

IN THE UNITED STATES COURT OF FEDERAL CLAIMS
OFFICE OF SPECIAL MASTERS

RYAN MOHAMMADPOUR, by his parents *
HOOMAN MOHAMMADPOUR and *
SHABNAM FERDOIS, *

Petitioners, *

v. *

SECRETARY OF HEALTH *
AND HUMAN SERVICES, *

Respondent. *

No. 09-260V
Special Master Christian J. Moran
Filed: July 29, 2011
Petitioners' Motion for a Decision
Dismissing their Petition;
Insufficient Proof of Causation;
Vaccine Act Entitlement.

Michael G. McLaren, Black & McLaren, Memphis, TN, for petitioner;
Ryan D. Pyles, United States Dep't of Justice, Washington, D.C., for respondent.

UNPUBLISHED DECISION DENYING COMPENSATION¹

Hooman Mohammadpour and Shabnam Ferdois, as parents of their son, Ryan Mohammadpour ("Ryan"), filed a petition under the National Childhood Vaccine Injury Act, 42 U.S.C. §300a-10 *et. seq.*, on April 27, 2009. Their petition alleged that Ryan had an adverse reaction, including neurological impairments, developmental delays, an aggravated immune system, and metabolic disruptions, resulting from the receipt of the Hepatitis A and Hepatitis B vaccines administered

¹ Because this unpublished decision contains a reasoned explanation for the special master's action in this case, the special master intends to post it on the United States Court of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).

to him on July 30, 2007 and August 31, 2007. The information in the record, however, does not show entitlement to an award under the Program.

I. Procedural History

On July 2, 2010, petitioners filed their initial medical records with the petition, as required by 42 U.S.C. § 300aa-11(c) and Vaccine Rule 2(c)(2)(A). On August 12, 2009, petitioners reported that all records had been filed.

Respondent filed her responsive report on October 6, 2009. In this report, respondent requested that the case be dismissed because petitioners have not established that Ryan suffered a Table injury, and have not provided an expert opinion or scientific literature to establish causation between Ryan's vaccinations and his injuries. Res't Rep't, filed Oct. 6, 2009, at 7.

On January 13, 2010, petitioners filed a motion to amend their petition. This motion was granted on February 3, 2010 and petitioners thereafter filed their amended petition.

The parties then requested the opportunity to brief the issue of whether Ryan's vaccination meets the jurisdictional requirements of the Vaccine Act. Respondent filed a motion to dismiss the portion of petitioners' claim alleging injury as the result of the MMR vaccination. Petitioners filed their response on May 25, 2010. Before a ruling was made on this motion, petitioners were ordered to file a status report, regarding how they wished to proceed with their case.

On July 25, 2011, petitioners filed their motion for a decision dismissing their petition. In support of their motion, petitioners stated that they have been unable to secure evidence to prove entitlement to compensation in the Vaccine Program. Further, petitioners stated that to proceed with their case would be unreasonable and would waste the resources of the court, respondent, and the Vaccine Program. Petitioners stated that they understand that a decision dismissing their petition will result in a judgment against them. Accordingly, petitioners request that the undersigned dismiss their petition. Pet'r Motion at 1-2. Respondent stated that she had no objection to this motion.

II. Analysis

To receive compensation under the National Vaccine Injury Compensation Program (hereinafter "the Program"), petitioners must prove either 1) that Ryan

suffered a “Table Injury” – i.e., an injury falling within the Vaccine Injury Table – corresponding to one of her 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 Ryan suffered a “Table Injury.” Further, the record does not contain a medical expert’s opinion or any other persuasive evidence indicating that Ryan’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 petitioners’ claim, a medical opinion must be offered in support. Petitioners, however, have offered no such opinion.

Accordingly, it is clear from the record in this case that petitioners have failed to demonstrate either that Ryan 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