

In the United States Court of Federal Claims

OFFICE OF SPECIAL MASTERS

No. 10-847V

Filed: July 18, 2012

TAQUARIA WILLIAMS,

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Petitioner,

*

Special Master Zane

*

v.

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Ruling on the record; Human

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Papillomavirus quadrivalent vaccine

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("HPV"); Gardasil; systemic lupus

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erythematosus ("SLE")

SECRETARY OF HEALTH

*

AND HUMAN SERVICES,

*

Respondent.

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Lawrence R. Cohan, Anapol, Schwartz, *et al.*, Philadelphia, PA for Petitioner;

Ann D. Martin, United States Dep't of Justice, Washington, D.C., for Respondent.

UNPUBLISHED DECISION DISMISSING CASE¹

On December 9, 2010, Petitioner, Taquaria Williams ("Petitioner"), filed a petition for compensation under the National Childhood Vaccine Injury Act of 1986 ("the Vaccine Act"), 42 U.S.C. §300a-10, *et seq.*, as amended, alleging that she suffered from systemic lupus erythematosus ("SLE") and mixed connective tissue disease as a result of her receipt of Gardasil, a human papillomavirus ("HPV") quadrivalent vaccine on December 9, 2010. Petition at 1. Petitioner moved for a ruling on the record. For the reasons set forth below, the undersigned grants Petitioner's motion, finds that Petitioner is not entitled to compensation and dismisses her case.

¹ 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' website, in accordance with the E-Government Act of 2002, Pub. L. No. 107-347, 113 Stat. 2899, 2913 (Dec. 17, 2002). All decisions of the Special Master 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 documents' 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).

BACKGROUND

Petitioner originally filed her petition on December 9, 2010. Subsequently, outstanding medical records were filed. On March 8, 2011, Respondent filed a report pursuant to Vaccine Rule 4 (c), stating, *inter alia*, that the injury suffered by Petitioner is not a table injury, and therefore, there is no presumption of the causation between the HPV vaccine and injuries suffered by Petitioner. *See* Respondent's Rule 4 report at 9. Additionally, Respondent stated that Petitioner failed to prove by a preponderance of evidence that her injury was caused-in-fact by the HPV vaccine she received on December 9, 2010, because Petitioner failed to provide a reliable medical theory causally connecting her HPV vaccination with her medical condition, failed to establish a logical sequence of cause and effect showing that the HPV vaccine caused her injury, and failed to show a proximate temporal relationship between her receipt of the HPV Vaccine and her injury. *See id* at 9-11. Therefore, Respondent concluded that compensation is not appropriate in this case. *Id.*

Additional medical records were filed on May 19, 2011, June 6, 2011, August 3, 2011, and October 5, 2011. On August 22, 2011, Petitioner was ordered to file an expert report 60 days after Petitioner filed a statement of completion. Petitioner moved for several enlargements of time to extend the deadlines to file an expert report. All such motions were granted. After being ordered by the Court to file an expert report by May 21, 2012, Petitioner filed a status report informing the Court that she had decided to withdraw her petition for compensation. *See* Status Report filed on May 21, 2012.

On June 18, 2012, Petitioner moved for judgment on the record. *See* Petitioner's Motion for Judgment on the Record. Respondent filed a response in which Respondent noted that Petitioner had provided insufficient evidence to satisfy her burden of proof. *See* Respondent's Response to Motion for Ruling on the Record. This matter is now before the undersigned for decision.

DISCUSSION

Having considered Petitioner's motion, the undersigned hereby grants Petitioner's motion to dismiss the petition and enters this ruling based upon a review of the entire record. *See* Vaccine Rule 8(d).

To be awarded compensation under the Vaccine Act, a petitioner must prove either: 1) that she suffered a "Table Injury," an injury falling within the Vaccine Injury Table within a prescribed time period, or 2) her medical problems, or "off-table injuries," were actually caused or significantly aggravated by the vaccine(s) at issue. *See* 42 U.S.C. §§ 30aa-13(a)(1)(A) and 300aa-11 (c)(1).

Actual causation must be proved by preponderant evidence demonstrating that the subject vaccine caused the Petitioner's injury by showing: "(1) a medical theory causally connecting the vaccination and the injury; (2) a logical sequence of cause and effect showing that the vaccination was the reason for the injury; and (3) a showing of a proximate temporal relationship

between vaccination and injury.” *Moberly v. Sec’y of Health & Human Servs.*, 592 F.3d 1315, 1322 (Fed. Cir. 2010). The logical sequence of cause and effect must be supported by “reputable medical or scientific explanation.” *Althen v. Sec’y of Health & Human Servs.*, 418 F.3d 1274, 1278 (Fed. Cir. 2005), quoting *Grant v. Sec’y of Health & Human Servs.*, 956 F.2d 1144, 1148 (Fed. Cir. 1992). A petitioner may not be awarded compensation based on petitioner’s claims alone. Rather, the petition must be supported by either medical records or by the opinion of a competent physician. *See* 42 U.S.C. §§ 300aa-13 (a)(1).

An examination of the record demonstrates that it does not contain medical records or a medical opinion sufficient to demonstrate that Petitioner was injured by the subject vaccination. First, there is no “Table Injury” associated with the HPV vaccination, and Petitioner did not claim to have suffered a “Table injury.” Second, and more important, Petitioner has not proved that her injuries were caused in-fact by her receipt of the HPV vaccination. The medical records do not indicate that any of Petitioner’s treating physicians definitively opined that her alleged injuries were caused or significantly aggravated by her vaccination. *See* Petitioner’s Exhibits 1-15. Moreover, Petitioner has not submitted an expert report supporting her claim that the HPV vaccine caused her injuries.

Based on the review of the record as a whole, Petitioner has failed to prove by a preponderance of evidence that she suffered a “Table Injury” or that her conditions were “actually caused” by a vaccination. 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