

On April 4, 2019, Respondent filed his Rule 4(c) report, indicating he believed that this case was “not appropriate for compensation under the terms of the Act.” Resp.’s Rep. at 1, ECF No. 17. Respondent argued that the medical record did not support an onset of pain within 48 hours of vaccination, as required in order to meet the definition of a Table injury for SIRVA. *Id.* at 5-6. Respondent filed one expert report. Ex. A, ECF No. 28.

On January 31, 2020, I held a status conference. The parties disagreed on when the onset of Petitioner’s injury occurred. *See* Order of January 31, 2020, ECF No. 31. I offered to either (1) make a preliminary determination regarding onset, or (2) rule on the record regarding onset. *Id.* The parties agreed that they would confer and submit a joint status report choosing an option within thirty days. *Id.*

On March 31, 2020, the parties filed a joint status report indicating that they had conferred and would like to request a preliminary determination of onset in a Rule 5 conference. Status Report of March 31, 2020, ECF No. 32. Accordingly, I held a Rule 5 conference on April 3, 2020. I made a preliminary determination that onset of Petitioner’s left shoulder pain began at the soonest in December 2016. Order of April 6, 2020, ECF No. 33. Accordingly, I ordered Petitioner to file a status report by May 6, 2020, indicating how he would like to proceed in light of this order. *Id.* On May 7, 2020, Petitioner filed a status report indicating that he planned to dismiss his case. ECF No. 34.

Petitioner filed a motion to dismiss on June 11, 2020, indicating that in these circumstances, “to proceed further would be unreasonable and would waste the resources of the Court, the Respondent, and the Vaccine Program.” Pet’r’s Mot., ECF No. 37 at 1. Petitioner further indicated that he “understands that a decision by the Special Master dismissing his petition will result in a judgment against him” and that he “has been advised that such a judgment will end all ... rights in the vaccine program.” *Id.* at 1-2.

To receive compensation under the Vaccine Program, a 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). Moreover, under the Vaccine Act, a petitioner may not receive a Vaccine Program award based solely on his claims alone. Rather, the petition must be supported by either medical records or by the opinion of a competent medical expert. § 13(a)(1). In this case, however, there is insufficient evidence in the record for Petitioner to meet his burden of proof. Petitioner’s claim therefore cannot succeed and, in accordance with his motion, must be dismissed. § 11(c)(1)(A).

Thus, this case is DISMISSED for insufficient proof. The Clerk shall enter judgment accordingly.

IT IS SO ORDERED.

s/ Katherine E. Oler

Katherine E. Oler

Special Master