

IN THE UNITED STATES COURT OF FEDERAL CLAIMS

OFFICE OF SPECIAL MASTERS

CRAIG WALLOWER,

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Petitioner,

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No. 07-772V

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Special Master Christian J. Moran

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v.

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SECRETARY OF HEALTH
AND HUMAN SERVICES,

*

Filed: December 28, 2007

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Respondent.

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DECISION¹

For the reasons that follow, petitioner’s claim is hereby DISMISSED.

I. Procedural History

Craig Wallower, filed a petition, *pro se*, on November 2, 2007, under the National Childhood Vaccine Injury Act, 42 U.S.C. §300aa-10 et seq. (the “Act”). In the petition, he alleged that he suffered a variety of injuries after he received the LYMERix vaccination on May 13, 1999, June 14, 1999, and February 14, 2000.

¹ Because this unpublished decision contains a reasoned explanation for the special master's action in this case, the special master intends to post it on the United States Court of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

Vaccine Rule 18(b) states that 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, petitioner 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 banned categories listed above, the special master shall delete such material from public access.

On November 19, 2007, respondent filed a motion to dismiss Mr. Wallower's claim, arguing that the LYMERix vaccine is not covered under the Act, and, therefore, this court has no jurisdiction to adjudicate his claim. A status conference was held on December 4, 2007, during which the parties discussed the motion to dismiss and Mr. Wallower indicated that he did not intend to respond to the motion. The matter is now ripe for a decision.

II. Discussion

The Vaccine Act and its associated regulations do not list the "LYMERix vaccine" in its list of vaccines for which petitioners can be compensated under the Act. 42 U.S.C. § 300aa-14; 42 C.F.R. § 100.3. A petitioner may only be compensated for injuries resulting from receipt of a vaccination which is listed within the statute or regulations. See Charette v. Sec'y of Health and Human Servs., 33 Fed. Cl. 488 (1995) (lack of jurisdiction over a claim of injury from the typhoid vaccine because it is not listed within the Vaccine Act); Silet v. Sec'y of Health and Human Servs., 2004 WL 2677195, *1 (Fed. Cl. Ct. Nov. 2, 2004) (lack of jurisdiction to entertain a claim of injury from the Hepatitis A vaccine because it is not listed within the Vaccine Act). Accordingly, Mr. Wallower cannot be compensated for injuries resulting from the LYMERix vaccine. His claim is hereby DISMISSED.

Accordingly, this case is DISMISSED. In the absence of a timely motion for review, the Clerk's Office is ordered to enter judgment in favor of respondent.

IT IS SO ORDERED.

Christian J. Moran
Special Master