

In the United States Court of Federal Claims

OFFICE OF SPECIAL MASTERS

No. 20-225V

Filed: November 29, 2022

UNPUBLISHED

KIM WARNER, *as mother and natural guardian of D.W., a minor,*

Petitioner,

v.

SECRETARY OF HEALTH AND HUMAN SERVICES,

Respondent.

Special Master Horner

Order Concluding Proceedings;
Vaccine Rule 21(a)

Braden A. Blumenstiel, The Law Office of DuPont & Blumenstiel, Dublin, OH, for petitioner.

Zoe Wade, U.S. Department of Justice, Washington, DC, for respondent.

ORDER CONCLUDING PROCEEDINGS¹

On February 27, 2020, Kim Warner, as mother and natural guardian of D.W. (“petitioner”), filed this claim alleging the DTP/aP and hepatitis A vaccines D.W. received on February 27, 2017, caused him to develop gastrointestinal disorder, autism spectrum disorder (“ASD”), and sensory processing disorder. (ECF No. 1, p. 3). On May 9, 2022, this case was assigned to my docket. (ECF No. 26.)

On August 17, 2022, I issued an order to show cause why this case should not be dismissed. (ECF No. 27.) I noted that Vaccine Program cases involving ASD have been routinely dismissed for failing to preponderantly establish causation-in-fact. (*Id.* at 3.) I further noted that no treating physician offered a medical opinion consistent with petitioner’s claim. (*Id.* at 4.) I ordered petitioner to provide either a “sound and reliable” expert medical opinion supporting a vaccine injury or a written submission pursuant to

¹ Because this decision contains a reasoned explanation for the special master’s action in this case, it will be posted on the United States Court of Federal Claims’ website in accordance with the E-Government Act of 2002. See 44 U.S.C. § 3501 note (2012) (Federal Management and Promotion of Electronic Government Services). **This means the decision 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 the special master, upon review, agrees that the identified material fits within this definition, it will be redacted from public access.

Vaccine Rule 8(d) addressing why petitioner nonetheless believes that she is entitled to compensation. (*Id.*) Thereafter, petitioner filed a notice of voluntary dismissal without prejudice on November 15, 2022. (ECF No. 29.)

Accordingly, pursuant to Vaccine Rule 21(a), this case is hereby **dismissed without prejudice**. The Clerk of the Court is hereby instructed that a **judgment shall not enter** in the instant case pursuant to Vaccine Rule 21(a).

IT IS SO ORDERED.

s/Daniel T. Horner

Daniel T. Horner
Special Master