

In the United States Court of Federal Claims
OFFICE OF SPECIAL MASTERS
No. 21-1771V

AMARAH ELZABAD,

Petitioner,

Chief Special Master Corcoran

Filed: June 15, 2023

v.

SECRETARY OF HEALTH
AND HUMAN SERVICES,

Respondent.

Ronald C. Homer, Conway, Homer, P.C., Boston, MA, for Petitioner.

Nancy Tinch, U.S. Dep’t of Justice, Washington, DC, for Respondent.

RULING ON ENTITLEMENT¹

On August 27, 2021, Amarah Elzabad filed a petition seeking compensation under the National Vaccine Injury Compensation Program (the “Vaccine Program”).² Petition (ECF No. 1) at 1. Petitioner alleges that she suffered from cellulitis and subsequent scarring in her right deltoid after she received the measles, mumps, and rubella (“MMR”) vaccination on September 9, 2020. *Id.*

In his Rule 4(c) Report, Respondent has acknowledged that Petitioner’s claim is compensable under the Act. *See* Respondent’s Report, dated June 9, 2023 (ECF No. 34). Respondent specifically stated that medical personnel at the Division of Injury Compensation Programs, Department of Health and Human Services, have reviewed the petition and accompanying documents filed in this case, as well as the relevant medical records, and

¹ As provided by 42 U.S.C. § 300aa-12(d)(4)(B), the parties may object to the Ruling’s inclusion of certain kinds of confidential information. Specifically, under Vaccine Rule 18(b), each party has fourteen days within which to request redaction “of any information furnished by that party: (1) that is a trade secret or commercial or financial in substance and is privileged or confidential; or (2) that includes medical files or similar files, the disclosure of which would constitute a clearly unwarranted invasion of privacy.” Vaccine Rule 18(b). Otherwise, the whole Ruling will be available to the public in its present form. *Id.*

² The Vaccine Program comprises Part 2 of the National Childhood Vaccine Injury Act of 1986, Pub. L. No. 99-660, 100 Stat. 3758, codified as amended at 42 U.S.C. §§ 300aa-10 through 34 (2012) (“Vaccine Act” or “the Act”). Individual section references hereafter will be to § 300aa of the Act (but will omit that statutory prefix).

Respondent has concluded that Petitioner has met her burden of proof in connecting the vaccination that she received to her condition as required for entitlement under the Vaccine Act. *Id.* at 8. Respondent concedes that the evidence shows that Petitioner suffered cellulitis and subsequent scarring in her right deltoid as a result of the MMR vaccine, and that onset occurred within the appropriate timeframe. *Id.* Respondent therefore concludes that Petitioner is entitled to an award of damages. *Id.* at 8–9.

In view of Respondent’s concession, and based on my own review of the record (*see* Section 13(a)(1); 42 C.F.R. § 100.3 (a)(I)), I find that Petitioner is entitled to compensation for an injury that was caused-in-fact by a covered vaccine. 42 C.F.R. §§ 100.3(a)(III), 100.3(b)(2). A separate damages order will be issued shortly.

Any questions may be directed to my law clerk, Madison Atkinson, at madison_atkinson@cfc.uscourts.gov.

IT IS SO ORDERED.

/s/ Brian H. Corcoran
Brian H. Corcoran
Chief Special Master