

In the United States Court of Federal Claims

OFFICE OF SPECIAL MASTERS

No. 18-827V

Filed: October 30, 2018

UNPUBLISHED

BRANDI BLESSIKE, and BARRY
BLESSIKE, on behalf of their daughter,
B.B., a minor,

Petitioner,

v.

SECRETARY OF HEALTH AND
HUMAN SERVICES,

Respondent.

Special Processing Unit (SPU);
Ruling on Entitlement; Concession;
Table Injury; Rotavirus Vaccine;
Intussusception

John Robert Howie, Howie Law, PC, Dallas, TX, for petitioner.

Meredith Burns Healy, U.S. Department of Justice, Washington, DC, for respondent.

RULING ON ENTITLEMENT¹

Dorsey, Chief Special Master:

On June 12, 2018, petitioners filed a petition for compensation under the National Vaccine Injury Compensation Program, 42 U.S.C. §300aa-10, *et seq.*,² (the “Vaccine Act”), on behalf of their minor daughter, B.B. Petitioners allege that that B.B. suffered from intussusception as a result of receiving a rotavirus vaccine on July 26, 2017. Petition at 1. The case was assigned to the Special Processing Unit of the Office of Special Masters.

¹ The undersigned intends to post this ruling on the United States Court of Federal Claims' website. **This means the ruling will be available to anyone with access to the internet.** 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. Because this unpublished ruling contains a reasoned explanation for the action in this case, undersigned is required to post it on the United States Court of Federal Claims' website in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).

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).

On October 29, 2018, respondent filed his Rule 4(c) report in which he concedes that petitioners are entitled to compensation in this case. Respondent's Rule 4(c) Report at 1. Specifically, respondent states:

[P]etitioners' claim meets the Table criteria for intussusception occurring within one to twenty-one days after a rotavirus vaccination. See 42 C.F.R. § 100.3(a)(XI). Specifically, B.B.'s intussusception manifested approximately six days after her receipt of the first dose of the rotavirus vaccine, and there is not preponderant evidence that her condition was due to a factor unrelated to the vaccine. See *id.*; 42 U.S.C. § 300aa-13(a). Moreover, as discussed above, B.B.'s intussusception "resulted in inpatient hospitalization and surgical intervention." See 42 U.S.C. § 300aa-11(c)(1)(D)(iii). Therefore, petitioners are entitled to a presumption of causation under the Vaccine Act.

Id. at 4.

In view of respondent's position and the evidence of record, the undersigned finds that petitioners are entitled to compensation.

IT IS SO ORDERED.

s/Nora Beth Dorsey

Nora Beth Dorsey
Chief Special Master