

In the United States Court of Federal Claims

OFFICE OF SPECIAL MASTERS

No. 10-328V

Filed: February 29, 2012

MARY SAMSOM, mother of
DANIELLE SOUSANI, deceased,

Petitioner,

v.

SECRETARY OF HEALTH
AND HUMAN SERVICES,

Respondent.

*
*
*
*
*
*
*
*
*
*

Special Master Zane

Ruling on the record; Diphtheria-Tetanus-acellular-Pertussis (DTaP); hepatitis B, inactivated polio vaccine (IPV), haemophilus influenza type B (Hib), pneumococcal conjugate vaccine (PCV), rotavirus vaccine (RV); death.

Ronald C. Homer, Conway, Homer & Chin-Caplan, P.C., Boston, MA, for Petitioner;
Glenn A. MacLeod, United States Dep't of Justice, Washington, D.C., for Respondent.

UNPUBLISHED DECISION DISMISSING CASE*

ZANE, Special Master.

Petitioner, Mary Samsom, filed a petition for vaccine injury compensation on May 27, 2010, on behalf of her deceased daughter, Danielle Sousani. The petition alleged that Danielle's death on June 25, 2008, resulted from her receipt of a hepatitis B (Hep B), inactivated polio (IPV), Diphtheria-Tetanus-acellular-Pertussis (DTaP), haemophilus influenzae type B (Hib), pneumococcal conjugate (PCV) and rotavirus (RV) vaccinations.

*Because this decision contains a reasoned explanation for the special master's action in this case, the special master intends to post it 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). All decisions of the special masters will be made available to the public unless they contain trade secrets or commercial or financial information that is privileged and confidential, or medical or similar information whose disclosure would clearly be an unwarranted invasion of privacy. When such a decision or designated substantive order is filed, a party has 14 days to identify and to move to delete such information before the document's disclosure. If the special master, upon review, agrees that the identified material fits within the banned categories listed above, the special master shall delete such material from public access. 42 U.S.C. § 300aa-12(d)(4); Vaccine Rule 18(b).

Petitioner filed medical records and affidavit(s) but was unable to secure an expert witness to establish causation and thus, requested a ruling on the record. Motion filed Dec. 21, 2011. On January 13, 2012, Respondent filed a response to Petitioner's motion stating that Respondent had no objection to the court granting Petitioner's motion.

Having considered Petitioner's unopposed motion, the undersigned hereby grants Petitioner's motion for a ruling on the record and enters this ruling based upon the entire record. Vaccine Rule 8(d).

To be awarded compensation under the Act, a petitioner must prove either: 1) that she suffered a "Table Injury" – i.e., an injury falling within the Vaccine Injury Table – corresponding to one of the vaccinations in question, or 2) that any of her medical problems were actually caused by the vaccine(s) at issue. *See* 42 U.S.C. §§ 300aa-13(a)(1)(A) and 300aa-11(c)(1). A petitioner may not be awarded compensation based on the petitioner's claims alone. 42 U.S.C. § 300aa-13(a)(1). Rather, the petition must be supported by either medical records or by a medical opinion. *Id.*

An examination of the record demonstrates that it does not contain medical records or a medical opinion sufficient to demonstrate that Petitioner's child's injury was caused by the vaccinations the child received on June 24, 2008. First, Petitioner does not allege and the record does not include evidence that Petitioner's child suffered a "Table Injury." Second, the medical records do not support Petitioner's claim that her child's injuries were caused by her receipt of the vaccinations in that none of the treating physicians or the medical examiner definitively opined that the child's alleged injuries and death were caused by her vaccinations. Finally, despite having ample opportunity to do so, Petitioner has not submitted an opinion of a medical expert and has indicated in her motion for decision that she will not be submitting an expert report.

As explained above, based on the record as a whole, Petitioner has failed to prove by a preponderance of evidence that her child suffered a "Table Injury" or that the child's conditions were "actually caused" by the vaccinations received. For these reasons and in accordance with 42 U.S.C. § 12(d)(3)(A), **Petitioner's claim for compensation is denied, and this case is dismissed for insufficient proof.** In the absence of a motion for review, the Clerk of the Court is directed to enter judgment accordingly.

IT IS SO ORDERED.

/s/ Daria J. Zane
Daria J. Zane
Special Master