

In the United States Court of Federal Claims

OFFICE OF SPECIAL MASTERS

No. 16-01168V

Filed: November 18, 2016

UNPUBLISHED

E.D., by and through his parent and
natural guardian, CHELSIE MANN,

Petitioner,

v.

SECRETARY OF HEALTH
AND HUMAN SERVICES,

Respondent.

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Ruling on Entitlement; Concession;
Rotavirus Vaccine; Intussusception;
Special Processing Unit ("SPU")

Paul R. Brazil, Muller Brazil, LLP, Dresher, PA, for petitioner.

Voris Edward Johnson, U.S. Department of Justice, Washington, DC, for respondent.

RULING ON ENTITLEMENT¹

Dorsey, Chief Special Master:

On September 20, 2016, petitioner filed a petition for compensation under the National Vaccine Injury Compensation Program, 42 U.S.C. §300aa-10, *et seq.*,² (the "Vaccine Act"). Petitioner alleges that the rotavirus vaccination caused E.D. to suffer an intussusception, an injury listed on the Vaccine Injury Table. Petition at 1. The case was assigned to the Special Processing Unit of the Office of Special Masters.

On November 17, 2016, respondent filed her Rule 4(c) report in which she concedes that petitioner is entitled to compensation in this case. Respondent's Rule 4(c) Report at 1. Specifically, respondent "concluded that E.D. suffered the Table injury of intussusception following a rotavirus vaccine within the Table time period, and there is not a preponderance of the medical evidence that the intussusception was due to a factor unrelated to the vaccination." *Id.* at 4. Respondent further agrees that "[t]he

¹ Because this unpublished ruling contains a reasoned explanation for the action in this case, the undersigned intends to post it on the United States Court of Federal Claims' website, in accordance with the E-Government Act of 2002. 44 U.S.C. § 3501 note (2012) (Federal Management and Promotion of Electronic Government Services). In accordance with Vaccine Rule 18(b), petitioner has 14 days to identify and move to redact medical or other information, the disclosure of which would constitute an unwarranted invasion of privacy. If, upon review, the undersigned agrees that the identified material fits within this definition, the undersigned will redact such material from public access.

² National Childhood Vaccine Injury Act of 1986, Pub. L. No. 99-660, 100 Stat. 3755. Hereinafter, for ease of citation, all "§" references to the Vaccine Act will be to the pertinent subparagraph of 42 U.S.C. § 300aa (2012).

claim also meets the statutory severity requirements because the intussusception resulted in an inpatient hospitalization and surgical intervention.” *Id.* Finally, respondent indicates that “based on the record as it now stands, compensation is appropriate, as petitioner has satisfied all legal prerequisites for compensation under the Act.” *Id.*

In view of respondent’s concession and the evidence before me, the undersigned finds that petitioner is entitled to compensation.

IT IS SO ORDERED.

s/Nora Beth Dorsey

Nora Beth Dorsey
Chief Special Master