

In the United States Court of Federal Claims

OFFICE OF SPECIAL MASTERS

Filed: January 10, 2025

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GWEN TWIEHAUS, on behalf of Q.W., *

Petitioner, *

v. *

SECRETARY OF HEALTH *

AND HUMAN SERVICES, *

Respondent. *

* * * * *

No. 22-862V

Special Master Dorsey

ORDER CONCLUDING PROCEEDINGS¹

On August 5, 2022, Gwen Twiehaus (“Petitioner”), on behalf of Q.W., filed a petition for compensation under the National Vaccine Injury Compensation Program (“Vaccine Act” or “the Program”), 42 U.S.C. § 300aa-10 et seq. (2018).² Petitioner alleged that Q.W. suffered chronic urticaria as a result of hepatitis B, Haemophilus influenzae type b (“Hib”), pneumococcal conjugate, polio, rotavirus, and diphtheria-tetanus-acellular pertussis (“DTaP”) vaccines Q.W. received on August 7, 2019. Amended Petition at Preamble (ECF No. 51).

On June 30, 2023, Respondent filed his Rule 4(c) report arguing against compensation. Respondent’s Report (“Resp. Rept.”) at 2 (ECF No. 28). From October 2023 to March 2024, the parties filed expert reports. Petitioner’s Exhibits (“Pet. Exs.”) 18, 30; Resp. Exs. A-D.

¹ Because this Order contains a reasoned explanation for the action in this case, the undersigned is required to post it 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 Order 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, the undersigned agrees that the identified material fits within this definition, the undersigned will redact such material from public access.

² The National Vaccine Injury Compensation Program is set forth in 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 to -34 (2018). All citations in this Order to individual sections of the Vaccine Act are to 42 U.S.C. § 300aa.

The undersigned held a Rule 5 status conference on August 6, 2024. Rule 5 Order dated Aug. 6, 2024 (ECF No. 58). After a review of the expert reports and medical records, the undersigned was unable to deliver her preliminary thoughts and opinions. Id. at 2. Petitioner was directed to indicate how she would like to proceed. Id. at 3.

On December 11, 2024, Petitioner filed a status report. Pet. Status Rept., filed Dec. 11, 2024 (ECF No. 66). Petitioner reported that after a discussion with her expert, Petitioner's continued pursuit of compensation under the National Vaccine Injury Compensation Program is not warranted, and as such, Petitioner intends to submit a notice of voluntary dismissal without prejudice with the Court. Id.

On January 8, 2025, Petitioner filed a joint stipulation of dismissal, indicating "[t]he parties hereby stipulate pursuant to Vaccine Rule 21(a) that this action shall be dismissed." Joint Stipulation of Dismissal, filed Jan. 8, 2025 (ECF No. 70).

Under Vaccine Rule 21(a), which governs dismissal of a petition, "Petitioner may dismiss the petition without order of the special master or the court by filing: . . . (B) a stipulation of dismissal signed by all parties who have appeared in the action." Vaccine Rule 21(a)(1)(B). Unless stated otherwise, the dismissal is without prejudice. Vaccine Rule 21(a)(2). "A petition dismissed under this subdivision (a) will not result in a judgment pursuant to Vaccine Rule 11 for purposes of 42 U.S.C. § 300aa-21(a)." Vaccine Rule 21(a)(3).

In accordance with Vaccine Rule 21(a), this case is hereby **dismissed without prejudice**. The Clerk of Court is instructed that **judgment shall not enter** in the instant case pursuant to Vaccine Rule 21(a)(3).

IT IS SO ORDERED.

s/Nora Beth Dorsey
Nora Beth Dorsey
Special Master