

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

**No. 13-068V  
Filed: May 9, 2013**

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LORI SIMPSON,

Petitioner,

v.

SECRETARY OF HEALTH  
AND HUMAN SERVICES,

Respondent.

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\* Ruling on Entitlement; Conceded;  
\* Influenza; Shoulder Injury Related to  
\* Vaccine Administration ["SIRVA"]  
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**RULING ON ENTITLEMENT**<sup>1</sup>

**Vowell**, Special Master:

On January 28, 2013, Lori Simpson 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" or "Program"].<sup>3</sup> The petition alleges that as a result of an influenza vaccine administered to her on December 18, 2010 she suffered and continues to suffer from right shoulder pain. Petition at 1.

On May 8, 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 1.

Specifically, respondent submits that the most likely diagnosis for petitioner's injury is "Shoulder Injury Related to Vaccine Administration ("SIRVA"), based on symptom onset, examination finding, her clinical course, the MRI, and shoulder

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<sup>1</sup> Because this unpublished ruling contains a reasoned explanation for the action in this case, I intend to post this ruling and order on the United States Court of Federal Claims'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.

<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 (2006).

<sup>3</sup> This is the second petition Ms. Simpson filed in the Program. Her first petition, filed October 31, 2012, was dismissed because she had a pending civil suit at the time of filing. Her civil suit was dismissed on December 5, 2012, and she subsequently filed this vaccine claim.

arthroscopy.” Respondent’s Report at 6. Respondent notes that onset occurred in a medically appropriate timeframe and that the records provide no alternative cause for petitioner’s right shoulder pain. *Id.* Additionally, respondent notes that Ms. Simpson denied previous right shoulder problems, underwent surgery, and experienced residual effects of the injury for more than six months. *Id.* “Thus, based on the totality of the evidence, [respondent concedes that] petitioner has satisfied her burden of proving entitlement to compensation under the Act.” *Id.*

**In view of respondent’s concession and the evidence before me, I find that petitioner is entitled to compensation.**

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