

In the United States Court of Federal Claims
OFFICE OF SPECIAL MASTERS

No. 10-309V
Redacted version filed: April 19, 2011
[Originally filed: March 14, 2011]
Unpublished

PHILLIP and CHRIS SANDY, as parents
and natural guardians of S.S.,

Petitioners,

v.

SECRETARY OF THE DEPARTMENT
OF HEALTH AND HUMAN SERVICES,

Respondent.

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* Denial; Human papillomavirus
* vaccine, HPV; Migraines; Grand
* mal seizures
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Anne C. Toale, Maglio, Christopher and Toale, Sarasota, F.L., for Petitioner.
Debra A. Filteau Begley, U.S. Department of Justice, Washington, D.C., for Respondent.

DECISION¹

Golkiewicz, Special Master.

The Petition in this matter was filed on May 21, 2010, alleging that petitioners’ daughter suffered migraines and grand mal seizures caused by the human papillomavirus (“HPV”) vaccine. Pet. at 1, 5, 7. On February 24, 2011, petitioners filed a Motion for a Decision Dismissing their Petition. P Motion, filed February 24, 2011 (“P Motion”). On March 11, 2011, respondent filed her Rule 4(c) Report and Response to Petitioners’ Motion for a Decision. R Rule 4(c) Report, filed March 1, 2011. In petitioners’ Motion for a Decision Dismissing their Petition, petitioners stated that “[a]n investigation of the facts and science supporting their case has demonstrated to Petitioners that they will be unable to prove” entitlement to compensation in the Vaccine Program. P Motion, ¶ 1. Respondent’s Rule 4(c) Report contested entitlement to

¹ The undersigned intends to post this decision on the website for the United States Court of Federal Claims, in accordance with the E-Government Act of 2002, Pub. L. No. 107-347, 116 Stat. 2899, 2913 (Dec. 17, 2002). **As provided by Vaccine Rule 18(b), each party has 14 days within which to request 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). Otherwise, the entire decision will be available to the public. Id. Any motion for redaction must be filed by no later than fourteen (14) days after filing date of this filing.** Further, consistent with the statutory requirement, a motion for redaction must include a proposed redacted decision, order, ruling, etc.

compensation and agreed with petitioners' Motion that the current record does not support entitlement. R Rule 4(c) Report at 7.

In accord with petitioners' Motion, petitioners have failed to provide preponderant evidence that their daughter suffered a vaccine-related injury due to the HPV vaccine. The Act at 42 U.S.C. § 300aa-13(a) provides that the special master "may not make a finding based on the claims of a petitioner alone, unsubstantiated by medical records or by medical opinion." Thus, this Petition remains unsupported by either medical records or medical opinion. In accordance with section 13(a) the undersigned has no option but to **deny** petitioners' claim for want of proof.

IT IS SO ORDERED.²

s/ Gary J. Golkiewicz
Gary J. Golkiewicz
Special Master

² This document constitutes a final "decision" in this case pursuant to 42 U.S.C. § 300aa-12(d)(3)(A). Unless a motion for review of this decision is filed within 30 days, the Clerk of the Court shall enter judgment in accord with this decision. Pursuant to Vaccine Rule 11(a), the parties can expedite entry of judgment by each party filing a notice renouncing the right to seek review by a United States Court of Federal Claims judge.