

In the United States Court of Federal Claims

OFFICE OF SPECIAL MASTERS

No. 19-0289V

UNPUBLISHED

EMILY BAKER, as Parent and Natural
Guardian, on behalf of L.M.B., a minor,

Petitioner,

v.

SECRETARY OF HEALTH AND
HUMAN SERVICES,

Respondent.

Chief Special Master Corcoran

Filed: February 7, 2020

Special Processing Unit (SPU);
Ruling on Entitlement; Concession;
Causation-In-Fact; Tetanus
Diphtheria acellular Pertussis (Tdap)
Vaccine; Measles Mumps Rubella
Varicella (MMRV) Vaccine; Cellulitis;
Infection; Abscess; Scarring;
Disfigurement

Heather M. Bonnet-Hebert, New Bedford, MA, for petitioner.

Ida Nassar, U.S. Department of Justice, Washington, DC, for respondent.

RULING ON ENTITLEMENT¹

On February 25, 2019, Emily Baker filed a petition on behalf of her minor child, L.M.B., for compensation under the National Vaccine Injury Compensation Program, 42 U.S.C. §300aa-10, *et seq.*,² (the “Vaccine Act”). Petitioner alleges that L.M.B. sustained injuries, specifically “left thigh cellulitis, infection, abscess requiring surgical incision and drainage, and significant scarring and disfigurement, that were caused-in-fact by adverse effects of the DTap and MMRV vaccinations . . . administered in L.M.B.’s left thigh on February 27, 2017.” Petition at 1; *accord. id.* at ¶¶ 2, 16. Petitioner further

¹ Because this unpublished ruling contains a reasoned explanation for the action in this case, I am required to post it on the United States Court of Federal Claims' website in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). **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, I agree that the identified material fits within this definition, I 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).

alleges that L.M.B. received the vaccination in the United States, that L.M.B. suffered the residual effects of her injuries for more than six months and required surgery and an inpatient hospitalization, and that neither she nor any other party has filed a civil action or received compensation for L.M.B.'s injuries, alleged as vaccine caused. *Id.* at ¶¶ 2, 17-18. The case was assigned to the Special Processing Unit of the Office of Special Masters.

On February 7, 2020, Respondent filed his Rule 4(c) report in which he 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 medical evidence establishes that L.M.B.'s left thigh cellulitis and abscess was caused-in-fact by one or more of the vaccines she received on February 27, 2017." *Id.* at 4. Respondent further agrees that "based on the record as it now stands, petitioner has satisfied all legal prerequisites for compensation under the Vaccine Act." *Id.*

In view of Respondent's position and the evidence of record, I find that Petitioner is entitled to compensation.

IT IS SO ORDERED.

s/Brian H. Corcoran

Brian H. Corcoran
Chief Special Master