

# In the United States Court of Federal Claims

## OFFICE OF SPECIAL MASTERS

No. 17-605V

Filed: December 6, 2017

UNPUBLISHED

YVONNE SALMON,

Petitioner,

v.

SECRETARY OF HEALTH AND  
HUMAN SERVICES,

Respondent.

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

*Shealene Priscilla Wasserman, Muller Brazil, LLP, Dresher, PA, for petitioner.*  
*Linda Sara Renzi, U.S. Department of Justice, Washington, DC, for respondent.*

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

**Dorsey**, Chief Special Master:

On May 5, 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 her November 5, 2014 influenza (“flu”) vaccination caused her to suffer left shoulder injuries. Petition at 1. The case was assigned to the Special Processing Unit of the Office of Special Masters.

On December 1, 2017, respondent filed an Amended Rule 4(c) report in which he concedes that petitioner is entitled to compensation in this case. Respondent’s Amended Rule 4(c) Report at 1. Specifically, respondent indicates that

DICP has reviewed the facts of this case and concluded that petitioner’s claim meets the Table criteria for SIRVA. Specifically, petitioner had no

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 Because this unpublished ruling contains a reasoned explanation for the action in this case, the undersigned intends to post it on the United States Court of Federal Claims’ website,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

history of pain, inflammation or dysfunction of the affected shoulder prior to intramuscular vaccine administration that would explain the alleged signs, symptoms, examination findings, and/or diagnostic studies occurring after vaccine injection; she suffered the onset of pain within forty-eight hours of vaccine administration; her pain and reduced range of motion were limited to the shoulder in which the intramuscular vaccine was administered; and there is no other condition or abnormality present that would explain petitioner's symptoms. Therefore, petitioner is entitled to a presumption of vaccine causation.

*Id.* at 2. Respondent further agrees that

the case was timely filed, that the vaccine was received in the United States, and that petitioner satisfies the statutory severity requirement by suffering the residual effects or complications of her injury for more than six months after vaccine administration. See 42 U.S.C. §§ 300aa-11(c)(1)(D)(i). Petitioner avers that no civil action or proceedings have been pursued in connection with the vaccine-related injury. See 42 U.S.C. §§ 300aa-11(a)(5) and -11(c)(1)(E); Pet. Ex. 10.

*Id.* at 2-3.

**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