

In the United States Court of Federal Claims
OFFICE OF SPECIAL MASTERS

No. 09-679V
Filed: February 28, 2011
Unpublished

GLENDA McCARTY,	*	
	*	
Petitioner,	*	
	*	
v.	*	Ruling on the record; Tetanus-
	*	diphtheria-acellular pertussis
	*	vaccine, Tdap; Neurological
SECRETARY OF THE DEPARTMENT	*	injuries
OF HEALTH AND HUMAN SERVICES,	*	
	*	
Respondent.	*	

DECISION¹

The Petition in this matter was initially filed on October 8, 2009. Petitioner sought compensation for a neurological injury alleged to have occurred as a result of the tetanus-diphtheria-acellular pertussis (“Tdap”) vaccine she received on March 5, 2008. Amended Pet. at 1, filed February 12, 2010. Respondent filed her Rule 4(c) Report on April 12, 2010, denying petitioner was entitled to compensation. R Rule 4(c) Report, filed April 12, 2010. Following this, further medical records were filed and petitioner attempted to obtain an expert report. P Exs 22-24; P Status Reports, filed September 17, 2010, and January 24, 2011. On February 17, 2011, petitioner filed a Motion for Judgment on the Existing Record. In support of this Motion, petitioner filed an affidavit of her attorney stating that petitioner was unable to secure a supportive expert opinion. Affidavit of Support of Motion, filed February 17, 2011. On February 28, 2011, respondent communicated to the undersigned’s office that there was no objection to this Motion.

The Act at 42 U.S.C. § 300aa-13(a) provides that the special master “may not make a finding based on the claims of a petitioner alone, unsubstantiated by medical records or by

¹ The undersigned intends to post this decision on the website for the United States Court of Federal Claims, in accordance with the E-Government Act of 2002, Pub. L. No. 107-347, 116 Stat. 2899, 2913 (Dec. 17, 2002). **As provided by Vaccine Rule 18(b), each party has 14 days within which to request redaction “of any information furnished by that party (1) that is a trade secret or commercial or financial in substance and is privileged or confidential; or (2) that includes medical files or similar files, the disclosure of which would constitute a clearly unwarranted invasion of privacy.” Vaccine Rule 18(b). Otherwise, the entire decision will be available to the public. Id. Any motion for redaction must be filed by no later than fourteen (14) days after filing date of this filing. Further, consistent with the rule requirement, a motion for redaction must include a proposed redacted decision, order, ruling, etc.**

medical opinion.” As noted in respondent’s Rule 4(c) Report, at 9-10, a causal connection between petitioner’s injury and her receipt of the vaccination is not evidenced. And as discussed in petitioner’s Motion for Judgment on the Existing Record, petitioner has not filed a supportive medical opinion. Thus, the Petition remains unsupported by either medical records or medical opinion. In accordance with section 13(a) the undersigned has no option but to **deny** petitioner’s claim for want of proof.

The Clerk shall enter judgment accordingly.²

IT IS SO ORDERED.

s/ Gary J. Golkiewicz
Gary J. Golkiewicz
Special Master

² This document constitutes a final “decision” in this case pursuant to 42 U.S.C. § 300aa-12(d)(3)(A). Unless a motion for review of this decision is filed within 30 days, the Clerk of the Court shall enter judgment in accord with this decision. Pursuant to Vaccine Rule 11(a), the parties can expedite entry of judgment by each party filing a notice renouncing the right to seek review by a United States Court of Federal Claims judge.