

# In the United States Court of Federal Claims

## OFFICE OF SPECIAL MASTERS

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ASHLEY RYBURN

Petitioner,

v.

SECRETARY OF HEALTH  
AND HUMAN SERVICES,

Respondent.

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No. 10-787V

Special Master Christian J. Moran

Filed: August 29, 2011

Petitioner's Motion for a Decision  
Dismissing her Petition; Insufficient  
Proof of Causation; human  
papillomavirus (HPV) vaccine.

William P. Ronan, III, The Ronan Law Firm, Overland Park, KS, for petitioner;  
Ann D. Martin, United States Dep't of Justice, Washington, D.C., for respondent.

### **UNPUBLISHED DECISION DENYING COMPENSATION<sup>1</sup>**

Ashley Ryburn filed a petition under the National Childhood Vaccine Injury Act, 42 U.S.C. §300a-10 *et. seq.*, on November 12, 2010. Her petition alleged that she had an adverse reaction, including a neurological injury, and an autoimmune disorder, resulting from the receipt of the human papillomavirus quadrivalent ("HPV") vaccines administered to her on August 24, 2007, and October 25, 2007. *See* Pet. at ¶ 30. The information in the record, however, does not show entitlement to an award under the Program.

#### **I. Procedural History**

Petitioner filed her initial medical records with her petition, as required by 42 U.S.C. § 300aa-11(c) and Vaccine Rule 2(c)(2)(A). On February 10, 2011, respondent filed her

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<sup>1</sup> Because this unpublished decision contains a reasoned explanation for the special master's action in this case, the special master intends to post it on the United States Court of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 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).

responsive report. In this report, respondent stated that, because petitioner has not met her burden of proof under Althen, she is not entitled to compensation. Althen v. Sec’y of Health & Human Servs., 418 F.3d at 1278; see Resp’t Rep’t at 18.

On August 15, 2011, petitioner filed her motion for a decision dismissing her petition. In support of her motion, petitioner stated that an investigation of the facts and science supporting her case has demonstrated to petitioner that she may not be able to prove that she is entitled to compensation in the Vaccine Program. Further, petitioner stated that to proceed with her case might not be reasonable and may waste the resources of the court, respondent, and the Vaccine Program. Petitioner stated that she understands that a decision dismissing her petition will result in a judgment against her. Accordingly, petitioner requests that the undersigned dismiss her petition. Pet’r Mot. at 1.

## II. Analysis

To receive compensation under the National Vaccine Injury Compensation Program (hereinafter “the Program”), 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 her vaccinations, or 2) that she 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 Ms. Ryburn suffered a “Table Injury.” Further, the record does not contain a medical expert’s opinion or any other persuasive evidence indicating that Ms. Ryburn’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 Ms. Ryburn suffered a “Table Injury” or that her 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.

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Christian J. Moran  
Special Master