

REISSUED FOR PUBLICATION

DEC 3 2018

OSM

U.S. COURT OF FEDERAL CLAIMS

In the United States Court of Federal Claims

OFFICE OF SPECIAL MASTERS

No. 18-1528V

Filed: October 5, 2018

Not to be Published.

DIONNI DE LA CRUZ,

*

*

Petitioner,

*

v.

*

Influenza (“flu”) vaccine; GBS;
more than two-month onset;
petitioner filed twice for same
vaccination; dismissed.

*

*

SECRETARY OF HEALTH
AND HUMAN SERVICES,

*

*

Respondent.

*

*

Dionni De La Cruz, Houston, TX, for petitioner pro se.
Heather L. Pearlman, Washington, DC, for respondent.

MILLMAN, Special Master

DECISION¹

On June 12, 2017, petitioner filed a petition under the National Childhood Vaccine Injury Act, 42 U.S.C. § 300aa-10-34 (2012), alleging that trivalent influenza (“flu”) vaccine which she received on October 2, 2015² caused her Guillain-Barré Syndrome (“GBS”). Pet. at ¶¶ 1 and 4. In the alternative, she alleged significant aggravation. *Id.* at ¶ 8. The civil number was 17-783V. Petitioner was represented by counsel in this first suit.

¹ Because this unpublished decision contains a reasoned explanation for the special master’s action in this case, the special master intends to post this unpublished decision on the United States Court of Federal Claims’ website, in accordance with the E-Government Act of 2002, 44 U.S.C. § 3501 note (2012) (Federal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). **This means the decision will be available to anyone with access to the internet.** Vaccine Rule 18(b) states that all decisions of the special masters will be made available to the public unless they contain trade secrets or commercial or financial information that is privileged and confidential, or medical or similar information whose disclosure would constitute a clearly unwarranted invasion of privacy. When such a decision is filed, petitioner has 14 days to identify and move to redact such information prior to the document’s disclosure. If the special master, upon review, agrees that the identified material fits within the banned categories listed above, the special master shall redact such material from public access.

² Petitioner also alleged she received quadrivalent flu vaccine on October 20, 2015, but the medical records show she did not. Pet. at ¶ 1; Med. recs. Ex. 2, at 114, 143, 207.

On January 23, 2018, petitioner filed a Motion for a Decision Dismissing her Petition. She states that “she will be unable to prove that she is entitled to compensation in the Vaccine Program” and that “to proceed further would be unreasonable and would waste the resources” of the court, respondent, and the Vaccine Program. Pet’r’s Mot. at 1.

The undersigned granted petitioner’s Motion for a Decision Dismissing her Petition and dismissed this case on January 23, 2018. Judgment entered on February 14, 2018, dismissing the case.

On October 2, 2018, petitioner pro se filed a second petition for the administration of the same vaccine and for the same vaccine injury. She again alleges that flu vaccine she received on October 2, 2015 caused her GBS. Pet. at ¶¶ 1, 2.

The Vaccine Act, 42 U.S.C. § 300aa-11(b)(2), states:

Only one petition may be filed with respect to each administration of a vaccine.

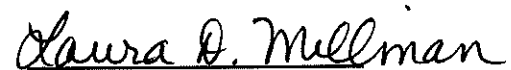
The undersigned **DISMISSES** the petition because petitioner filed a second petition for the same administration of vaccine as in her first petition. The undersigned cancels the deadline for respondent to file a Rule 4(c) Report by December 31, 2018.

CONCLUSION

The petition is **DISMISSED**. In the absence of a motion for review filed pursuant to RCFC Appendix B, the Clerk of Court is directed to enter judgment herewith.³

IT IS SO ORDERED.

Dated: October 5, 2018


Laura D. Millman
Special Master

³ Pursuant to Vaccine Rule 11(a), entry of judgment can be expedited by each party, either separately or jointly, filing a notice renouncing the right to seek review.