

In the United States Court of Federal Claims

OFFICE OF SPECIAL MASTERS

No. 05-1178V

(Filed: April 17, 2009)

LESLEY ANN JONES, on behalf of her daughter, *
JADE CHRISTINE DOLLAR, *

Petitioner, *

v. *

SECRETARY OF HEALTH AND *
HUMAN SERVICES, *

Respondent. *

Decision on Written Record

DECISION¹

On November 7, 2005, the petitioner filed a petition seeking compensation under the National Vaccine Injury Compensation Program (“the Program”) for an injury to her daughter Jade; the injury was alleged to be related to a DPaT vaccination that Jade received on November 7, 2002. However, the petitioner, despite years of effort, has been unable to find an expert to supply a favorable expert opinion. On April 6, 2009, the petitioner filed a “Motion for Ruling on the Record.”

¹This document constitutes my final “decision” in this case, pursuant to 42 U.S.C. § 300aa-12(d)(3)(A) (2006). Unless a motion for review of this decision is filed within 30 days, the Clerk of this Court shall enter judgment in accord with this decision.

This document will not be sent to electronic publishers as a formally “published” opinion. However, because this document contains a reasoned explanation for my action in this case, I intend to post this document on the United States Court of Federal Claims’ website, in accordance with the E-Government Act of 2002, Pub. L. No. 107-347, 116 Stat. 2899, 2913 (Dec. 17, 2002). Therefore, each party has 14 days within which to request redaction “of any information furnished by that party (1) that is 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, this entire document will be available to the public. Id. See also 42 U.S.C. § 300aa-12(d)(4)(B).

To receive compensation under the Program, the petitioners must prove either: 1) that Jade suffered a “Table Injury”--*i.e.*, an injury falling within the Vaccine Injury Table--corresponding to one of her vaccinations, or 2) that Jade suffered an injury that was actually caused by a vaccine. *See* 42 U.S.C. §§ 300aa-13(a)(1)(A) and 300aa-11(c)(1). My examination of the filed medical records, however, did not uncover any evidence that Jade suffered a “Table Injury.” Further, the records do not contain a medical expert’s opinion, or any other evidence, indicating that Jade has a *vaccine-caused* injury.

Under the statute, a petitioner may not be given a Program award based solely on the petitioner’s claims alone. Rather, the petition must be supported by either medical records or by the opinion of a competent physician. 42 U.S.C. § 300aa-13(a)(1).² Here, because the medical records do not seem to support the petitioner’s claim, a medical opinion must be offered in support. Petitioner, however, has offered no such opinion.

I am, of course, sympathetic to the fact that Jade has suffered from an unfortunate condition. However, under the law I can authorize compensation only if a medical condition or injury either falls within one of the “Table Injury” categories, or is shown by medical records or competent medical opinion to be vaccine-caused. No such proof exists in the record before me. Accordingly, it is clear from the record in this case that petitioner has failed to demonstrate either that Jade suffered a “Table Injury” or that she suffers from any condition that was “actually caused” by a vaccination. Therefore, I have no choice but to hereby DENY this claim. In the absence of a timely-filed motion for review of this decision (see Appendix B to the Rules of the Court), the Clerk shall enter judgment in accord with this decision.

George L. Hastings, Jr.
Special Master

²The statutory provisions governing the National Vaccine Injury Compensation Program are found in 42 U.S.C. § 300aa-10 *et seq.* (2006.).