

In the United States Court of Federal Claims

OFFICE OF SPECIAL MASTERS

No. 03-0633V

Filed: July 20, 2010

ARNOLD SCHOUTEN and
LISA SCHOUTEN, parents of
Matthew Schouten, a minor,

Petitioners,

v.

SECRETARY OF HEALTH AND
HUMAN SERVICES

Respondent.

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Petitioners’ Motion for a Decision
Dismissing the Petition; Insufficient Proof
of Causation; Vaccine Act Entitlement;
Denial Without Hearing

DECISION

On March 24, 2003, petitioners filed a “Short-Form Autism Petition For Vaccine Compensation” in the National Vaccine Injury Compensation Program (“the Program”).¹ In effect, by use of the special “Short-Form” developed for use in the context of the Omnibus Autism Proceeding, the petition alleges that various vaccinations injured Matthew. The information in the record, however, does not show entitlement to an award under the Program.

On July 15, 2010, petitioners filed a “Motion for a Decision Dismissing Their Petition.” Petitioners assert in the Motion that under the current applicable law, petitioners will be unable to demonstrate entitlement to compensation in the Program. Petitioners’ Motion at 1. Accordingly, petitioners request that the undersigned dismiss the above-captioned petition. Id.

To receive compensation under the Program, petitioners must prove either 1) that Matthew suffered a “Table Injury” – i.e., an injury falling within the Vaccine Injury Table – corresponding to one of his vaccinations, or 2) that Matthew suffered an injury that was actually caused by a vaccine. See §§ 300aa-13(a)(1)(A) and 300aa-11(c)(1). An examination of the record did not uncover any evidence that Matthew suffered a “Table Injury.” Further, the record

¹The 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.* (hereinafter “Vaccine Act” or “the Act”). Hereafter, individual section references will be to 42 U.S.C. § 300aa of the Act.

does not contain a medical expert's opinion or any other persuasive evidence indicating that Matthew's alleged injury was vaccine-caused.

Under the Act, the petitioners may not be given a Program award based solely on the petitioners' claims 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 there are no medical records supporting petitioners' claim, a medical opinion must be offered in support. Petitioners, however, have offered no such opinion.

Accordingly, it is clear from the record in this case that petitioners have failed to demonstrate either that Matthew suffered a "Table Injury" or that his injuries were "actually caused" by a vaccination. **Thus, this case is dismissed for insufficient proof. In the absence of a timely-filed motion for review of this Decision, the Clerk shall enter judgment accordingly.**

IT IS SO ORDERED.

/s/ George L. Hastings, Jr.
George L. Hastings, Jr.
Special Master