

In the United States Court of Federal Claims

OFFICE OF SPECIAL MASTERS

No. 10-518V

Filed: August 9, 2011

Unpublished

ED POCHE,

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Petitioner,

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Denial; Influenza vaccine; Guillain-Barré Syndrome, GBS

v.

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SECRETARY OF THE DEPARTMENT
OF HEALTH AND HUMAN SERVICES,

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Respondent.

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*Diana Lynn Stadelnikas, Maglio Christopher & Toale, Sarasota, F.L., for Petitioners.
Darryl R. Wishard, 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 suffered Guillain-Barré Syndrome (“GBS”) as a result of the influenza vaccine he received on October 24, 2009. Medical records were subsequently filed and respondent filed her Rule 4(c) Report on December 17, 2010, which recommended against awarding compensation. Additional records were filed and a fact hearing was scheduled for July 20, 2011. On July 18, 2011, petitioner contacted the undersigned’s office, requesting cancellation of the July 20, 2011 hearing. Petitioner filed an unopposed Motion for a Decision Dismissing the Petition on August 5, 2011. Petitioner’s Motion stated petitioner is unable to prove causation in this matter. P Motion at ¶ 1.

Per petitioner’s admission and upon a review of the record, petitioner failed to provide preponderant evidence that the influenza vaccine caused petitioner’s alleged injury. Further, the Act at 42 U.S.C. § 300aa-13(a) provides that the special master “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

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.

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.