

In the United States Court of Federal Claims

OFFICE OF SPECIAL MASTERS

 AMEENAH EASON, *
 Legal Representative of a Minor Child *
 ANTHONY PRICE PERRY *
 *
 Petitioner, *
 *
 v. *
 *
 SECRETARY OF HEALTH *
 AND HUMAN SERVICES, *
 *
 Respondent. *

No. 10-08V
 Special Master Christian J. Moran
 Filed: May 17, 2011
 Petitioner’s motion for a decision
 dismissing her petition; insufficient
 proof of causation; Vaccine Act
 entitlement

Randall G. Knutson, Farrish Johnson Law Office, Mankato, MN, for petitioner;
Glenn A. MacLeod, United States Dep’t of Justice, Washington, D.C., for
 respondent.

UNPUBLISHED DECISION DENYING COMPENSATION¹

Amanda Eason, as the legal representative of her son, Anthony Price Perry (“Anthony”), filed a petition under the National Childhood Vaccine Injury Act, 42 U.S.C. §300a-10 *et. seq.*, on May 21, 2010. Her petition alleged that Anthony had an adverse reaction, including “febrile seizures, respiratory failure, neurologic failure, developmental delay with regression, and profound, progressive left

¹ Because this unpublished decision contains a reasoned explanation for the special master’s action in this case, the special master intends to post it on the United States Court of Federal Claims’s website, in accordance with the E-Government Act of 2002, Pub. L. No. 107-347, 116 Stat. 2899, 2913 (Dec. 17, 2002).

All decisions of the special masters will be made available to the public unless they contain trade secrets or commercial or financial information that is privileged and confidential, or medical or similar information whose disclosure would clearly be an unwarranted invasion of privacy. When such a decision or designated substantive order is filed, a party has 14 days to identify and to move to delete such information before the document’s disclosure. If the special master, upon review, agrees that the identified material fits within the categories listed above, the special master shall delete such material from public access. 42 U.S.C. § 300aa–12(d)(4); Vaccine Rule 18(b).

hemisphere volume loss of the brain” as a result of receiving multiple vaccinations including the measles-mumps-rubella and Hib vaccines administered on December 28, 2006; varicella and pneumococcal vaccines administered on March 22, 2007; and diphtheria-tetanus-pertussis and inactivated polio virus vaccines administered on June 20, 2007. See Pet. at 1. The information in the record, however, does not show entitlement to an award under the Program.

I. Procedural History

On December 28, 2009, Ms. Eason filed her initial medical records, along with her petition, as required by 42 U.S.C. § 300aa-11(c) and Vaccine Rule 2(c)(2)(A). These records were incomplete and petitioner was ordered to file additional ones. At a status conference in August, 2010, respondent reported that she thought the records were now sufficient for respondent to prepare her Rule 4 report. Respondent did file this report on September 22, 2010, recommending that compensation not be awarded to petitioner because Anthony’s injuries do not satisfy the criteria of a Vaccine Table Injury and there is no evidence of a causal relationship between the vaccine and Anthony’s injuries.

On May 13, 2011, Ms. Eason filed her motion for a decision dismissing her petition. In support of her motion, Ms. Eason stated that an investigation of the facts and science supporting her case had demonstrated to her that she will be unable to prove that Anthony is entitled to compensation in the Vaccine Program. Further, Ms. Eason stated that to proceed with her case would be unreasonable and would waste the resources of the court, respondent, and the Vaccine Program. Ms. Eason stated that she understands that a decision dismissing her petitioner will result in a judgment against her. Accordingly, petitioner requests that the undersigned dismiss her petition. Petr’s Motion at 1. Respondent states that she has no objection to this motion.

II. Analysis

To receive compensation under the National Vaccine Injury Compensation Program (hereinafter “the Program”), petitioner must prove either 1) that Anthony suffered a “Table Injury” – i.e., an injury falling within the Vaccine Injury Table – corresponding to one of his 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 Anthony suffered a “Table Injury.” Further, the record does not contain a medical expert’s opinion or

any other persuasive evidence indicating that Anthony's alleged injury was vaccine-caused.

Under the Act, 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. § 300aa-13(a)(1). In this case, because the medical records do not 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 Ms. Eason has failed to demonstrate either that Anthony suffered a "Table Injury" or that his injuries were "actually caused" by a vaccination. **Thus, this case is dismissed for insufficient proof. The Clerk shall enter judgment accordingly.**

Any questions may be directed to my law clerk, Jennifer C. Chapman, at (202) 357-6358.

IT IS SO ORDERED.

S/ Christian J. Moran

Christian J. Moran
Special Master