

In the United States Court of Federal Claims

OFFICE OF SPECIAL MASTERS

No. 17-924V

Filed: October 19, 2017

UNPUBLISHED

H.S., a minor, by his mother,
JENNIFER STRACICK,

Petitioner,

v.

SECRETARY OF HEALTH AND
HUMAN SERVICES,

Respondent.

Special Processing Unit (SPU);
Ruling on Entitlement; Concession;
Causation-In-Fact; Haemophilus
influenzae type b (Hib) Vaccine;
Subcutaneous Nodule or Lump; Skin
Discoloration

Michael G. McLaren, Black McLaren Jones Ryland & Griffee, P.C., Memphis, TN, for petitioner.

Justine Elizabeth Walters, U.S. Department of Justice, Washington, DC, for respondent.

RULING ON ENTITLEMENT¹

Dorsey, Chief Special Master:

On July 7, 2017, 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”). Petition (ECF No. 1). Petitioner alleges that, after receiving the Haemophilus influenzae type b (“Hib”) vaccine on January 11, 2016 (*id.* at ¶ 2), her minor child, H.S., “developed a lump on his left thigh at the site of injection” (*id.* at ¶ 3) and suffered “permanent physical injuries and significant ongoing pain and suffering” (*id.* at ¶ 7). She maintains that H.S.’s injuries were caused-in-fact by the Hib vaccine. *Id.* at 1. Petitioner further alleges that H.S. “endured permanent physical injuries and significant ongoing pain and suffering . . . that persisted for longer than six months” (*id.* at ¶ 7) and

¹ Because this unpublished ruling contains a reasoned explanation for the action in this case, the undersigned intends to post it on the United States Court of Federal Claims' website,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).

that “neither [H.S.] nor his mother have ever received compensation in the form of an award or settlement for [H.S.’s] vaccine related injuries” (*id.* at ¶ 8). The case was assigned to the Special Processing Unit of the Office of Special Masters.

On October 17, 2017, respondent filed his Rule 4(c) report in which he concedes that “petitioner is entitled to compensation for the subcutaneous nodule with residual skin discoloration that H.S. developed at the site of his January 11, 2016 Hib vaccination.” Respondent’s Rule 4(c) Report at 1. Specifically, respondent “concluded that H.S. more likely than not developed a subcutaneous nodule at the site of his January 11, 2016, Hib vaccination, and that this injury is not due to factors unrelated to the Hib vaccination.” *Id.* at 3. Respondent further agrees that petitioner has met the statutory and jurisdictional requirements of the Vaccine Act. *Id.* at 4.

In view of respondent’s position and the evidence of record, the undersigned finds that petitioner is entitled to compensation.

IT IS SO ORDERED.

s/Nora Beth Dorsey

Nora Beth Dorsey
Chief Special Master