

In the United States Court of Federal Claims

OFFICE OF SPECIAL MASTERS

No. 19-0507V

Filed: July 22, 2019

UNPUBLISHED

JULIO SAMBLE, on behalf of
J.J.S., a Minor,

Petitioner,

v.

SECRETARY OF HEALTH AND
HUMAN SERVICES,

Respondent.

Special Processing Unit (SPU);
Ruling on Entitlement; Concession;
Causation-In-Fact; Diphtheria
Tetanus acellular Pertussis (Dtap)
Vaccine; Hepatitis B (Hep B)
Vaccine; Measles Mumps Rubella
(MMR) Vaccine; Inactivated Polio
(IPV) Vaccine; Varicella Vaccine;
Shoulder Injury Related to Vaccine
Administration (SIRVA)

Russell Anthony Murray, Lovett Law Firm, El Paso, TX, for petitioner.

Mollie Danielle Gorney, U.S. Department of Justice, Washington, DC, for respondent.

RULING ON ENTITLEMENT¹

Dorsey, Chief Special Master:

On April 5, 2019, petitioner filed a petition for compensation under the National Vaccine Injury Compensation Program, 42 U.S.C. §300aa-10, *et seq.*,² (the “Vaccine Act”). Petitioner alleges that as a result of diphtheria-tetanus-acellular pertussis (“DTap”), Hepatitis B (“Hep B”), measles-mumps-rubella (“MMR”), inactivated polio (“IPV”), and/or varicella vaccinations administered on April 6, 2016, J.J.S. suffered from

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 Because this unpublished ruling contains a reasoned explanation for the action in this case, undersigned is required to post it on the United States Court of Federal Claims' website in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).

a left arm abscess. Petition at 1. The case was assigned to the Special Processing Unit of the Office of Special Masters.

On July 22, 2019, 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 indicates that "a preponderance of the medical evidence establishes that J.J.S.'s cellulitis and/or abscess was caused-in-fact by one or more of the vaccines he received on April 6, 2016." *Id.* at 3. Respondent further agrees that no other causes for J.J.S.'s injury was identified, and the medical records demonstrate that J.J.S. underwent an inpatient hospitalization and surgical intervention to meet the severity requirement under the Vaccine Act. *Id.*

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

IT IS SO ORDERED.

s/Nora Beth Dorsey

Nora Beth Dorsey
Chief Special Master