

Nathaniel. The information in the record, however, does not show entitlement to an award under the Program.

On June 26, 2011, petitioner moved for a decision on the merits of the petition, acknowledging that insufficient evidence exists to demonstrate entitlement to compensation.

To receive compensation under the Program, petitioner must prove either 1) that Nathaniel suffered a “Table Injury” – i.e., an injury falling within the Vaccine Injury Table – corresponding to one of Nathaniel’s vaccinations, or 2) that he suffered an injury that was actually caused by a vaccine. See §§ 300aa-13(a)(1)(A) and 300aa-11(c)(1). An examination of the record did not uncover any evidence that Nathaniel suffered a “Table Injury.” Further, the record does not contain a medical expert’s opinion or any other persuasive evidence indicating that Nathaniel’s alleged injury was vaccine-caused.

Under the Act, petitioner may not be given a Program award based solely on the petitioner’s claims alone. Rather, the petition must be supported by either medical records or by the opinion of a competent physician. § 300aa-13(a)(1). In this case, because there are insufficient medical records supporting petitioner’s claim, a medical opinion must be offered in support. Petitioner, however, has offered no such opinion.

Accordingly, it is clear from the record in this case that petitioner has failed to demonstrate either that Nathaniel suffered a “Table Injury” or that Nathaniel’s injuries were “actually caused” by a vaccination. **Thus, this case is dismissed for insufficient proof. The Clerk shall enter judgment accordingly.**³

IT IS SO ORDERED.

s/Patricia E. Campbell-Smith
Patricia E. Campbell-Smith
Chief Special Master

³ The undersigned notes that if petitioners elect to file a Petition for Fees and Costs pursuant to § 300aa-15(e), based on current case law petitioner will need to first establish proof of vaccination and the timely filing of their Petition for Vaccine Compensation, see § 300aa-16(a)(2) and 16(b), prior to any award for attorneys’ fees and costs being granted . See Brice v. Secretary of Health and Human Services, 358 F.3d 865, 869 (2004), citing Martin v. Secretary of Health and Human Services, 62 F.3d 1403, 1406 (1995).

