

**IN THE UNITED STATES COURT OF FEDERAL CLAIMS
OFFICE OF SPECIAL MASTERS**

No. 10-408V

Filed: December 8, 2011

Reissued as Redacted: December 21, 2011

(Not to be Published)

RICHARD MESA and TANYA MESA,
as parents and natural guardians of
R.M., a minor,

Petitioners,

v.

SECRETARY OF HEALTH AND
HUMAN SERVICES,

Respondent.

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

DECISION¹

On June 30, 2011, petitioners filed a Petition for Vaccine Compensation in the National Vaccine Injury Compensation Program ("the Program"),² on behalf of their minor child, R.M., alleging her seizure disorder was causally related to the Hepatitis A and B vaccinations she received. The information in the record, however, does not show entitlement to an award under the Program.

On December 7, 2011, petitioners moved for a decision on the merits of the petition, acknowledging that insufficient evidence exists to demonstrate entitlement to compensation.

¹ When this decision was originally issued, petitioners were informed that the decision would be posted in accordance with the E-Government Act of 2002, Pub. L. No. 107-347, § 205, 116 Stat. 2899, 2913 (codified as amended at 44 U.S.C. § 3501 note (2006)). Petitioners were also notified that they could seek redaction pursuant to § 300aa-12(d)(4)(B); Vaccine Rule 18(b). Petitioners made a timely request for redaction and this decision is being reissued with the name of their minor child redacted to initials.

² The 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.

To receive compensation under the Program, petitioners must prove either 1) that R.M. suffered a “Table Injury” – i.e., an injury falling within the Vaccine Injury Table – corresponding to one of R.M.’s vaccinations, or 2) that R.M. 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 R.M. suffered a “Table Injury.” Further, the record does not contain a medical expert’s opinion or any other persuasive evidence indicating that R.M.’s alleged injury was vaccine-caused.

Under the Act, 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 insufficient 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 failed to demonstrate either that R.M. suffered a “Table Injury” or that R.M.’s injuries were “actually caused” by a vaccination. **Thus, this case is dismissed for insufficient proof. The Clerk shall enter judgment accordingly.**

IT IS SO ORDERED.

s/ Denise K. Vowell
Denise K. Vowell
Special Master