

On May 7, 2019, I held a status conference in which I informed Mr. Smith that under the current set of facts, I could not find entitlement to compensation where onset of GBS is within hours of vaccination. *See* Order of May 7, 2019, ECF No. 8. I suggested to Mr. Smith that he speak with his client to discuss filing a motion to dismiss the petition. *Id.* Mr. Smith requested thirty days to do so. On July 3, 2019, Petitioner filed a status report indicating that he would like to proceed with his claim. *See* Status Report of July 3, 2020, ECF No. 10.

On February 27, 2020, 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 2, ECF No. 16. Respondent argued that Petitioner had not offered a “reputable medical or scientific theory showing that the flu vaccine was the cause of his condition.” *Id.* at 7. On the same day, I issued a Non-PDF Order instructing Petitioner to file a status report indicating how he would like to proceed in light of Respondent’s Report. *See* Non-PDF Order of February 27, 2020. On May 28, 2020, Petitioner filed a status report indicating that he intended to dismiss his case. *See* Status Report of May 28, 2020, ECF No. 19.

Petitioner filed a motion to dismiss on June 11, 2020, indicating “Petitioner no longer desire[s] to prosecute his claim against the Secretary of Health and Human Services and respectfully requests the Court enter an order of dismissal.” Pet’r’s Mot., ECF No. 20 at 1.

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