

# OFFICE OF SPECIAL MASTERS

(Filed: June 30, 2005)

TANYA NOYAKUK,	)	
as personal representative	)	
of the estate of her daughter,	)	
MCKENZY D. ABLOWALUK,	)	
	)	
Petitioner,	)	
	)	
v.	)	No. 04-1772V
	)	DO NOT PUBLISH
SECRETARY OF	)	
HEALTH AND HUMAN SERVICES,	)	
	)	
Respondent.	)	

## DECISION<sup>1</sup>

Petitioner, Tanya Noyakuk (Ms. Noyakuk), as personal representative of the estate of her daughter, McKenzy D. Ablowaluk (McKenzy), seeks compensation under the National Vaccine Injury Compensation Program (Program).<sup>2</sup> In a petition that she filed on December 15, 2004, Ms. Noyakuk alleges that McKenzy died on December 17, 2002, from the administration of a diphtheria-tetanus-acellular pertussis (DTaP) vaccination, an inactivated polio vaccination (IPV), a Prevnar vaccination and a Comvax vaccination on December 17, 2002. *See* Petition (Pet.) at 1. According to William C. Torch, M.D. (Dr. Torch), a board-certified pediatric neurologist who reviewed McKenzy’s medical records, McKenzy suffered “an anaphylactic or shock[-]like hypotensive endo- or exo-toxic reaction” related to “any combination of vaccine components” that resulted “in sudden

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<sup>1</sup> As provided by Vaccine Rule 18(b), each party has 14 days within which to request redaction “of any information furnished by that party (1) that is trade secret or commercial or financial information and is privileged or confidential, or (2) that are medical files and similar files the disclosure of which would constitute a clearly unwarranted invasion of privacy.” Vaccine Rule 18(b). Otherwise, “the entire decision” will be available to the public. *Id.*

<sup>2</sup> The statutory provisions governing the Vaccine Program are found in 42 U.S.C. §§ 300aa-10 *et seq.* For convenience, further reference will be to the relevant section of 42 U.S.C.

airway obstruction associated with choking, fluid exudates from the respiratory tract, apnea and cardiopulmonary arrest.” Petitioner’s exhibit (Pet. ex.) 13, ¶¶ 1, 16.

Respondent asserts that the evidence “is insufficient to establish that McKenzy suffered anaphylaxis within the requisite four-hour time frame for a presumption of causation under the Vaccine Injury Table.” Respondent’s Report (Report), filed June 29, 2005, at 3, n.1. Nevertheless, based upon an “opinion of an expert pediatric pathologist,” Virginia Anderson, M.D. (Dr. Anderson), respondent concludes “that McKenzy suffered from anaphylaxis, which resulted in her death.” Report at 3. And, respondent concedes that McKenzy’s anaphylaxis was vaccine-related, although respondent cannot “determine which of the covered vaccines likely precipitated the anaphylactic response.” Report at 3, n.1. Thus, respondent acknowledges that Program compensation is appropriate. Report at 3.

The special master has reviewed the record as a whole. The special master determines that Ms. Noyakuk is entitled to Program compensation. Therefore, in the absence of a motion for review filed under RCFC Appendix B, the clerk of court shall enter judgment in Ms. Noyakuk’s favor for \$250,000.00.

The clerk of court shall send Ms. Noyakuk’s copy of this decision to Ms. Noyakuk by overnight express delivery.

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John F. Edwards  
Special Master