

OFFICE OF SPECIAL MASTERS

No. 05-723V

Filed: April 25, 2006

not to be published

KRISTA SAWYERS, parent of Sarah Sawyers,
a minor,

Petitioner,

v.

SECRETARY OF HEALTH AND HUMAN
SERVICES,

Respondent.

denial without hearing

DECISION¹

On July 5, 2005, the petitioner filed a petition seeking compensation under the National Vaccine Injury Compensation Program (“the Program”). Medical records filed on February 10, 2006, indicate that petitioner’s daughter, Sarah, suffers various seizures which have been diagnosed as epilepsy. (Ex. 4, p. 10). The information on the record, however, does not show entitlement to an award under the Program.²

To receive compensation under the Program, the petitioner must prove either: 1) that Sarah suffered a “Table Injury”--*i.e.*, an injury falling within the Vaccine Injury Table--corresponding to one of her vaccinations, or 2) that Sarah suffered an injury that was actually caused by a vaccine.

¹This document constitutes my final “decision” in this case, pursuant to 42 U.S.C. § 300aa-12(d)(3)(A). Unless a motion for review of this decision is filed within 30 days, the Clerk of this Court shall enter judgment in accord with this decision.

This document will not be sent to electronic publishers as a formally “published” opinion. However, because this document contains a reasoned explanation for my action in this case, I intend to post this document on the United States Court of Federal Claims’ website, in accordance with the E-Government Act of 2002, Pub. L. No. 107-347, 116 Stat. 2899, 2913 (Dec. 17, 2002). Therefore, 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, this entire document will be available to the public. *Id.* See also 42 U.S.C. § 300aa-12(d)(4)(B).

²The statutory provisions governing the National Vaccine Injury Compensation Program are found in 42 U.S.C. § 300-10 *et seq.* (2000 ed.).

See 42 U.S.C. §§ 300aa-13(a)(1)(A) and 300aa-11(c)(1). My examination of the filed medical records, however, did not uncover any evidence that Sarah suffered a “Table Injury.” Further, the records do not contain a medical expert’s opinion or any other evidence indicating that Sarah’s seizures are vaccine-caused.

Under the statute, 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. 42 U.S.C. § 300aa-13(a)(1). Here, because the medical records do not seem to support the petitioner’s claim, a medical opinion must be offered in support. Petitioner, however, has offered no such opinion.

In a motion filed February 10, 2006, petitioner requested that I rule upon the record as it now stands. Respondent timely filed a response on March 27, 2006. Accordingly, I will now rule upon the record.

I am, of course, sympathetic to the fact that Sarah suffers from a very unfortunate medical condition. However, under the law I can authorize compensation only if a medical condition or injury either falls within one of the “Table Injury” categories, or is shown by medical records or competent medical opinion to be vaccine-caused. No such proof exists in the record before me. Accordingly, it is clear from the record in this case that petitioner has failed to demonstrate either that Sarah suffered a “Table Injury” or that her autism were “actually caused” by a vaccination. Therefore, I have no choice but to hereby DENY this claim. In the absence of a timely-filed motion for review of this decision (see Appendix B to the Rules of the Court), the Clerk shall enter judgment in accord with this decision.

George L. Hastings, Jr.
Special Master

OFFICE OF SPECIAL MASTERS

No. 05-723V

Filed: May 2, 2006

KRISTA SAWYERS, parent of Sarah Sawyers,
a minor,

Petitioner,

v.

SECRETARY OF HEALTH AND HUMAN
SERVICES,

Respondent.

CLARIFICATION

The third-to-last sentence of the final paragraph of my Decision of April 25, 2006, should have read as follows:

Accordingly, it is clear from the record in this case that petitioner has failed to demonstrate either that Sarah suffered a “Table Injury,” or that any injury was “actually caused” by a vaccination.

George L. Hastings, Jr.
Special Master