

In the United States Court of Federal Claims

OFFICE OF SPECIAL MASTERS

No. 20-695V

Filed: August 28, 2023

* * * * *

ROBERT WILLIS, *as father and* *
natural guardian of A.W., as a minor, *

Petitioner, *

v. *

SECRETARY OF HEALTH *
AND HUMAN SERVICES, *

Respondent. *

* * * * *

Braden Blumenstiel, Esq., The Law Office of DuPont & Blumenstiel, Dublin, OH, for petitioner.
Katherine Esposito, Esq., U.S. Dept. of Justice, Washington, DC for respondent.

DECISION¹

Roth, Special Master:

On June 9, 2020, petitioner filed a petition for Vaccine Compensation in the National Vaccine Injury Compensation Program (“the Program”)² on behalf of his child A.W., alleging that the Pentacel and Prevnar vaccines A.W. received on June 9, 2017 caused A.W. to develop “small ticks, leg swelling, hives behind the knees, swollen face, fever, and breathing problems.” Petition at 1, ECF No. 1. The information in the record, however, does not show entitlement to an award

¹ Because this Decision contains a reasoned explanation for the action taken in this case, it must be made publicly accessible and will be posted on the United States Court of Federal Claims' website, and/or at <https://www.govinfo.gov/app/collection/uscourts/national/cofc>, in accordance with the E-Government Act of 2002. 44 U.S.C. § 3501 note (2018) (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, upon review, I agree that the identified material fits within this definition, I will redact such material from public access. Otherwise, the whole Decision will be available to the public. *Id.*

² The Program comprises Part 2 of the National Childhood Vaccine Injury Act of 1986, Pub. L. No. 99-660, 100 Stat. 3755, codified as amended, 42 U.S.C. §§ 300aa-10 *et seq.* (hereinafter “Vaccine Act” or “the Act”). Hereafter, individual section references will be to 42 U.S.C. § 300aa of the Act.

under the Program. On August 28, 2023, petitioner filed a Motion for Dismissal Decision requesting that his case be dismissed. ECF No. 61.

To receive compensation under the Program, 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). An examination of the record did not uncover any evidence that A.W. suffered a “Table Injury.” Further, the record does not contain persuasive evidence indicating that A.W.’s alleged injury was vaccine-caused or in any way vaccine-related.

Under the Act, petitioner may not be given a Program award based solely on the petitioner’s claims alone. Rather, the petition must be supported by either medical records or by the opinion of a competent physician. § 13(a)(1). In this case, because there are insufficient medical records supporting petitioner’s claim, a medical opinion must be offered in support. Petitioner, however, has offered no such opinion that supports a finding of entitlement.

Accordingly, it is clear from the record in this case that petitioner has failed to demonstrate either that A.W. suffered a “Table Injury” or that A.W.’s injuries were “actually caused” by a vaccination. **Thus, this case is dismissed for insufficient proof. The Clerk of Court shall enter judgment accordingly.**

IT IS SO ORDERED.

s/ Mindy Michaels Roth
Mindy Michaels Roth
Special Master