

In the United States Court of Federal Claims
OFFICE OF SPECIAL MASTERS
(E-Filed: March 6, 2008)

HANNAH POLING, a minor,)	
by her Parents and Natural Guardians,)	
TERRY POLING AND JON POLING,)	
)	
Petitioners,)	
)	
v.)	No. 02-1466V
)	Special Master Campbell-Smith
SECRETARY OF HEALTH AND HUMAN)	
SERVICES,)	
)	
Respondent.)	
)	

ORDER TO PROCEED TO A DAMAGES DETERMINATION

On November 19, 2007, respondent filed a Rule 4(c) Report recommending an award of compensation to petitioners in accordance with 42 U.S.C. § 300aa-11(c)(1)(C)(ii). Respondent stated that, based on a review of the petition, medical records and affidavits, the “facts of this case meet the statutory criteria for demonstrating that the vaccination Hannah received on July 19, 2000, significantly aggravated an underlying mitochondrial disorder, which predisposed her to deficits in cellular energy metabolism and manifested as a regressive encephalopathy with features of autism spectrum disorder.” Rule 4(c) Report at 7. Respondent further stated that the onset of Hannah’s complex partial seizure disorder, nearly six years after her July 19, 2000 vaccinations, was not related to her vaccinations. Rule 4(c) Report at 7; see also Supplemental Rule 4 Report at 1.

A status conference was held on December 13, 2007 to address the filed Rule 4(c) Report and the filed expert report from Mark Geier, M.D., on petitioners’ behalf (Petitioners’ Exhibit 61). See Order of December 21, 2007. During the status conference, petitioners indicated that they intended to file the expert report of Andrew Zimmerman, M.D., Hannah’s treating neurologist, in support of their claim that Hannah’s complex partial seizure disorder was a sequela of her vaccine-related injury. See id.

Respondent was directed to file a status report regarding respondent's position regarding petitioners' claim that Hannah's seizure disorder was vaccine-related. See id.

On February 21, 2008, respondent filed a Supplemental Rule 4 Report addressing respondent's review of Dr. Zimmerman's expert report. See Supplemental Rule 4 Report at 1-2. Respondent stated that "[h]aving reviewed this additional evidence, [medical personnel at the Division of Vaccine Injury Compensation, Department of Health and Human Services (DVIC)] now recommend[] compensation for Hannah's seizure disorder as sequela of her vaccine-injury in accordance with 42 U.S.C. § 300aa-11(c)(1)(C)(ii)." Id. at 2.

Based on respondent's recommendation for compensation, a damages determination is now appropriate. As discussed during the status conference on December 13, 2007, petitioners have begun to gather information for the preparation of a life care plan. Counsel may anticipate a discussion of the schedule for the filing of the parties' respective life care plans, or if possible, a joint life care plan, during the next status conference scheduled to be held in this case on **Friday, March 7, 2008 at 2:30 p.m.**

IT IS SO ORDERED.

s/ Patricia E. Campbell-Smith
Patricia Campbell-Smith
Special Master