

specifically, Respondent indicated that “Petitioner has not provided sufficiently reliable evidence of causation that satisfies the elements of *Althen*,... required to establish a prima facie case that the flu vaccine can cause [P]etitioner’s alleged injury in general and did cause [P]etitioner’s condition in this particular case.” *Id.* at 12. On the same day, I issued an order for Petitioner to file a status report indicating how he would like to proceed in light of Respondent’s Rule 4(c) Report. *See* non-PDF Scheduling Order on 6/18/2020. On August 14, 2020, Petitioner filed a status report stating he had retained an expert and anticipated filing an expert report within 90 days. Pet’r’s Status Rep. on 8/14/2020, ECF No. 18. On the same day, I issued an order for Petitioner to file an expert report by November 12, 2020. *See* non-PDF Scheduling Order on 8/14/2020.

Petitioner filed the instant motion to dismiss his claim on October 16, 2020, stating “An investigation of the facts and supporting science has demonstrated to the [P]etitioner that he will be unable to prove that he is entitled to compensation in the Vaccine Program.” Pet’r’s Mot. at 1, ECF No. 19.

II. Conclusion

To receive compensation in 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).

As such, **IT IS ORDERED THAT,**

Petitioner’s Motion for Decision Dismissing His Petition is **GRANTED** and the petition is hereby **DISMISSED. The Clerk shall enter judgment accordingly.**

Any questions regarding this Order may be directed to my law clerk, Sydney Lee, by telephone at 202-357-6347, or by email at Sydney_Lee@cfc.uscourts.gov.

IT IS SO ORDERED.

s/ Katherine E. Oler
Katherine E. Oler
Special Master