

# In the United States Court of Federal Claims

## OFFICE OF SPECIAL MASTERS

Filed: March 5, 2018

* * * * *	UNPUBLISHED
ALEXIS GARNER, on behalf of K.G.,	*
	*
Petitioner,	*
	*
v.	*
	*
SECRETARY OF HEALTH	*
AND HUMAN SERVICES,	*
	*
Respondent.	*
* * * * *	

John P. Valente, III, The Valente Law Group, Crofton, MD, for petitioner.  
Darryl R. Wishard, United States Department of Justice, Washington, DC, for respondent.

### **RULING ON ENTITLEMENT**<sup>1</sup>

On August 27, 2017, Alexis Garner, on behalf of K.G. (“petitioner”) filed a petition for compensation (“Petition”) under the National Vaccine Injury Compensation Program (“the Program”).<sup>2</sup> Petitioner alleges that her minor child K.G. received a varicella vaccination on May 18, 2015, and as a result, K.G. suffered from “two strokes and hemiparalysis.” Petition at 1.

On February 20, 2018, respondent filed a report pursuant to Vaccine Rule 4(c) stating that petitioner’s claim was appropriate for compensation. Respondent (“Resp.”) Report (“Rpt.”) at 1. Specifically, respondent agrees that K.G.’s alleged injury is consistent with disseminated varicella vaccine-strain viral disease. *Id.* at 7. Respondent provides that the onset of K.G.’s injury was within 7 to 42 days of vaccination. *Id.* Respondent did not identify any other causes for K.G.’s injury, and records show that K.G. suffered the sequela of this injury for more than six months. *Id.* Respondent provides that based on the medical records filed to date, petitioner has

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<sup>1</sup> Pursuant to the E-Government Act of 2002, *see* 44 U.S.C. § 3501 note (2012), **because this unpublished ruling contains a reasoned explanation for the action in this case, I intend to post it on the website of the United States Court of Federal Claims.** The court’s website is at <http://www.uscfc.uscourts.gov/aggregator/sources/7>. Before the ruling is posted on the court’s website, each party has 14 days to file a motion requesting redaction “of any information furnished by that party: (1) that is a trade secret or commercial or financial in substance and is privileged or confidential; or (2) that includes medical files or similar files, the disclosure of which would constitute a clearly unwarranted invasion of privacy.” Vaccine Rule 18(b). “An objecting party must provide the court with a proposed redacted version” of the ruling. *Id.* **If neither party files a motion for redaction within 14 days, the ruling will be posted on the court’s website without any changes.** *Id.*

<sup>2</sup> The Program comprises Part 2 of the National Childhood Vaccine Injury Act of 1986, 42 U.S.C. §§ 300aa-10 *et seq.* (hereinafter “Vaccine Act” or “the Act”). Hereafter, individual section references will be to 42 U.S.C. § 300aa of the Act.

met the statutory requirements for entitlement to compensation. § 300aa-13(a)(1)(B); § 300aa-11(c)(1)(D).

A special master may determine whether a petitioner is entitled to compensation based upon the record. A hearing is not required. § 300aa-13; Vaccine Rule 8(d). In light of respondent's concession and a review of the record, the undersigned finds that petitioner is entitled to compensation. This matter shall now proceed to the damages phase.

**IT IS SO ORDERED.**

**s/Thomas L. Gowen**

Thomas L. Gowen

Special Master