

In the United States Court of Federal Claims

OFFICE OF SPECIAL MASTERS

No. 16-1007V

Filed: February 2, 2017

Unpublished

JANE ROCHA-DEMELO,

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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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Ronald C. Homer, Conway, Homer, P.C., Boston, MA, for petitioner.

Colleen C. Hartley, U.S. Department of Justice, Washington, DC, for respondent.

RULING ON ENTITLEMENT¹

Dorsey, Chief Special Master:

On August 15, 2016, Jane Rocha-Demelo (“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 related to vaccine administration (“SIRVA”) as a result of receiving an influenza (“flu”) vaccination on November 1, 2014. Petition at 1. The case was assigned to the Special Processing Unit (“SPU”) of the Office of Special Masters.

On February 2, 2017, respondent filed a Rule 4(c) Report conceding that petitioner is entitled to compensation. Rule 4(c) Rep. at 2. Based on his evaluation of the evidence, respondent concluded that petitioner’s alleged injury is consistent with a SIRVA, and that it was caused in fact by the flu vaccine she received on November 1, 2014. *Id.* at 6. Respondent did not identify any other causes for petitioner’s SIRVA, and petitioner’s records demonstrate that she suffered residuals of her condition 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¹ Because this unpublished ruling contains a reasoned explanation for the action in this case, the undersigned intends to post it on the United States Court of Federal Claims’ website,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).

more than six months. *Id.* Therefore, based on the record as it now stands, petitioner has satisfied all legal prerequisites for compensation under the Vaccine Act. *Id.* at 7.

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