistent with a shoulder injury related to vaccine administration ("SIRVA") . . . [and] further agrees that petitioner's SIRVA was caused-in-fact by the flu vaccination administered on October 9, 2015. No other causes for petitioner's SIRVA were identified." *Id.* at 3. Respondent further agrees that the statutory six month sequela

[1] Because this unpublished ruling contains a reasoned explanation for the action in this case, the undersigned intends to post it on the United States Court of Federal Claims' website,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

requirement has been satisfied and that 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