OFFICE OF SPECIAL MASTERS
No. 04-1844V
Filed: June 14, 2005

JASON GRIMAIL,

Petitioner,

v.

SECRETARY OF HEALTH AND HUMAN SERVICES,

Respondent.

Not to be published.
To be posted on court website.

DECISION[1]

On December 29, 2004, Jason Grimail filed a petition seeking compensation under the National Vaccine Injury Compensation Program ("the Program"). The petition alleges that Mr. Grimail developed leukemia as a result of an MMR vaccination administered on October 1, 2001. The information in the record, however, does not show entitlement to an award under the Program.[2]

To receive compensation under the Program, a petitioner must prove either: 1) that the petitioner suffered a "Table Injury" -- *i.e.*, an injury falling within the "Vaccine Injury Table" or 2) that the petitioner's medical problem was *actually caused* by a vaccine. *See* 42 U.S.C. §§ 300aa-13(a)(1)(A) and 300aa-11(c)(1).

My examination of the filed medical records, however, did not uncover any evidence that Mr. Grimail suffered a "Table Injury." Further, the records do not contain a medical expert's opinion indicating that any health problem of Mr. Grimail was vaccine-caused.

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[1]This document constitutes my 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 this Court shall enter judgment in accord with this decision.

Also, the petitioner is reminded that, pursuant to 42 U.S.C. § 300aa-12(d)(4), Rule 18(b)(2) of the Vaccine Rules of this Court, and the E-Government Act of 2002, Pub. L. No. 107-347, 116 Stat. 2899, 2913 (Dec. 17, 2002), this decision will be made available to the public unless petitioner files, within fourteen days, an objection to the disclosure of any material in this decision that would constitute "medical files and similar files the disclosure of which would constitute a clearly unwarranted invasion of privacy."

[2]The statutory provisions governing the National Vaccine Injury Compensation Program are found in 42 U.S.C. § 300-10 et seq. (2000 ed.).

Under the statute, a petitioner may not be given a Program award based solely on petitioner's claims alone. Rather, the petition must be supported by either the medical records or by the opinion of a competent physician. 42 U.S.C. § 300aa-13(a)(1). Here, because the medical records do not seem to support the petitioner's claim, a medical opinion must be offered in support. Petitioner, however, has offered no such opinion.

At an unrecorded telephonic status conference on May 24, 2005, Mr. Grimail, appearing *pro se*, stated that he was unable to obtain an expert opinion supporting his claim. Mr. Grimail requested that I rule on his claim based on the record as it now stands. I will now do so.

I am, of course, sympathetic to the fact that Mr. Grimail suffers from an unfortunate medical condition. However, under the law I can authorize compensation only when a medical condition either falls within one of the "Table Injury" categories, or is shown by competent medical opinion to be vaccine-caused. No such proof exists in the record before me. Accordingly, it is clear from the record in this case that Mr. Grimail failed to demonstrate either that he suffered a "Table Injury" or that his condition was "actually caused" by a vaccination. Therefore, I have no choice but to hereby DENY this claim. In the absence of a timely-filed motion for review of this decision (see Appendix B to the Rules of the Court), the Clerk shall enter judgment in accord with this decision.

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George L. Hastings, Jr.
Special Master