

In the United States Court of Federal Claims
OFFICE OF SPECIAL MASTERS
No. 02-1727V
Filed: August 17, 2010

 *
 JONATHAN MAHURIN, parent of *
 Tristan Mahurin, a minor, *
 *
 Petitioner, *
 *
 v. *
 *
 SECRETARY OF HEALTH AND *
 HUMAN SERVICES *
 *
 Respondent. *
 *

Petitioners’ Motion for a Decision
 Dismissing the Petition; Insufficient Proof
 of Causation; Vaccine Act Entitlement;
 Denial Without Hearing

DECISION

On November 26, 2002, petitioner filed a “Short-Form Autism Petition For Vaccine Compensation” in the National Vaccine Injury Compensation Program (“the Program”).¹ In effect, by use of the special “Short-Form” developed for use in the context of the Omnibus Autism Proceeding, the petition alleges that various vaccinations injured Tristan. The information in the record, however, does not show entitlement to an award under the Program.

On August 6, 2010, petitioner filed a “Motion for a Decision Dismissing His Petition.” Petitioner asserts in the Motion that under the current applicable law, petitioner will be unable to demonstrate entitlement to compensation in the Program. Petitioner’s Motion at 1. Accordingly, petitioner requests that the undersigned dismiss the above-captioned petition. Id.

To receive compensation under the Program, petitioner must prove either 1) that Tristan suffered a “Table Injury” – i.e., an injury falling within the Vaccine Injury Table – corresponding to one of his vaccinations, or 2) that Tristan 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 Tristan suffered a “Table Injury.” Further, the record does not contain

¹The Program comprises Part 2 of the National Childhood Vaccine Injury Act of 1986, Pub. L. No. 99-660, 100 Stat. 3755, codified as amended, 42 U.S.C. §§ 300aa-10 *et seq.* (hereinafter “Vaccine Act” or “the Act”). Hereafter, individual section references will be to 42 U.S.C. § 300aa of the Act.

a medical expert's opinion or any other persuasive evidence indicating that Tristan's alleged injury was vaccine-caused.

Under the Act, the 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 the medical records are not sufficient to support 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 Tristan suffered a "Table Injury" or that his injuries were "actually caused" by a vaccination. **Thus, this case is dismissed for insufficient proof. In the absence of a timely-filed motion for review of this Decision, the Clerk shall enter judgment accordingly.**

IT IS SO ORDERED.

/s/ George L. Hastings, Jr.
George L. Hastings, Jr.
Special Master