

In the United States Court of Federal Claims

OFFICE OF SPECIAL MASTERS

No. 02-1151V

(Filed: May 21, 2014)

NOT TO BE PUBLISHED

KELLY KERNS, parent of DK, a minor,

Petitioner,

v.

SECRETARY OF HEALTH AND
HUMAN SERVICES

Respondent.

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Vaccine Act Interim Fees and Costs

DECISION (ATTORNEYS' FEES)

HASTINGS, Special Master.

In this case under the National Vaccine Injury Compensation Program (hereinafter "the Program"), petitioner seeks, pursuant to 42 U.S.C. § 300aa-15(b) and (e)(1), an award for attorneys' fees and other costs incurred in attempting to obtain Program compensation in this case.

I

ENTITLEMENT TO FEES AND COSTS GENERALLY

Pursuant to § 300aa-15(b) and (e)(1), the special master may make an award of attorneys' fees and costs even when, as in this case, the petitioners are not found to qualify for a substantive Program award, if the petition was filed in "good faith" and upon a "reasonable basis."

II

PROCEDURAL HISTORY

Petitioner filed the instant request for fees and costs on July 5, 2013. Respondent has not filed any documents opposing the request. On January 16, 2014, I filed a Decision granting the request. However, later that same day, petitioner's counsel left a telephone message at my office noting that my Decision did not address petitioner's request that I direct the payment of fees *solely to counsel*. I interpreted this message as an oral Motion for Reconsideration of my Decision on fees, and I filed an Order withdrawing my Decision on January 17, 2014.

On May 20, 2014, I filed a decision determining that attorneys' fees and costs may be paid directly to counsel in appropriate circumstances. *Goodridge v. HHS*, No. 02-320V (2014). For the reasons stated in *Goodridge*, I find it appropriate in this case to award a check for attorneys' fees and other costs solely to petitioner's counsel. Further, respondent has *not* argued in this case against petitioner's request that I do so.

III

AMOUNT OF THE AWARD

The requested amount of \$7,598 appears reasonable.

Accordingly, my decision is that fees and costs are to be awarded in the total amount of \$7,598.

/s/ George L. Hastings, Jr.
George L. Hastings, Jr.
Special Master