

**IN THE UNITED STATES COURT OF FEDERAL CLAIMS
OFFICE OF SPECIAL MASTERS**

No. 13-146V

Filed: December 19, 2013

DANA LIVNEH, *

*

Petitioner, *

v. *

*

SECRETARY OF THE DEPARTMENT *

OF HEALTH AND HUMAN SERVICES, *

*

Respondent. *

RULING ON ENTITLEMENT¹

Vowell, Chief Special Master:

On February 27, 2013, Dana Livneh [“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” or “Program”]. The petition alleges that petitioner received the tetanus-diphtheria-acellular pertussis [Tdap] vaccine on December 1, 2010, and thereafter suffered an “injection injury with resulting severe debilitating pain and immobility in her left shoulder and arm,” which was caused in fact by the vaccine. Petition at 1.

On December 18, 2013, respondent filed her Rule 4(c) report [“Respondent’s Report”], in which she concedes that petitioner is entitled to compensation in this case. Respondent’s Report at 4. Specifically, respondent submits that “a preponderance of evidence establishes that the injury to petitioner’s left shoulder i[s] an injection injury that was caused-in-fact by the administration of her December 1, 2010, Tdap vaccine, and that petitioner’s injury is not due to factors unrelated to the administration of the December 1, 2010, Tdap vaccine.” *Id.*; See 42 U.S.C. §300aa-13(a)(1).

¹ Because this unpublished ruling contains a reasoned explanation for the action in this case, I intend to post this ruling on the United States Court of Federal Claims' website, in accordance with the E-Government Act of 2002, Pub. L. No. 107-347, § 205, 116 Stat. 2899, 2913 (codified as amended at 44 U.S.C. § 3501 note (2006)). In accordance with Vaccine Rule 18(b), petitioner has 14 days to identify and move to delete 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 delete 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 (2006).

Respondent also agreed, based on petitioner's medical records, that the statutory six month sequel requirement has been satisfied. Respondent's Report at 4. See *also* Pet. Exs. 3-4.

In view of respondent's concession and the evidence before me, I find entitlement to compensation based on an injury that was caused-in-fact by a covered vaccine. 42 C.F.R. § 100.3(a)(I). A separate damages order will issue.

IT IS SO ORDERED.

s/Denise K. Vowell
Denise K. Vowell
Chief Special Master