

To be entitled to compensation under the Vaccine Act, a petitioner must demonstrate that he or she received a vaccine listed on the Vaccine Injury Table (the “Table”). § 11(c)(1)(A); 42 C.F.R. § 100.3 (Table). Vaccines are added to this Table only after two steps are taken by the Department of Health and Human Services and by Congress. First, compensation in the Program can only be awarded to individuals “who have been injured by vaccines routinely administered to children.” H.R. Rep. 99-908, 1986 U.S.C.C.A.N. 6344 at 3. Thus, the vaccine at issue must be designated by the Centers for Disease Control as appropriate for children or pregnant women (even if it is also administered to adults). Then, the Secretary of Health and Human Services may promulgate regulations to amend the Vaccine Injury Table to add the new vaccine. § 14(c)(1). Second, Congress must enact an excise tax on each vaccine listed on the Table to provide funds for compensation awarded to successful vaccine claims. A vaccine becomes the basis for a claim in the Vaccine Program on the date the tax is enacted. 26 U.S.C. § 4131(a); *see also* Omnibus Budget Reconciliation Act of 1993, Pub. L. No. 103–66, § 13632(a)(3), 107 Stat. 312 (1993).

The COVID-19 vaccine does not yet appear on the Table and is therefore not covered by the Vaccine Program. As a result, at the present time, *no* petitioner can demonstrate that he “received a vaccine set forth in the Vaccine Injury Table” based upon a COVID-19 vaccine. Section 11(c)(1)(A). Accordingly, the petition must be dismissed. *See, e.g., Danberry v. Sec’y of Health & Hum. Servs.*, No. 20-778V, 2020 WL 6375330 (Fed. Cl. Spec. Mstr. Sept. 28, 2020) (dismissing a claim seeking compensation for injuries incurred after receiving Pneumovax-23 and Shingrix—two vaccines that are not set forth in the Table).⁴

CONCLUSION

Accordingly, and for the aforementioned reasons, the Petition is dismissed. In the absence of a motion for review filed pursuant to RCFC Appendix B, the Clerk of the Court **SHALL ENTER JUDGMENT** in accordance with the terms of this Decision.⁵

IT IS SO ORDERED.

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

⁴ Petitioner may review the Court’s notice about COVID-19 vaccine claims on its website: <http://www.uscfc.uscourts.gov/vaccine-programoffice-special-masters>.

⁵ Pursuant to Vaccine Rule 11(a), the parties may expedite entry of judgment if (jointly or separately) they file notices renouncing their right to seek review.