

# In the United States Court of Federal Claims

## OFFICE OF SPECIAL MASTERS

No. 18-0192V

Filed: February 22, 2019

UNPUBLISHED

WANDA GARCIA,

Petitioner,

v.

SECRETARY OF HEALTH  
AND HUMAN SERVICES,

Respondent.

Special Processing Unit (SPU);  
Ruling on Entitlement; Concession;  
Causation-In-Fact; Tetanus  
Diphtheria acellular Pertussis (Tdap)  
Vaccine; Abscess; Non-Specific  
Mass

*John Robert Howie, Howie Law, PC, Dallas, TX, for petitioner.*

*Julia Marter Collison, U.S. Department of Justice, Washington, DC, for respondent.*

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

**Dorsey**, Chief Special Master:

On February 7, 2018, Wanda Garcia (“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 suffered “an abscess in her left shoulder” which was caused-in-fact by a Tdap vaccination she received on April 22, 2016. Petition at 1. The case was assigned to the Special Processing Unit of the Office of Special Masters.

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<sup>1</sup> The undersigned intends to post this ruling on the United States Court of Federal Claims' website. **This means the ruling will be available to anyone with access to the internet.** 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. Because this unpublished ruling contains a reasoned explanation for the action in this case, undersigned is required to post it on the United States Court of Federal Claims' website in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).

<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).

On February 22, 2019, 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 developed a non-specific mass on her left upper extremity, which was more likely than not caused by administration of a Tdap vaccine at the same location. No other causes for petitioner's non-specific mass have been identified." *Id.* at 4. Respondent further agrees that "petitioner has satisfied the statutory requirement that petitioner's injury lasted for at least six months, or resulted in 'inpatient hospitalization and surgical intervention' as required by 42 U.S.C. § 300aa-11(c)(1)(D)(i),(iii). *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