

# In the United States Court of Federal Claims

## OFFICE OF SPECIAL MASTERS

No. 16-042V

(Filed: July 29, 2016)

\* \* \* \* \*

RONALD D. KLOPFENSTEIN, \*

Petitioner, \*

Dismissal; Influenza (“Flu”) Vaccine;  
Guillain-Barre Syndrome (“GBS”).

v. \*

SECRETARY OF HEALTH AND HUMAN SERVICES, \*

Respondent. \*

\* \* \* \* \*

*Kelly D. Burdette, Esq., Burkett & Burdette, Seattle, WA, for petitioner.*  
*Lisa A. Watts, Esq., U.S. Dept. of Justice, Washington, DC for respondent.*

### DECISION<sup>1</sup>

**Roth**, Special Master:

On January 8, 2016, petitioner filed a petition for Vaccine Compensation in the National Vaccine Injury Compensation Program [“the Program”],<sup>2</sup> alleging that an influenza vaccination caused him to develop Guillain-Barre Syndrome (“GBS”). The information in the record, however, does not show entitlement to an award under the Program. On July 29, 2016 petitioner

<sup>1</sup> Because this unpublished decision contains a reasoned explanation for the action in this case, I intend to post this decision on the United States Court of Federal Claims' website, in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 have 14 days to identify and move to delete medical or other information, that satisfies the criteria in § 300aa-12(d)(4)(B). Further, consistent with the rule requirement, a motion for redaction must include a proposed redacted decision. If, upon review, I agree that the identified material fits within the requirements of that provision, I will delete such material from public access.

<sup>2</sup> The Program comprises Part 2 of the National Childhood Vaccine Injury Act of 1986, Pub. L. No. 99-660, 100 Stat. 3755, codified as amended, 42 U.S.C. §§ 300aa-10 *et seq.* (hereinafter “Vaccine Act” or “the Act”). Hereafter, individual section references will be to 42 U.S.C. § 300aa of the Act.

filed a “joint stipulation of dismissal” requesting that his case be dismissed. ECF No. 14.

To receive compensation under the Program, petitioner must prove either 1) that he suffered a “Table Injury” – i.e., an injury falling within the Vaccine Injury Table – corresponding to his vaccination, or 2) that he suffered an injury that was actually caused by a vaccine. *See* §§ 13(a)(1)(A) and 11(c)(1). An examination of the record did not uncover any evidence that petitioner suffered a “Table Injury.” Further, the record does not contain persuasive evidence indicating that petitioner’s alleged injury was vaccine-caused or in any way vaccine-related.

Under the Act, 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. § 13(a)(1). In this case, because there are insufficient medical records supporting petitioner’s claim, a medical opinion must be offered in support. Petitioner, however, has offered no such opinion that supports a finding of entitlement.

Accordingly, it is clear from the record in this case that petitioner has failed to demonstrate either that he suffered a “Table Injury” or that his injuries were “actually caused” by a vaccination. **Thus, this case is dismissed for insufficient proof. The Clerk shall enter judgment accordingly.**

**IT IS SO ORDERED.**

**s/Mindy Michaels Roth**  
Mindy Michaels Roth  
Special Master