

In the United States Court of Federal Claims

OFFICE OF SPECIAL MASTERS

No. 16-856V

Filed: January 4, 2017

UNPUBLISHED

KATHRYN N. LAKE, as Parent and
Legal Representative of her Minor
Daughter, J.M.,

Petitioner,

v.

SECRETARY OF HEALTH
AND HUMAN SERVICES,

Respondent.

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Ruling on Entitlement; Concession;
Haemophilus influenza B (“Hib”);
Sterile abscess; scar;
Special Processing Unit (“SPU”)

*Ramon Rodriguez, III, Rawls, McNelis and Mitchell, P.C., Richmond, VA, for petitioner.
Camille Michelle Collett, U.S. Department of Justice, Washington, DC, for respondent.*

RULING ON ENTITLEMENT¹

Dorsey, Chief Special Master:

On July 27, 2016, petitioner filed a petition for compensation under the National Vaccine Injury Compensation Program, 42 U.S.C. §300aa-10, *et seq.*,² (the “Vaccine Act”). Petitioner alleges that following receipt of a haemophilus influenza b (“Hib”) vaccination on July 23, 2013, minor child J.M. experienced small blisters at the vaccination site leading to pain, swelling and induration, which further resulted in incision and drainage of an abscess, leaving a permanent scar. Petition at 1. The case was assigned to the Special Processing Unit of the Office of Special Masters.

On December 21, 2016, respondent filed her Rule 4(c) report in which she concedes that petitioner is entitled to compensation in this case. Respondent’s Rule 4(c) Report at 1. Specifically, respondent “has concluded that a preponderance of the

¹ Because this unpublished ruling contains a reasoned explanation for the action in this case, the undersigned intends to post it on the United States Court of Federal Claims’ website, in accordance with the E-Government Act of 2002. 44 U.S.C. § 3501 note (2012) (Federal Management and Promotion of Electronic Government Services). 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, the undersigned agrees that the identified material fits within this definition, the undersigned 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 (2012).

evidence establishes that JM's injury is consistent with an abscess on her right thigh due to the July 23, 2013, administration of the Hib vaccine, and that JM's injuries are not due to factors unrelated to that vaccination. Thus, in light of the information contained in JM's medical records, respondent has concluded that JM's abscess and resulting scar are compensable as a "caused-in-fact" injury under the Act." *Id.* at 5. Respondent further agrees that petitioner has satisfied all legal prerequisites for compensation under the act. *Id.*

In view of respondent's concession and the evidence before me, the undersigned finds that petitioner is entitled to compensation.

IT IS SO ORDERED.

s/Nora Beth Dorsey

Nora Beth Dorsey
Chief Special Master