

# In the United States Court of Federal Claims

## OFFICE OF SPECIAL MASTERS

No. 16-0877V

Filed: August 26, 2016

UNPUBLISHED

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MARION KITTY,

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Petitioner,

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v.

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SECRETARY OF HEALTH  
AND HUMAN SERVICES,

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Respondent.

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*Maximillian J. Muller, Muller Brazil, LLP, Dresher, PA, for petitioner.*

*Darryl R. Wishard, U.S. Department of Justice, Washington, DC, for respondent.*

### **RULING ON ENTITLEMENT<sup>1</sup>**

**Dorsey**, Chief Special Master:

On July 25, 2016, Marion Kitty (“petitioner”) filed a petition for compensation under the National Vaccine Injury Compensation Program, 42 U.S.C. §300aa-10, *et seq.*,<sup>2</sup> (the “Vaccine Act”). Petitioner alleges that as a result of receiving an influenza (“flu”) vaccine on October 2, 2015, she suffered a right shoulder injury. Petition at 1. The case was assigned to the Special Processing Unit of the Office of Special Masters.

On August 26, 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 concludes that “petitioner’s alleged injury is consistent with shoulder injury related to vaccine administration (“SIRVA”), and that it was caused-in-fact by the flu vaccine she received on October 2, 2015.” *Id.* at 3. Respondent further agrees that “based on the record as it now stands, petitioner has satisfied all legal prerequisites for compensation under the Act.” *Id.*

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 Because this unpublished ruling contains a reasoned explanation for the action in this case, the undersigned intends to post it on the United States Court of Federal Claims’ website,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

<sup>2</sup> 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).

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