In the United States Court of Federal Claims

OFFICE OF SPECIAL MASTERS
No. 02-2046V
Filed: September 6, 2011

STEPHANIE BUSHAK and MATTHEW BUSHAK, as the Parents and Natural Guardians of RYAN MATTHEW BUSHAK, a Minor, **Petitioners,** **v.** **SECRETARY OF HEALTH AND HUMAN SERVICES** **Respondent.**	UNPUBLISHED DECISION Autism; Petitioners' Motion for a Decision Dismissing their Petition; Insufficient Proof of Causation; Vaccine Act Entitlement; Denial Without a Hearing

DECISION[1]

On December 30, 2002, petitioners filed a Petition for Vaccine Compensation in the National Vaccine Injury Compensation Program ("the Program"),[2] alleging that Ryan was injured by a vaccine or vaccines listed on the Vaccine Injury Table. See § 14. The information in the record does not show entitlement to an award under the Program.

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[1] Because this unpublished decision contains a reasoned explanation for the action in this case, the undersigned intends to post this decision on the United States Court of Federal Claims' website, in accordance with the E-Government Act of 2002, Pub. L. No. 107-347, § 205, 116 Stat. 2899, 2913 (codified as amended at 44 U.S.C. § 3501 note (2006)). In accordance with Vaccine Rule 18(b), a party has 14 days to identify and move to delete medical or other information, that satisfies the criteria in 42 U.S.C. § 300aa-12(d)(4)(B). Further, consistent with the rule requirement, a motion for redaction must include a proposed redacted decision. If, upon review, the undersigned agrees that the identified material fits within the requirements of that provision, such material will be deleted from public access.

[2] The Program comprises 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 *et seq.* (hereinafter "Vaccine Act" or "the Act"). Hereafter, individual section references will be to 42 U.S.C. § 300aa of the Act.

On September 02, 2011, the petitioners moved for a decision on the merits of the petition, acknowledging that insufficient evidence exists to demonstrate entitlement to compensation.

To receive compensation under the Program, petitioners must prove either 1) that Ryan suffered a "Table Injury" – i.e., an injury falling within the Vaccine Injury Table – corresponding to one of Ryan's vaccinations, or 2) that Ryan suffered an injury that was actually caused by a vaccine. See §§ 13(a)(1)(A) and 11(c)(1). Examination of the record does not disclose any evidence that Ryan suffered a "Table Injury." Further, the record does not contain a medical expert's opinion or any other persuasive evidence indicating that Ryan's alleged injury was vaccine-caused.

Under the Vaccine Act, a petitioner may not be awarded compensation based on the petitioner's claims alone. Rather, the petition must be supported by either the medical records or by a medical opinion. § 13 (a)(1). In this case, the record does not contain medical records or a medical opinion sufficient to demonstrate that the vaccinee was injured by a vaccine. For these reasons, in accordance with § 12(d)(3)(A), the **petitioners' claim for compensation is denied and this case is dismissed for insufficient proof. The Clerk shall enter judgment accordingly.** [3]

IT IS SO ORDERED.

s/Patricia E. Campbell-Smith
Patricia E. Campbell-Smith
Chief Special Master

[3] This document constitutes my final "Decision" in this case, pursuant to § 12(d)(3)(A). If petitioner wishes to have this case reviewed by a Judge of the United States Court of Federal Claims, a motion for review of this decision must be filed within 30 days. After 30 days the Clerk of this Court shall enter judgment in accord with this decision. If petitioner wishes to preserve whatever right petitioner may have to file a civil suit (that is a law suit in another court) petitioner must file an "election to reject judgment in this case and file a civil action" within 90 days of the filing of the judgment. § 21(a).