

In the United States Court of Federal Claims

OFFICE OF SPECIAL MASTERS

Filed: October 5, 2010

No. 02-928V

_____)	
MARY BROWNING, mother and next friend of)	
her daughter, MAEVE BRYNILDSON,)	
)	TO BE PUBLISHED
Petitioner,)	
)	Motion to redact;
v.)	Motion to redact fee decision;
)	Unredacted entitlement decision;
SECRETARY OF)	Privacy interest;
HEALTH AND HUMAN SERVICES,)	Mercury toxicity; Consolidated cases
)	
Respondent.)	
_____)	

ORDER ON MOTION TO REDACT

This order denies a motion by Petitioner to redact a decision regarding her fee application. I deny the motion because the entitlement decision underlying the fee application was not redacted. As a result, the information identifying the Petitioner and the vaccinee already has been made public, so nothing is to be gained by redacting the fees decision. Redaction is impracticable for other reasons, discussed below.

On March 19, 2010, I issued a decision denying entitlement to compensation in this case. Because Petitioner did not file a timely application for redaction of the entitlement decision, see Vaccine Rule 18(b) (objection to publication must be lodged within 14 days of the special master's decision), that decision was published without redaction on April 5, 2010.

On May 13, 2010, more than a month after the entitlement decision was published, Petitioner filed an untimely motion to redact her name from the entitlement decision. I denied that motion because it was untimely, and because the effort to retrieve published decisions imposes an undue burden on Court personnel.

On September 27, 2010, I issued a decision granting in part and denying in part Petitioner's fee application. On September 29, 2010, Petitioner filed a timely motion to redact Petitioner's name from the fee decision.

Since the underlying entitlement decision was not redacted, granting the relief requested at this time would not protect Petitioner's privacy, as she has been named in the published entitlement decision. See Sabella v. Sec'y of Dep't of Health & Human Servs., No. 02-1627V, 2008 WL 4531828, *3 (Fed. Cl. Spec. Mstr. Sept. 23, 2008) (denying redaction where petitioner's name had been disclosed in a previous order adopting the parties' stipulation).

Further, the fees decision addresses not only the facts of this case, but the facts of two additional cases brought by Petitioner on behalf of her other children. Those cases were consolidated with this one, and present many common facts and issues. The fees decision in this case can best be understood with reference to the names of Petitioner and the vaccinees in the other cases.

I am sympathetic to Petitioner's request for privacy, and I certainly would have granted redaction of the entitlement decision had I received a timely request. Regrettably, I cannot in this instance undo what has been done.¹ Since redaction of the fees decision would not protect Petitioner's privacy interest in any meaningful way, the motion to redact is **DENIED**.

IT IS SO ORDERED.

s/ Dee Lord
Dee Lord
Chief Special Master

¹ In the electronic era, when third parties disseminate decisions almost immediately upon publication, it is impossible effectively to "un-publish" them.