

OFFICE OF SPECIAL MASTERS

No. 99-632V

Filed: September 13, 2005

 ELIZABETH BERGEM, *
 *
 Petitioner, *
 *
 v. *
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 *
 SECRETARY OF THE DEPARTMENT *
 OF HEALTH AND HUMAN SERVICES, *
 *
 Respondent. *

DECISION¹

Petitioner Elizabeth Bergem² filed a petition for compensation under the National Vaccine Injury Compensation Program³ [hereinafter “the Act” or “the Program”] on August 4, 1999. Petitioner alleged in the petition that she was injured as a result of receiving hepatitis B vaccinations in November and December of 1997. There was no specific injury listed in the

¹ Because this decision contains a reasoned explanation for the special master’s action in this case, the undersigned intends to post this decision on the United States Court of Federal Claims’s website, in accordance with the E-Government Act of 2002, Pub. L. No. 107-347, 116 Stat. 2899, 2913 (Dec. 17, 2002). Therefore, as provided by Vaccine Rule 18(b), each party has fourteen (14) days within which to request redaction “of any information furnished by that party (1) that is trade secret or commercial or financial information and is privileged or confidential, or (2) that are medical files and similar files the disclosure of which would constitute a clearly unwarranted invasion of privacy.” Vaccine Rule 18(b). Otherwise, “the entire” decision will be available to the public. Id.

² The original caption on petitioner’s petition differs from the current one due to the marriage of petitioner. On September 13, 2004, the court issued an order changing the caption to reflect the subsequent name change of the petitioner.

³ The statutory provisions governing the Vaccine Act are found at 42 U.S.C. §§ 300aa-10 to 300aa-34 (2003). Hereinafter, for ease of citation, all references will be to the relevant subsection of 42 U.S.C. § 300aa.

petition, however. On July 27, 2001, petitioner filed medical records and an affidavit alleging that the hepatitis B vaccinations that she received caused her to develop rheumatoid arthritis. Petitioner's Exhibit 11 at 1-2. More medical records were filed on March 5, 2002.

On August 29, 2005, however, petitioner filed a "Motion for a Ruling on the Record [hereinafter Motion]," requesting this court "to issue a decision in her case based on the existing record." Motion at 1. In response, on August 29, 2005, respondent's counsel submitted a Rule 4(b) report in which respondent asserts that the petitioner "has not demonstrated, by a preponderance of the evidence, that it is more likely than not that her rheumatoid arthritis is causally related to her hepatitis B vaccinations." Respondent's Rule 4(b) Report and Response to Petitioner's Motion for Ruling on the Record, filed Aug. 29, 2005 at 7. More specifically, respondent asserts that the petitioner's allegation of a causal relationship between the vaccine and her illness is uncorroborated, as none of her various treating physicians ascribed her condition to the vaccine, nor did she file a medical expert report demonstrating that the hepatitis B vaccinations she received caused her rheumatoid arthritis. Id. at 6.

The court has examined closely the record in this case. Section 13 (a)(1) of the Act states that "[t]he special master or court may not make such a finding [for compensation] based on the claims of a petitioner alone, unsubstantiated by medical records or medical opinion." After close examination of the record, the undersigned finds that due to the lack of supportive medical records or an expert opinion, petitioner has failed to substantiate her claim. Thus, the court must dismiss this case for want of proof.

In the absence of a motion for review filed pursuant to RCFC, Appendix B, the Clerk is directed to enter judgment accordingly.

IT IS SO ORDERED.

Gary J. Golkiewicz
Chief Special Master