

# In the United States Court of Federal Claims

## OFFICE OF SPECIAL MASTERS

No. 20-0207V

UNPUBLISHED

PHYLLIS DOYLE,

Petitioner,

v.

SECRETARY OF HEALTH AND  
HUMAN SERVICES,

Respondent.

Chief Special Master Corcoran

Filed: January 5, 2021

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

*Jessica Olins, Maglio Christopher & Toale, PA, Washington, DC, for petitioner.*

*Mollie Danielle Gorney, U.S. Department of Justice, Washington, DC, for respondent.*

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

On February 26, 2020, Phyllis Doyle 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 an influenza (“flu”) vaccine in her right deltoid on November 17, 2018, and subsequently suffered from brachial neuritis.<sup>3</sup> Petition at 1, 7. The case was assigned to the Special Processing Unit of the Office of Special Masters.

On January 4, 2021, 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

<sup>1</sup> Because this unpublished ruling contains a reasoned explanation for the action in this case, I am required to post it on the United States Court of Federal Claims’ website in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). **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, I agree that the identified material fits within this definition, I 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).

<sup>3</sup> Although Respondent concedes that Petitioner suffered a SIRVA as a result of the November 17, 2018 flu vaccine, Petitioner did not allege this injury in her petition. Petitioner is ordered to file an amended petition to cure this deficiency.

1. Specifically, it is Respondent's position that Petitioner has satisfied the criteria set forth in the revised Vaccine Injury Table and the Qualifications and Aids to Interpretation, which afford a petitioner a presumption of causation if onset of SIRVA occurs within forty-eight hours after receipt of a seasonal flu vaccination and there is no apparent alternative cause. *Id.* at 4. Respondent further agrees that Petitioner has experienced the residual effects of her SIRVA for more than six months. *Id.*

**In view of Respondent's position and the evidence of record, I find that Petitioner is entitled to compensation.**

**IT IS SO ORDERED.**

**s/Brian H. Corcoran**

Brian H. Corcoran

Chief Special Master