

In the United States Court of Federal Claims

OFFICE OF SPECIAL MASTERS

No. 17-1465V

Filed: September 5, 2018

UNPUBLISHED

BANGONE THIRAKUL,

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);
Subacromial Bursitis, Tendonitis, and
Impingement Syndrome

Steven I. Kastner, San Diego, CA, for petitioner.

Sarah Christina Duncan, U.S. Department of Justice, Washington, DC, for respondent.

RULING ON ENTITLEMENT¹

Dorsey, Chief Special Master:

On October 6, 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 she suffered injuries, including a Shoulder Injury Related to Vaccine Administration resulting from an influenza vaccination received on October 13, 2014. Petition at 1. The case was assigned to the Special Processing Unit of the Office of Special Masters.

On September 4, 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 asserts that petitioner’s alleged injury is not consistent with SIRVA because her pain was not limited to the shoulder in which the

¹ Because this unpublished ruling contains a reasoned explanation for the action in this case, the undersigned intends to post it on the United States Court of Federal Claims’ website,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

vaccination was administered; however, respondent has concluded that petitioner's subacromial bursitis, tendonitis, and impingement syndrome were caused-in-fact by her October 13, 2014 flu vaccination. *Id.* at 7. Respondent further agrees that he has not identified any other cause for petitioner's injury and that the medical records demonstrate that she suffered the residual effects of her condition for more than six months. *Id.* Therefore, respondent concedes that "petitioner has satisfied all legal prerequisites for compensation under the Vaccine Act." *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