

# In the United States Court of Federal Claims

## OFFICE OF SPECIAL MASTERS

No. 17-0190V

Filed: September 21, 2017

UNPUBLISHED

AMBER MCATEER,

Petitioner,

v.

SECRETARY OF HEALTH AND  
HUMAN SERVICES,

Respondent.

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

*Lawrence R. Cohan, Anapol Weiss, Philadelphia, PA, for petitioner.*

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

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

**Dorsey**, Chief Special Master:

On February 8, 2017, 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 she received the influenza (“flu”) vaccine on October 1, 2014, and thereafter suffered from a left shoulder injury that was caused-in-fact by the flu vaccine. Petition at 1. The case was assigned to the Special Processing Unit (“SPU”) of the Office of Special Masters.

On September 21, 2017, respondent filed his Rule 4(c) Report in which he states that he does not contest that petitioner is entitled to compensation in this case. Rule 4(c) Report at 1. Specifically, respondent stated that petitioner’s alleged injury is consistent with a shoulder injury related to vaccine administration (“SIRVA”) caused by

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 Because this unpublished ruling contains a reasoned explanation for the action in this case, the undersigned intends to post it on the United States Court of Federal Claims’ website,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

the administration of her October 1, 2014 flu vaccine. *Id.* at 1, 3. Further, respondent did not identify any other causes for petitioner's SIRVA, and records show that petitioner suffered her condition for more than six months. *Id.* at 3-4. Therefore, in light of the information contained in petitioner's medical records, respondent has concluded that petitioner's left shoulder injury is compensable as a "caused-in-fact" injury under the Act. *Id.* at 4.

**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