

In the United States Court of Federal Claims

OFFICE OF SPECIAL MASTERS

No. 14-1065V

Filed: January 28, 2015

Not for Publication

MIRANDA WERNER, on behalf of
P.M.S., a minor child,

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Petitioner,

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Ruling on Entitlement; Concession;
Rotavirus Vaccine; Intussusception;
Special Processing Unit (“SPU”)

v.

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SECRETARY OF HEALTH
AND HUMAN SERVICES,

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Respondent.

Anne Toale, Esq., Maglio Christopher and Toale, PA, Washington, DC for petitioner.
Ryan Pyles, Esq., U.S. Department of Justice, Washington, DC, for respondent.

RULING ON ENTITLEMENT¹

Vowell, Chief Special Master:

On October 31, 2014, Miranda Werner filed a petition for compensation under the National Vaccine Injury Compensation Program, 42 U.S.C. §300aa-10, *et seq.*² [the “Vaccine Act” or “Program”] on behalf of her minor child, P.M.S. The petition alleges that as a result of a rotavirus, polio, pneumococcal, haemophilus influenza b [“HIB”], and/or diphtheria-tetanus-acellular pertussis [“DTaP”] vaccinations on May 17, 2013, P.M.S. suffered an intussusception and recurrence thereof. Petition at 1-2. The case was assigned to the Special Processing Unit of the Office of Special Masters.

¹ Because this unpublished ruling contains a reasoned explanation for the action in this case, it will be posted on the United States Court of Federal Claims' website, in accordance with the E-Government Act of 2002, Pub. L. No. 107-347, § 205, 116 Stat. 2899, 2913 (codified as amended at 44 U.S.C. § 3501 note (2006)). In accordance with Vaccine Rule 18(b), petitioner has 14 days to identify and move to redact medical or other information, the disclosure of which would constitute an unwarranted invasion of privacy. If, upon review, I agree that the identified material fits within this definition, I will redact such material from public access.

² National Childhood Vaccine Injury Act of 1986, Pub. L. No. 99-660, 100 Stat. 3755. Hereinafter, for ease of citation, all “§” references to the Vaccine Act will be to the pertinent subparagraph of 42 U.S.C. § 300aa (2006).

On January 26, 2015, respondent filed her Rule 4(c) Report [“Respondent’s Report”], in which she concedes that petitioner is entitled to compensation in this case. Respondent’s Report at 4. Specifically, respondent submits that “[t]he facts of this case, however, support a finding that PMS.’s intussusception more likely than not was caused in fact by the administration of the rotavirus vaccine” on May 17, 2013. *Id.* Additionally, respondent indicated that “[i]n satisfaction of Section 11(c)(1)(D) of the Act, PMS was also hospitalized for surgical intervention for the treatment of her intussusception.” *Id.*

In view of respondent’s concession and the evidence before me, I find that petitioner is entitled to compensation.

s/Denise K. Vowell

Denise K. Vowell
Chief Special Master