

**In the United States Court of Federal Claims**  
**OFFICE OF SPECIAL MASTERS**  
(E-Filed: January 8, 2008)

KAREN ODOM DUDLEY,	)	
	)	UNPUBLISHED
	)	
Petitioner,	)	No. 98-892V
	)	
v.	)	Filed Records Do Not
	)	Support a Finding of
SECRETARY OF THE DEPARTMENT OF	)	Entitlement
HEALTH AND HUMAN SERVICES,	)	
	)	
Respondent.	)	
	)	
	)	

**DECISION**<sup>1</sup>

On November 23, 1998, petitioner, Karen Odum Dudley (petitioner), filed a pro se petition seeking compensation under the National Vaccine Injury Compensation Program (the Vaccine Program).<sup>2</sup> Petitioner was seeking compensation for injuries she allegedly

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<sup>1</sup> The undersigned issues this final decision pursuant to 42 U.S.C. § 300aa-12(d)(3)(A). Absent the filing of a motion for review of this decision within thirty days, the Clerk of Court shall enter judgment in accordance with this decision.

Additionally, pursuant to 42 U.S.C. § 300aa-12(d)(4), Rule 18(b)(2) of the Vaccine Rules of this Court, and the E-Government Act of 2002, Pub. L. No. 107-347, 116 Stat. 2899, 2913 (Dec. 17, 2002), this decision will be made available to the public unless a party objects, within fourteen days, to the disclosure of: (1) any “trade secret or commercial or financial information which is privileged and confidential;” or (2) any information contained in “medical files and similar files the disclosure of which would constitute a clearly unwarranted invasion of privacy.”

<sup>2</sup> 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.A. § 300aa-10-§ 300aa-34 (West 1991 & Supp. 2002) (Vaccine Act or the Act). All citations in this decision to individual sections of the Vaccine Act are to 42 U.S.C.A. § 300aa.

sustained as a result of the receipt of hepatitis B (“Hep B”) vaccines administered on March 9, April 9, and September 9, 1995.<sup>3</sup> Petitioner alleges that she suffered no adverse reaction after her first Hep B vaccination. Petition at 1. She began having problems at some unspecified point after her second Hep B vaccination, which she alleges became increasingly worse after her third Hep B vaccination. Id. Petitioner alleges that the day after her third Hep B vaccination, she experienced flu-like symptoms, specifically, she was “achey,” sore, and had “general overall body pains/weakness.” Id.<sup>4</sup> Petitioner alleges further that in August 1995, she began to experience general muscle aches and “skin soreness,” chest pain “through the back, and a deep burning inside.” Id. A pre-existing herniated disc in her neck seemed to worsen. Id. In February 1996, petitioner noticed problems with her vision, and she also developed insomnia. Id. She began to wear eyeglasses for the first time. Id. She was also prescribed antidepressants. Petition at 2. At the time the petition was filed, petitioner continued to suffer pain daily, which she described as “ranging from minor to debilitating.” Id. She received physical and psychological therapy, but her problems continued. Id. Her doctors could not diagnose her problem. Petitioner stated that “there just appears to be too much happening to me since I had my Hepatitis Vaccine for this to all be coincidental.” Id. The filed records, however, do not support a finding of entitlement to an award under the Vaccine Program.

To receive compensation under the Vaccine Program, a petitioner must prove either: (1) that [s]he suffered, after receiving the vaccinations in question, an identified injury on the Vaccine Injury Table that occurred within the prescribed time period, referred to as a “Table” injury, or (2) that [s]he suffered medical problems that were caused by the administered vaccinations, referred to as an “off-Table” injury. See 42 U.S.C. § 300aa-13(a)(1)(A) and § 300aa-11(c)(1). Petitioner bears the burden of establishing, by a preponderance of the evidence, that [s]he is entitled to compensation. 42 U.S.C. § 300aa-13(a)(1)(A).

A careful review of the filed records has not produced any evidence that petitioner suffered a “Table Injury.” Nor do the filed records contain a medical expert’s opinion indicating that any of petitioner’s alleged health problems were vaccine-caused.

The Vaccine Act prohibits a Program award to a petitioner based solely on unsubstantiated petitioner’s claims. 42 U.S.C. § 300aa-13(a)(1). The Act requires that

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<sup>3</sup> Petitioner did not file a formal petition, but instead filed a letter setting forth her vaccine injury claim, which was accepted and filed as a petition by the Clerk of the Court of Federal Claims on the aforesaid date.

<sup>4</sup> Petitioner failed to paginate her initial filing. The undersigned has paginated the five page filing, beginning with the petition (petitioner’s letter, dated July 28, 1998.)

the petition must be supported by the medical records or by the opinion of a competent physician. Id. Because the filed medical records do not provide support for petitioner's claim, a medical opinion supporting petitioner's claim must be offered. Petitioner, however, has not offered a medical opinion.

By motion (Motion) filed August 2, 2007, petitioner's counsel requested a judgment on the record as it stands. Petitioner's counsel acknowledges that "[p]etitioner does not feel that she can prove causation, as she cannot find an expert to support causation in her case." Motion at 1.

Absent evidence in the filed records that petitioner's injury was caused by the received vaccination, and without an opinion of causation offered by a competent physician, petitioner has failed to satisfy her burden under the Act entitling her to Program compensation. Accordingly, petitioner's motion for judgment on the record is **GRANTED**, and petitioner's claim for compensation under the Vaccine Program is **DENIED**.

**IT IS SO ORDERED.**

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