

# In the United States Court of Federal Claims

## OFFICE OF SPECIAL MASTERS

No. 10-220V

Filed: June 27, 2011



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ALEXIS WOLF, a minor, by and through  
her natural mother and next friend,  
TRACY WOLF,

Petitioner,

v.

SECRETARY OF THE DEPARTMENT  
OF HEALTH AND HUMAN SERVICES,

Respondent.

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Denial of compensation; Motion  
for Ruling on the Record; Human  
papillomavirus vaccine, HPV;  
Limbic encephalitis; Seizures

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*William P. Ronan, III, The Ronan Law Firm, Overland Park, KS, for Petitioner.*  
*Darryl R. Wishard, U.S. Department of Justice, Washington, D.C., for Respondent.*

### DECISION<sup>1</sup>

Golkiewicz, Special Master.

On April 8, 2010, petitioner filed a Petition for compensation under the National Childhood Vaccine Injury Act of 1986, 42 U.S.C. §§ 300aa-10 to -34 (hereinafter “Vaccine Act” or “the Act”). Petitioner’s daughter, Alexis, received three doses of the human papillomavirus (“HPV”) vaccine on March 27, 2007, June 5, 2007, and January 15, 2008. Pet. at 1. Petitioner alleges that Alexis suffers from limbic encephalitis and a seizure disorder as a result of receiving the HPV vaccine. Pet. at 4, 5. Petitioner notes that Alexis was diagnosed with mild cerebral palsy and Type I diabetes prior to receiving the first dose of the vaccine. Pet. at 1.

On September 3, 2010 petitioner filed medical records. Thereafter, respondent’s Rule 4(c) Report was filed on October 13, 2010, stating the opinion that this case is not appropriate for compensation under the terms of the Act. R Rule 4(c) Report, filed October 13, 2010. The Rule 4(c) Report notes that petitioner alleges an “off-Table Injury” under the Act and to prove actual causation, petitioner must establish by a preponderance of the evidence, that the vaccine was a legal cause for the medical condition or injury. *Id.* at 10. As such, the petition must be substantiated by the medical records or by credible expert medical opinion. *Id.* (citing 42 U.S.C.

<sup>1</sup> 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.

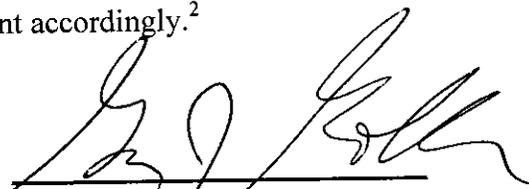
§ 300aa-13(a)(1)). Respondent notes causes unrelated to the vaccinations that may be the cause of the petitioner's daughter's condition. Id. at 13. The Rule 4(c) Report concludes that "petitioner has not provided a relevant, reliable medical or scientific explanation or theory in support of the causation-in-fact theory that the vaccines can cause her condition" and that "[p]etitioner has filed no expert report or medical literature support setting forth a theory of vaccine causation, and her treating physicians do not support vaccine causation." Id. at 15.

On June 10, 2011, petitioner filed a Motion requesting a ruling on the record. P Motion, filed June 10, 2011 ("P Motion"). As set forth in the Motion, petitioner desires to leave the Vaccine Injury Compensation Program and to preserve her right to file a civil action for her vaccine related injuries. P Motion, ¶ 3.

A review of the record shows petitioner has failed to provide preponderant evidence that her daughter suffered a vaccine-related injury due to the HPV vaccines she received. The Vaccine 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." Currently, 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** petitioners' claim for want of proof.

The Clerk shall enter judgment accordingly.<sup>2</sup>

**IT IS SO ORDERED.**



Gary J. Golkiewicz  
Special Master

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<sup>2</sup> 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.