

OFFICE OF SPECIAL MASTERS

No. 99-328V

Filed: August 31, 2005

 JUDY SAARI, *
 *
 Petitioner, *
 *
 v. *
 *
 SECRETARY OF THE DEPARTMENT *
 OF HEALTH AND HUMAN SERVICES, *
 *
 Respondent. *
 *

DECISION¹

On May 21, 1999, petitioner filed a petition for compensation under National Childhood Vaccine Injury Compensation Program² [hereinafter “the Act” or “the Program”] alleging injuries from the hepatitis B vaccinations that she received “on or about” July 29, 1992 and August 28, 1992, respectively. Petition, filed May 21, 1999 at 1. In the petition, petitioner alleged that “[w]ithin ten days she experienced joint pains and was seen by doctors and prescribed anti-inflammatory drugs.” Id. In addition, after her second vaccination, “within hours she

¹Because this decision contains a reasoned explanation for the special master’s action in this case, the undersigned intends to post this decision 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). Therefore, as provided by Vaccine Rule 18(b), each party has fourteen (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.

²The statutory provisions governing the Vaccine Act are found at 42 U.S.C. §§ 300aa-10 to 300aa-34 (2003). Hereinafter, for ease of citation, all references will be to the relevant subsection of 42 U.S.C. § 300aa.

experienced much more severe symptoms.” Id.

On July 13, 2005, petitioner filed a “Motion for Judgment on the Record” [hereinafter “Motion”]. In that Motion, petitioner states that “[i]t would appear that the cause of death is **unrelated** to the vaccine injuries that Ms. Saari alleged,” and thus petitioner requests a judgment on the record as it stands. Motion at 1 (emphasis added). Along with the Motion, petitioner submitted exhibits 51 and 52, recent hospital records, a medical examiner’s report, and the death certificate of petitioner.

On August 18, 2005, respondent filed a “Response to Petitioner’s Motion for Ruling on the Record [hereinafter “Response”]. In that response, respondent points out that petitioner died on September 4, 2004, and the immediate cause of death was listed as “pulmonary edema, due to cardiac arrhythmia, due to stroke.” Response at 3. Because her death was not vaccine-related, respondent asserts that neither petitioner nor her estate or entitled to compensation. Id.

Under the Act, only a person who has sustained a vaccine-related injury, or the estate of a person who died as a result of a vaccine-related injury, may recover compensation. § 11(b)(1)(A). In addition, § 13 (a)(1) states that “[t]he special master or court may not make such a finding [for compensation] based on the claims of a petitioner alone, unsubstantiated by medical records or medical opinion.” After close examination of the record, the undersigned finds that due to the lack of supportive medical records or an expert opinion, petitioner has failed to substantiate her claim. Thus, the court must dismiss this case for want of proof.

In the absence of a motion for review filed pursuant to RCFC, Appendix B, the Clerk is directed to enter judgment accordingly.

IT IS SO ORDERED.

Gary J. Golkiewicz
Chief Special Master