

In the United States Court of Federal Claims

OFFICE OF SPECIAL MASTERS

No. 17-31V

Filed: August 21, 2017

UNPUBLISHED

CYNTHIA DEAN,

Petitioner,

v.

SECRETARY OF HEALTH AND
HUMAN SERVICES,

Respondent.

Special Processing Unit (SPU);
Ruling on Entitlement; Concession;
Causation-In-Fact; Influenza (Flu)
Vaccine; Shoulder Injury Related to
Vaccine Administration (SIRVA)

Edward M. Kraus, Law Offices of Chicago Kent, Chicago, IL, for petitioner.

Christine Mary Becer, U.S. Department of Justice, Washington, DC, for respondent.

RULING ON ENTITLEMENT¹

Dorsey, Chief Special Master:

On January 9, 2017, 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 that she suffered a left shoulder injury that was caused-in-fact by the influenza (“flu”) vaccine she received on December 12, 2014. Petition at 1. The case was assigned to the Special Processing Unit of the Office of Special Masters.

On August 21, 2017, respondent filed his Rule 4(c) report in which he concedes that petitioner is entitled to compensation in this case. Respondent’s Rule 4(c) Report at 1. Specifically, respondent states that “a preponderance of the evidence establishes

¹ Because this unpublished ruling contains a reasoned explanation for the action in this case, the undersigned intends to post it on the United States Court of Federal Claims’ website,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

that the injury to petitioner's left shoulder was caused-in-fact by the administration of her December 12, 2014 flu vaccine, and that petitioner's injury is not due to factors unrelated to the administration of the flu vaccine." *Id.* at 4. Respondent further agrees that the statutory six month sequela requirement has been satisfied. *Id.*

In view of respondent's position 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