

On November 11, 2022, Petitioner moved for a decision dismissing her case, stating that “[f]ollowing multiple attempts to secure an expert report, Petitioner was unable to do so. In these circumstances, to proceed further would be unreasonable, and would waste the resources of this Court, Respondent, and the Vaccine Program.” Petitioner’s Motion for Decision Dismissing Petition, filed Nov. 11, 2022, at ¶¶ 5-6 (ECF No. 86). “Petitioner understands that a decision dismissing her Petition will result in a judgment against her. Petitioner has been advised that such a judgment will end all of her rights in the Vaccine Program.” *Id.* at ¶ 7. “Petitioner does intend to protect her rights to file a civil action in the future. Therefore, pursuant to 42 U.S.C. §300aa-21(a)(2), she intends to elect to reject the Vaccine Program Judgment against her and elect to file a civil action.” *Id.* at ¶ 9. Respondent confirmed via email on November 14, 2022, that Respondent has no objection to Petitioner’s motion.

To receive compensation under the Program, Petitioner must prove either (1) that she suffered a “Table Injury”—i.e., an injury falling within the Vaccine Injury Table—corresponding to the vaccination, or (2) that she suffered an injury that was actually caused by the vaccination. *See* §§ 11(c)(1), 13(a)(1)(A). The records submitted by Petitioner show that she does not meet the statutory requirement under § 11(c)(1)(D)(i) to establish entitlement to compensation. The Federal Circuit has explained that the eligibility requirements in Section 11(c) are not mere pleading requirements or matters of proof at trial, but instead are “threshold criteri[a] for seeking entry into the compensation program.” *Black v. Sec’y of Health & Hum. Servs.*, 93 F.3d 781, 785-87 (Fed. Cir. 1996).

Accordingly, in light of Petitioner’s motion and a review of the record, the undersigned finds that Petitioner is not entitled to compensation. **Thus, this case is dismissed. The Clerk shall enter judgment accordingly.**

IT IS SO ORDERED.

s/Nora Beth Dorsey
Nora Beth Dorsey
Special Master