

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

No. 13-657V

Filed: December 27, 2013

(Not for Publication)

SUSAN MOODY,

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Petitioner,

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Ruling on Entitlement; Influenza Vaccine;

v.

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SIRVA

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SECRETARY OF HEALTH
AND HUMAN SERVICES,

*

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Respondent.

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RULING ON ENTITLEMENT¹

Vowell, Chief Special Master:

On September 10, 2013, Susan Moody [“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 trivalent influenza vaccine on September 11, 2011, and thereafter suffered a shoulder injury related to vaccination administration (SIRVA) which was caused in fact by the vaccine. Petition at 1.

On December 27, 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 5. Specifically, respondent submits that “DVIC agrees that petitioner’s claim satisfies the Althen requirements and that her SIRVA was caused-in-fact by the influenza vaccination that she received on September 11, 2011.” *Id.*; See 42

¹ Because this unpublished ruling contains a reasoned explanation for the action in this case, I intend to post this ruling on the United States Court of Federal Claims' website, in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

U.S.C. §300aa-13(a)(1); *Althen v. Sec'y of HHS*, 418 F.3d 1274 (Fed. Cir. 2005). Respondent also agreed, based on petitioner's medical records, that the statutory six month sequela requirement has been satisfied. Respondent's Report at 5; Pet. Ex. 3 at 5.

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