

In the United States Court of Federal Claims

OFFICE OF SPECIAL MASTERS

Filed: April 5, 2024

* * * * *
VENETIA ROYSTER,
as natural guardian and legal
representative of her minor daughter,
M.L.,
Petitioner,
v.
SECRETARY OF HEALTH
AND HUMAN SERVICES,
Respondent.
* * * * *

Unpublished
No. 23-460VV
Special Master Gowen
Ruling on Entitlement; Concession.

Nancy R. Meyers, Turning Point Litigation, Greensboro, NC, for petitioner.
Julianna R. Kober, U.S. Department of Justice, Washington, D.C., for respondent.

RULING ON ENTITLEMENT¹

On March 31, 2023, Venetia Royster, as natural guardian and legal representative of her minor daughter, M.L., filed a petition for compensation under the National Vaccine Injury Compensation Program.² Petition (ECF No. 1). Petitioner alleges that M.L. developed an intramuscular methicillin resistant Staphylococcus aureus (“MRSA”) abscess as a result of receiving the diphtheria, tetanus, pertussis vaccine (“DTaP vaccine”) on January 24, 2022. Id. Petitioner filed medical records to accompany her claim. See Petitioner’s (“Pet’r”) Exhibits (“Exs.”) 1-7.

¹ Pursuant to the E-Government Act of 2002, see 44 U.S.C. § 3501 note (2012), because this decision contains a reasoned explanation for the action in this case, I am required to post it on the website of the United States Court of Federal Claims. The court’s website is at http://www.uscfc.uscourts.gov/aggregator/sources/7. This means the decision will be available to anyone with access to the Internet. Before the decision is posted on the court’s website, each party has 14 days to file a motion requesting 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). “An objecting party must provide the court with a proposed redacted version of the decision.” Id. If neither party files a motion for redaction within 14 days, the decision will be posted on the court’s website without any changes. Id.

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 (2012) (hereinafter “Vaccine Act” or “the Act”). Hereinafter, individual section references will be to 42 U.S.C. § 300aa of the Act.

On April 5, 2024, respondent filed the Rule 4(c) report in which he concedes that petitioner is entitled to compensation in this matter. Respondent's Report ("Resp. Rept.") (ECF No. 17). Specially, respondent states:

...medical personnel at the Division of Injury Compensation Programs, Department of Health and Human Services ("DICP"), have reviewed the Petition and supporting documentation filed in this case and conclude that M.L. developed a non-specific mass on her left leg, which was more likely than not caused by administration of DTaP vaccination at the same location. No other causes for M.L.'s non-specific mass have been identified. *See* 42 U.S.C. § 300aa-13(a)(1)(B).

Resp. Rept. at 7. In addition, petitioner has satisfied the statutory requirement that M.L.'s injury lasted for at least six-months, or resulted in "inpatient hospitalization and surgical intervention," as required by § 300aa-11(c)(1)(D)(i), (iii). *Id.* Therefore, based on the record as it now stands, petitioner has satisfied all legal pre-requisites for compensation under the Act. *Id.*

In light of respondent's position and the evidence in the record, **I find that petitioner is entitled to compensation.** A separate damages order will be issued.

IT IS SO ORDERED.

s/Thomas L. Gowen
Thomas L. Gowen
Special Master