

OFFICE OF SPECIAL MASTERS

No. 02-0780V

(Filed: December 21, 2005)

SUSAN IANNUZZI, parent of
Peter Iannuzzi, a minor,

Petitioner,

v.

SECRETARY OF HEALTH
AND HUMAN SERVICES,

Respondent,

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Not to be published
To be posted on court's website.

DECISION¹

On July 12, 2002, the petitioner filed a petition seeking compensation under the National Vaccine Injury Compensation Program (“the Program”). The petition alleges that petitioner’s son, Peter Iannuzzi, suffers from the condition known as “autism,” and that Peter’s autism was caused by thimerosal-containing vaccines. The information on the record, however, does not show entitlement to an award under the Program.²

¹This document constitutes my 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 this Court shall enter judgment in accord with this decision.

Also, petitioner is reminded that, pursuant to 42 U.S.C. § 300aa-12(d)(4), Rule 18(b)(2) of the Vaccine Rules of this Court, and the E-Government Act of 2002, Pub. L. No. 107-347, 116 Stat. 2899, 2913 (Dec. 17, 2002), this decision will be made available to the public unless petitioner files, within fourteen days, an objection to the disclosure of any material in this decision that would constitute “medical files and similar files the disclosure of which would constitute a clearly unwarranted invasion of privacy.”

²The statutory provisions governing the National Vaccine Injury Compensation Program are found in 42 U.S.C. § 300-10 *et seq.* (2000 ed.).

To receive compensation under the Program, the petitioner must prove either: 1) that Peter suffered a “Table Injury”--*i.e.*, an injury falling within the Vaccine Injury Table-- corresponding to one of his vaccinations, or 2) that Peter suffered an injury that was actually caused by a vaccine. *See* 42 U.S.C. §§ 300aa-13(a)(1)(A) and 300aa-11(c)(1). My examination of the filed medical records, however, did not uncover any evidence that Peter suffered a “Table Injury.” Further, the records do not contain a medical expert’s opinion or any other evidence indicating that Peter’s autism was vaccine-caused.

Under the statute, a 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. 42 U.S.C. § 300aa-13(a)(1). Here, because the medical records do not seem to support the petitioner’s claim, a medical opinion must be offered in support. Petitioner, however, has offered no such opinion.

In a motion filed November 14, 2005, petitioner requested that I rule upon the record as it now stands. Her counsel repeated that request during an unrecorded telephonic status conference held on November 21, 2005. Accordingly, I will now rule upon the record.

I am, of course, sympathetic to the fact that Peter suffers from a very unfortunate medical condition. However, under the law I can authorize compensation only if a medical condition or injury either falls within one of the “Table Injury” categories, or is shown by medical records or competent medical opinion to be vaccine-caused. No such proof exists in the record before me. Accordingly, it is clear from the record in this case that petitioner has failed to demonstrate either that Peter suffered a “Table Injury” or that his autism was “actually caused” by a vaccination. Therefore, I have no choice but to hereby DENY this claim. In the absence of a timely-filed motion for review of this decision (see Appendix B to the Rules of the Court), the Clerk shall enter judgment in accord with this decision.

George L. Hastings, Jr.
Special Master