

In the United States Court of Federal Claims
OFFICE OF SPECIAL MASTERS

No. 10-117V
Filed: September 19, 2011
Unpublished

AMBER RAYBURN, by her mother,	*	
KINETHA RAYBURN,	*	
	*	
Petitioner,	*	
	*	Denial; Human papillomavirus
v.	*	vaccine, HPV; Neurological injuries
	*	
SECRETARY OF THE DEPARTMENT	*	
OF HEALTH AND HUMAN SERVICES,	*	
	*	
Respondent.	*	

Michael G. McLaren, Black & McLaren, Memphis, TN, for Petitioner.
Veris E. Johnson, U.S. Department of Justice, Washington, D.C., for Respondent.

DECISION¹

GOLKIEWICZ, Special Master.

On February 22, 2010, a Petition in this matter was filed alleging that petitioner’s daughter suffered neurological injuries due to the human papillomavirus vaccine that she received in May 2007. Medical records were filed and respondent filed her Rule 4(c) Report on July 22, 2010, which recommended against awarding compensation. Expert reports were obtained but the parties agreed that a fact hearing would be appropriate before taking expert testimony. Minute Entry, filed March 23, 2011. Following the Fact Hearing, the undersigned issued a Fact Ruling and Order on April 25, 2011, which set forth certain factual findings and directed the filing of supplemental reports from the parties’ experts based on these findings. Ultimately, on September 16, 2011, petitioner filed an unopposed Motion for a Decision

¹ The undersigned intends to post this decision on the website for the United States Court of Federal Claims, in accordance with the E-Government Act of 2002, Pub. L. No. 107-347, 116 Stat. 2899, 2913 (Dec. 17, 2002). **As provided by Vaccine Rule 18(b), each party has 14 days within which to request redaction “of any information furnished by that party (1) that is a trade secret or commercial or financial in substance and is privileged or confidential; or (2) that includes medical files or similar files, the disclosure of which would constitute a clearly unwarranted invasion of privacy.” Vaccine Rule 18(b). Otherwise, the entire decision will be available to the public. Id. Any motion for redaction must be filed by no later than fourteen (14) days after filing date of this filing. Further, consistent with the statutory requirement, a motion for redaction must include a proposed redacted decision, order, ruling, etc.**

Dismissing the Petition. Petitioner's Motion stated petitioner is unable to secure evidence to prove entitlement to compensation in this program. P Motion at ¶ 1.

Upon petitioner's admission and a review of the record, petitioner fails to provide preponderant evidence that the vaccination her daughter received caused the alleged injuries. Further, the Act at 42 U.S.C. § 300aa-13(a) provides that the special master "may not make a finding based on the claims of a petitioner alone, unsubstantiated by medical records or by medical opinion." Thus, this Petition remains unsupported by either medical records or medical opinion. In accordance with section 13(a) the undersigned has no option but to **deny** petitioner's claim for want of proof.

The Clerk of the Court is directed to enter judgment accordingly.

IT IS SO ORDERED.²

s/ Gary J. Golkiewicz
Gary J. Golkiewicz
Special Master

² This document constitutes a final "decision" in this case pursuant to 42 U.S.C. § 300aa-12(d)(3)(A). Unless a motion for review of this decision is filed within 30 days, the Clerk of the Court shall enter judgment in accord with this decision. Pursuant to Vaccine Rule 11(a), the parties can expedite entry of judgment by each party filing a notice renouncing the right to seek review by a United States Court of Federal Claims judge.