

for a decision dismissing her case. Petitioner’s Response to Respondent’s Rule 4(c) Report (“Pet. Response”), filed May 8, 2023 (ECF No. 19); Pet. Motion to Dismiss (“Pet. Mot.”), filed May 8, 2023 (ECF No. 21). Petitioner explained she sought the consultation of an expert physician; however, Petitioner could not “secure qualified testimony that adequately establishes causation between her injuries and the [flu vaccine that she received.” Pet. Response at 1; see also Pet. Mot. at ¶¶ 1-3. Petitioner concluded “that she cannot meet her burden of establishing her entitlement to compensation under the Act and that her Petition should be dismissed.” Pet. Response at 1. Respondent confirmed via email that Respondent agreed to the dismissal.

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 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