

vaccinations on May 7, 2004, Ian developed idiopathic thrombocytopenia purpura, a seizure disorder, and unspecified neurologic injuries.

Various medical records were received on August 24, 2007. Translated copies of the records from various health care providers in Mexico were filed on August 20, 2008, after several status conferences and orders directing that professionally translated records be filed. Thereafter, I ordered the parties to file expert reports. See Scheduling Order, dated August 21, 2008. After granting three extensions of time (see orders dated October 31, 2008, December 8, 2008, and December 23, 2008) for petitioner to file the report of a medical expert causally connecting Ian's vaccinations to his injuries, petitioner requested that I rule on the record as it now stands. See Motion for Decision on the Record, filed January 9, 2009. Respondent has not opposed this motion. Having considered the entire record, I conclude that petitioner has failed to demonstrate her entitlement to compensation.

Discussion

In order to prevail under the Program, petitioner must prove either a "Table Injury"³ or that a vaccine listed on the Table was the cause in fact of an injury. Although Idiopathic Thrombocytopenia Purpura is a Table injury with regard to the MMR vaccine, (see 42 C.F.R. § 100.3(a)(V)(A)), there is no evidence that Ian actually suffered from this condition. With regard to the other vaccines and injuries alleged, petitioner has not causally connected Ian's seizures or any other illness, disability, injury or condition to any of his vaccinations. See § 300aa-13(a)(2)(b).

The Vaccine Act provides that a special master may not make a finding awarding compensation based on the claims of a petitioner alone, unsubstantiated by medical records or medical opinion. See § 300aa-13(a)(1). Petitioner has failed to proffer medical records or an expert opinion causally linking Ian's medical condition to his vaccinations.

To satisfy his burden of proving causation in fact, petitioner must "show by preponderant evidence that the vaccination brought about Ian's injury by providing: (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." *Althen v. Sec'y, HHS*, 418 F.3d 1274, 1278 (Fed. Cir. 2005). See also *Hines v. Sec'y, HHS*, 940 F.2d 1518, 1525 (Fed. Cir. 1991). Petitioner must show "that the vaccination was the reason for the injury. A medical or scientific explanation must support this logical sequence of cause and effect." *Grant v. Sec'y, HHS*, 956 F.2d

³ A "Table Injury" is an injury listed on the Vaccine Injury Table, 42 C.F.R. § 100.3, corresponding to the vaccine received within the time frame specified. The hepatitis B vaccine is listed on the Table; however petitioner's medical condition is not an injury specified for compensation for that vaccine.

1144, 1148 (Fed. Cir. 1992). Circumstantial evidence and medical opinions may be sufficient to satisfy the second *Althen* factor. *Capizzano v. Sec'y, HHS*, 440 F.3d 1317, 1325 (Fed. Cir. 2006). Without more, "evidence showing an absence of other causes does not meet petitioner's affirmative duty to show actual or legal causation." *Grant, supra*, 956 F.2d at 1149. Mere temporal association is not sufficient to prove causation in fact. *Hasler v. U.S.*, 718 F.2d 202, 205 (6th Cir. 1983), *cert. denied*, 469 U.S. 817 (1984).

Although petitioner has demonstrated that Ian has suffered from seizures, she has not demonstrated any causal connection between these seizures and a vaccination. Close calls regarding causation must be resolved in favor of the petitioner, *Althen*, 418 F.3d at 1280, but, in this case petitioner has completely failed to meet her burden to establish vaccination causation for Ian's injury.

Conclusion

A special master may authorize compensation only when a medical condition either falls within one of the "Table Case" categories or when some evidence, such as a competent medical opinion, causally connects the vaccine with the injury. No such proof exists in the record before me. Therefore, the petition for compensation is DENIED. In the absence of a motion for review filed pursuant to RCFC Appendix B, the clerk of the court is directed to enter judgment in accordance with this decision.⁴

IT IS SO ORDERED.

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

⁴ Pursuant to Vaccine Rule 11(a), entry of judgment can be expedited by each party's filing a notice renouncing the right to seek review.