

# In the United States Court of Federal Claims

## OFFICE OF SPECIAL MASTERS

No. 16-1535V

Filed: June 19, 2017

Unpublished

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EDITHE SWENSEN,

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Petitioner,

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v.

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Ruling on Entitlement; Concession;

Influenza ("Flu") Vaccination;

Shoulder Injury Related to Vaccine

SECRETARY OF HEALTH

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Administration ("SIRVA");

AND HUMAN SERVICES,

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Special Processing Unit ("SPU")

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Respondent.

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*Bruce Slane, Law Office of Bruce W. Slane, P.C., White Plains, NY, for petitioner.  
Amy Kokot, U.S. Department of Justice, Washington, DC, for respondent.*

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

**Dorsey**, Chief Special Master:

On November 17, 2016, Edith Swensen ("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" or "Program"). Petitioner alleges that she suffered "injuries including a Left Shoulder SIRVA injury, tendinitis, impingement, infraspinatus tendinopathy, superior labrum tear, and subdeltoid bursitis caused-in-fact by the adverse effects of an influenza vaccination received on November 24, 2015." Petition at 1; *accord*. Petition at ¶ 25. Petitioner further alleges that she received the vaccination intramuscularly in the United States, has suffered the residual effects of her injury for more than six months, and that neither she nor any other party has filed a civil action or received compensation for her injury alleged as vaccine caused. *Id.* at ¶¶ 2, 26-28. The case was assigned to the Special Processing Unit of the Office of Special Masters.

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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 Because this unpublished ruling contains a reasoned explanation for the action in this case, the undersigned intends to post it on the United States Court of Federal Claims' website,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, Pub. L. No. 107-347, § 205, 116 Stat. 2899, 2913 (codified as amended at 44 U.S.C. § 3501 note (2012)). 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).

On June 16, 2017, respondent filed his Rule 4(c) report in which he concedes that petitioner is entitled to compensation in this case for her SIRVA of the left shoulder and its related sequelae. Respondent's Rule 4(c) Report at 1. Specifically, respondent "has concluded that petitioner's alleged injury is consistent with SIRVA and that it was caused-in-fact by the flu vaccine she received on November 24, 2015." *Id.* at 4. Respondent further indicates that "based on the record as it now stands, petitioner has satisfied all legal prerequisites for compensation under the Vaccine Act." *Id.*

**In view of respondent's concession and the evidence before me, I find that petitioner is entitled to compensation.**

**IT IS SO ORDERED.**

**s/Nora Beth Dorsey**

Nora Beth Dorsey  
Chief Special Master