

OFFICE OF SPECIAL MASTERS

No. 06-649V

Filed: December 6, 2007

UNPUBLISHED

TIFFANI PEACOCK, Mother and Legal *
Guardian to *
MORGAN PEACOCK, a minor *

Petitioner, *

Ruling on Record

v. *

SECRETARY OF THE DEPARTMENT *
OF HEALTH AND HUMAN SERVICES, *

Respondent. *

DECISION¹

On September 12, 2006 petitioner filed a Petition for Vaccine Compensation. Petitioner filed a Notice of Intent to Remain in the Program on August 16, 2007. On November 13, 2007 the petitioner filed a Motion for Ruling on the Record. On November 14, 2007, respondent filed respondent’s R4(c) Report requesting that the petition for vaccine compensation be denied and the case be dismissed. Petitioner did not respond to respondent’s R4(c) Report. My office contacted petitioner and petitioner confirmed that no response would be filed.

To receive compensation under the National Vaccine Compensation Program (hereinafter “the Program”), petitioner must prove either 1) Morgan Peacock suffered a “Table Injury” - i.e., an injury falling within the Vaccine Injury Table - corresponding to one of her vaccinations, or 2) that Morgan Peacock suffered an injury that was actually caused by a vaccine. See 42 U.S.C. §§

¹The undersigned intends to post this decision on the United States Court of Federal Claims’s website, 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 trade secret or commercial or financial information and is privileged or confidential, or (2) that are medical files and 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.

300aa-13(a)(1)(A) and 300aa-11(c)(1)². The undersigned’s examination of the filed medical records did not uncover any evidence that Morgan Peacock suffered a “Table Injury”. Further, the records do not contain a medical expert’s opinion or any other persuasive evidence indicating that Morgan Peacock’s illness was vaccine-caused.

Under the Act, a petitioner may not be given a Program award based solely on the petitioner’s claim alone. Rather, the petition must be supported by either medical records or by the opinion of a competent physician. § 300aa-13(a)(1). In this case, because the medical records do not support petitioner’s claim, a medical opinion must be offered in support. Petitioner, however, has offered no such opinion.

Accordingly, it is clear from the record in this case that petitioner has failed to demonstrate that Morgan Peacock suffered a “Table Injury” or that her injuries were “actually caused” by a vaccination. Thus, the court must dismiss this case for want of proof. The Clerk shall enter judgment accordingly.

IT IS SO ORDERED.

Gary J. Golkiewicz
Chief Special Master

²The Program comprises 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. §§ 300aa-10 et seq. (West 1991 & Supp. 2002) (hereinafter “Vaccine Act” or “the Act”). Hereafter, individual section references will be to 42 U.S.C. §§ 300aa of the Act.