

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.

On October 19, 2011, the petitioner 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, petitioner must prove either 1) that Tyler suffered a “Table Injury” – i.e., an injury falling within the Vaccine Injury Table – corresponding to one of Tyler’s vaccinations, or 2) that Tyler 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 Tyler suffered a “Table Injury.” Further, the record does not contain a medical expert’s opinion or any other persuasive evidence indicating that Tyler’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 **petitioner’s claim for compensation is denied and this case is dismissed for insufficient proof.**

The petitioner has also filed an unopposed motion for an award of attorneys’ fees and costs in this case. Petitioner is entitled to reasonable attorneys’ fees and costs pursuant to §§ 15(b) and (e)(1). Respondent has reviewed the motion and does not object. §§ 13(a)(1)(A) and 11(c)(1). In lieu of filing a General Order # 9 statement, petitioner’s counsel noted the out of pocket costs that petitioner personally incurred.

The request for attorneys’ fees and costs is granted. Petitioner is awarded reasonable attorneys’ fees and costs pursuant to §§ 15(b) and (e)(1), as I find that the petition was brought in good faith and upon a reasonable basis, and the amounts requested are reasonable and appropriate.

Accordingly, I hereby award the **total of \$6,704.51**. This total represents \$250.00 in petitioner’s personal costs, and \$6,454.51 in attorney fees and costs. The payment shall be:

- 1. a lump sum of \$6,454.51, in the form of a check payable jointly to petitioner, and petitioner’s counsel, Gallagher and Gallagher Law Firm LLC, for attorney fees and costs; and**
- 2. a lump sum of \$250.00, in the form of a check payable to petitioner, for out-of-pocket expenses personally incurred by petitioner.**

In the absence of a timely-filed motion for review filed pursuant to Appendix B of the Rules of the U.S. Court of Federal Claims, the clerk of the court shall enter judgment in accordance herewith.³

IT IS SO ORDERED.

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

³ Entry of judgment can be expedited by each party's filing of a notice renouncing the right to seek review. See Vaccine Rule 11(a).