

incomplete and petitioner was ordered to file additional ones. Petitioner filed the additional medical records, along with a statement of completion by June 14, 2010.

Respondent filed her responsive report on August 26, 2011. In this report, respondent recommended that entitlement be denied and the petition dismissed because petitioner failed to provide sufficient evidence of vaccine causation for Ayvante's GBS. Resp't Rep't at 10.

On June 24, 2011, petitioner filed the expert report of Dr. Marcel Kinsbourne, along with her unopposed motion for a decision dismissing her petition. Dr. Kinsbourne opined that it is "unlikely that the vaccine either caused or substantially contributed to the causation of A.H.'s GBS." Exhibit 8 (Dr. Kinsbourne), at 2.

In support of petitioner's motion, petitioner states that an investigation of the facts and science supporting A.H.'s case had demonstrated to petitioner that she will be unable to prove that A.H. is entitled to compensation in the Vaccine Program. Further, petitioner states that to proceed with her case would be unreasonable and would waste the resources of the court, respondent, and the Vaccine Program. Petitioner states that she understands that a decision dismissing the petition will result in a judgment against her. Petitioner states that respondent has no objection to this motion. Accordingly, petitioner requests that the undersigned dismiss her petition. Pet'r Motion at 2.

II. Analysis

To receive compensation under the National Vaccine Injury Compensation Program (hereinafter "the Program"), petitioner must prove either 1) that A.H. suffered a "Table Injury" – i.e., an injury falling within the Vaccine Injury Table – corresponding to one of his vaccinations, or 2) that he 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 A.H. suffered a "Table Injury." Further, the record does not contain a medical expert's opinion or any other persuasive evidence indicating that A.H.'s alleged injury was vaccine-caused.

Under the Act, a petitioner may not be given a Program award based solely on the petitioner's 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 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 either that A.H. suffered a “Table Injury” or that his injuries were “actually caused” by a vaccination. **Thus, this case is dismissed for insufficient proof. The Clerk shall enter judgment accordingly.**

Any questions may be directed to my law clerk, Jennifer C. Chapman, at (202) 357-6358.

IT IS SO ORDERED.

S/ Christian J. Moran

Christian J. Moran
Special Master