

In the United States Court of Federal Claims

OFFICE OF SPECIAL MASTERS

No. 17-1259V

Filed: June 12, 2018

UNPUBLISHED

MICHAEL O'CONNOR,

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)

*Jason Barton Eshelman, Eshelman Legal Group, Cuyahoga Falls, OH, for petitioner.
Ann Donohue Martin, U.S. Department of Justice, Washington, DC, for respondent.*

RULING ON ENTITLEMENT¹

Dorsey, Chief Special Master:

On September 15, 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 he suffered left shoulder injuries due to an influenza vaccination received on September 17, 2015. Petition at 1. The case was assigned to the Special Processing Unit of the Office of Special Masters.

On June 11, 2018, 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 petitioner's claim meets the Table criteria for a shoulder injury related to vaccine administration ("SIRVA") in that petitioner had no history of pain, inflammation, or dysfunction in the affected shoulder, suffered the onset

¹ Because this unpublished ruling contains a reasoned explanation for the action in this case, the undersigned intends to post it on the United States Court of Federal Claims' website,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

of pain within 48 hours of vaccine administration, and his pain and reduced range of motion were limited to the shoulder in which the intramuscular vaccine was administered. *Id.* at 5. Respondent further agrees that the petition was timely filed, the vaccine was received in the United States, and that petitioner suffered the residual effects or complications of his injury for more than six months after vaccine administration. *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