

In the United States Court of Federal Claims

OFFICE OF SPECIAL MASTERS

No. 09-662V

Filed: August 17, 2011

Unpublished

MIRANDA CLEMENTS, mother of
GABRIEL LOCKLEAR, a minor,

Petitioner,

v.

SECRETARY OF THE DEPARTMENT
OF HEALTH AND HUMAN SERVICES,

Respondent.

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Denial; Diphtheria-tetanus-acellular
pertussis, DTaP; Hepatitis B vaccine,
HBV; Subdural and retinal bleeding,
seizures, brain damage

Edward M. Kraus, Law Offices of Chicago Kent, Chicago, IL, for Petitioner.
Ryan D. Pyles, U.S. Department of Justice, Washington, D.C., for Respondent.

DECISION¹

GOLKIEWICZ, Special Master.

On August 5, 2010, a Petition in this matter was filed alleging that petitioner's son ultimately suffered brain damage due to the diphtheria-tetanus-acellular pertussis vaccine, DTaP, and the hepatitis B vaccine, HBV, he received on October 12, 2006. Medical records were filed with the Petition and respondent filed her Rule 4(c) Report on January 4, 2010, which recommended against awarding compensation. On August 16, 2011, petitioner filed an unopposed Motion for a Decision Dismissing her Petition. Petitioner's Motion stated petitioner is unable to prove causation in this matter. P Motion at ¶ 1.

Upon petitioner's admission and a review of the record, petitioner fails to provide preponderant evidence that the vaccinations her son received on October 12, 2006, caused his alleged injuries. Further, the Act at 42 U.S.C. § 300aa-13(a) provides that the special master

¹ The undersigned intends to post this decision on the website for the United States Court of Federal Claims, in accordance with the E-Government Act of 2002, Pub. L. No. 107-347, 116 Stat. 2899, 2913 (Dec. 17, 2002). **As provided by Vaccine Rule 18(b), each party has 14 days within which to request redaction "of any information furnished by that party (1) that is a 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, the entire decision will be available to the public. Id. Any motion for redaction must be filed by no later than fourteen (14) days after filing date of this filing. Further, consistent with the statutory requirement, a motion for redaction must include a proposed redacted decision, order, ruling, etc.**

“may not make a finding based on the claims of a petitioner alone, unsubstantiated by medical records or by medical opinion.” Thus, this Petition remains unsupported by either medical records or medical opinion. In accordance with section 13(a) the undersigned has no option but to **deny** petitioner’s claim for want of proof.

The Clerk of the Court is directed to enter judgment accordingly.

IT IS SO ORDERED.²

s/ Gary J. Golkiewicz
Gary J. Golkiewicz
Special Master

² This document constitutes a final “decision” in this case pursuant to 42 U.S.C. § 300aa-12(d)(3)(A). Unless a motion for review of this decision is filed within 30 days, the Clerk of the Court shall enter judgment in accord with this decision. Pursuant to Vaccine Rule 11(a), the parties can expedite entry of judgment by each party filing a notice renouncing the right to seek review by a United States Court of Federal Claims judge.