

On May 26, 2011, the petitioner moved for a decision on the merits of the petition, acknowledging that insufficient evidence exists to demonstrate entitlement to compensation.

To receive compensation under the Program, petitioner must prove either 1) that Tia suffered a “Table Injury” – i.e., an injury falling within the Vaccine Injury Table – corresponding to one of her vaccinations, or 2) that Tia suffered an injury that was actually caused by a vaccine. See §§ 13(a)(1)(A) and 11(c)(1). Examination of the record does not disclose any evidence that Tia suffered a “Table Injury.” Further, the record does not contain a medical expert’s opinion or any other persuasive evidence indicating that Tia’s alleged injury was vaccine-caused.

Under the Vaccine Act, petitioner may not be awarded compensation based on the petitioner’s claims alone. Rather, the petition must be supported by either the medical records or by a medical opinion. § 13(a)(1). In this case, the record does not contain medical records or a medical opinion sufficient to demonstrate that the vaccinee was injured by a vaccine. For these reasons, in accordance with § 12(d)(3)(A), the **petitioner’s claim for compensation is denied and this case is dismissed for insufficient proof. The Clerk shall enter judgment accordingly.**³

IT IS SO ORDERED.

s/Denise K. Vowell
Denise K. Vowell
Special Master

³ If petitioner elects to file a Petition for Fees and Costs pursuant to § 15(e), based on current case law petitioner will need to first establish proof of vaccination and the timely filing of the Petition for Vaccine Compensation, see §§ 16(a)(2) and 16(b), prior to any award for attorneys’ fees and costs being granted. See Brice v. Secretary of Health and Human Services, 358 F.3d 865, 869 (2004), citing Martin v. Secretary of Health and Human Services, 62 F.3d 1403, 1406 (1995).