



Report from the Department of Justice

December 8, 2017

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Statistics

Reporting Period: 8/16/17 – 11/15/17

- I. Total Petitions Filed in the United States Court of Federal Claims this reporting period: 396
 - A. Minors: 33
 - B. Adults: 363

Statistics

Reporting Period: 8/16/17 – 11/15/17

II. Total Petitions Adjudicated this reporting period: 196

A. Compensated: 141

i. Cases conceded by HHS: 56

1. Decision awarding damages: 2
2. Decision adopting Proffer: 54
3. Decision adopting Settlement: 0

ii. Cases not conceded by HHS: 85

1. Decision awarding damages: 0
2. Decision adopting Proffer: 0
3. Decision adopting Settlement: 85

B. Not Compensated/Dismissed: 55

- i. Decision dismissing Non-OAP: 36
- ii. Decision dismissing OAP: 19

Statistics

Reporting Period: 8/16/17 – 11/15/17

III. Total Petitions Voluntarily Withdrawn this reporting period (no judgment will be issued): 5

Appeals: U.S. Court of Appeals for the Federal Circuit

Recently Decided Cases

Appeals by Petitioner:

- *H.L. v. HHS* (Entitlement): Affirmed
- *Simmons v. HHS* (Attys' Fees and Costs): Affirmed

Appeals: U.S. Court of Appeals for the Federal Circuit

Pending Cases

Appeals by Petitioner:

- *D'Tiole v. HHS*: (Entitlement)
- *Anderson v. HHS*: (Entitlement)
- *Oliver v. HHS*: (Entitlement)*
- *Depena v. HHS*: (Entitlement)*

*New this reporting period

Appeals: U.S. Court of Federal Claims

Recently Decided Cases

Appeals by Petitioner:

- *Dean v. HHS* (Entitlement): Affirmed
- *Cottingham v. HHS* (Attys' Fees and Costs): Remanded
- *Abbott v. HHS* (Attys' Fees and Costs): Affirmed
- *Erleben v. HHS* (Entitlement): Affirmed

All decisions are available on the CFC's website: <http://www.uscfc.uscourts.gov>

Appeals: U.S. Court of Federal Claims

Pending Cases

Appeals by Petitioner:

- *Santacroce v. HHS* (Attys' Fees and Costs)
- *Olson v. HHS* (Entitlement)
- *Fairchild v. HHS* (Loss of Future Earnings)*
- *Clubb v. HHS* (Entitlement)*
- *Hirmiz v. HHS* (Attys' Fees and Costs)*
- *Pless v. HHS* (Attys' Fees and Costs)*
- *Caron v. HHS* (Entitlement)*
- *Krakov v. HHS* (Attys' Fees and Costs)*
- *Rogero v. HHS* (Entitlement OAP)*

Appeals: U.S. Court of Federal Claims

Pending Cases (cont'd)

Appeals by Petitioner:

- *Kukreja v. HHS (Attys' Fees and Costs)**
- *McCollum v. HHS (Entitlement)**
- *Greene v. HHS (Entitlement)**
- *Diedrich v. HHS (Entitlement)**
- *Bender v. HHS (Entitlement)**

Scheduled Oral Arguments

U.S. Court of Appeals for the Federal Circuit:

- *None scheduled at this time.*

U.S. Court of Federal Claims:

- *Santacroce v. HHS (Attys' Fees and Costs): 12/12/2017*

Adjudicated Settlements*

Reporting Period: 8/16/17 – 11/15/17

Vaccine(s)	Alleged Injury(ies)	Petition Filing to Settlement Filing
1. Tdap	GBS	5 Years, 5 Months
2. Flu	GBS	5 Years, 2 Months
3. DTaP; Flu; Hib; IPV; PCV; Hep B	Evan's Syndrome; Thrombocytopenia; Coombs' Positive Hemolytic Anemia; Pancytopenia, Neutropenia; Diphtheria-Tetanus-Acellular Pertussis	3 Years, 2 Months
4. Flu	SIRVA	3 Years
5. Tdap	ADEM; TM	3 Years
6. Flu	TM	2 Years, 5 Months
7. Hep A; Flu	TM	2 Years, 3 Months
8. Meningococcal	Persistent Headaches; Motor Tics	2 Years, 2 Months
9. MMR	Eye Pain; Decreased Vision; Vision Loss; Optic Neuritis; Fatigue	2 Years, 2 Months
10. Flu	Meniere's Disease	2 Years, 1 Month
11. Flu	SIRVA	2 Years, 1 Month

*Terms of compensated settlements memorialized by Stipulation

Adjudicated Settlements*

Reporting Period: 8/16/17 – 11/15/17

Vaccine(s)	Alleged Injury(ies)	Petition Filing to Settlement Filing
12. TDaP	Arm Pain; Numbness; Tingling; Paresthesia; Neuropathic Pain Syndrome	2 Years, 1 Month
13. Flu	Narcolepsy	2 Years, 1 Month
14. Flu	Dyshidrosis	2 Years, 1 Month
15. Flu	Parsonage-Turner Syndrome; SIRVA	2 Years
16. Flu	GBS	2 Years
17. Flu	Brachial Neuritis	2 Years
18. Flu	Unspecified neurological injury	1 Year, 9 Months
19. TDaP	SIRVA	1 Year, 8 Months
20. Flu	SIRVA	1 Year, 8 Months
21. Hep A; Hep B; TDaP	SIRVA	1 Year, 8 Months
22. Flu	SIRVA	1 Year, 7 Months

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Adjudicated Settlements*

Reporting Period: 8/16/17 – 11/15/17

Vaccine(s)	Alleged Injury(ies)	Petition Filing to Settlement Filing
23. DTaP; IPV; Hib; PCV	TM	1 Year, 6 Months
24. Flu	SIRVA	1 Year, 6 Months
25. Flu	TM	1 Year, 6 Months
26. Flu	GBS	1 Year, 6 Months
27. Flu	GBS	1 Year, 6 Months
28. Flu	SIRVA	1 Year, 6 Months
29. Flu	TM	1 Year, 5 Months
30. Flu; MMR; TD	Myelitis	1 Year, 5 Months
31. Flu	SIRVA	1 Year, 5 Months
32. Flu	GBS	1 Year, 5 Months
33. Flu	SIRVA	1 Year, 5 Months

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Adjudicated Settlements*

Reporting Period: 8/16/17 – 11/15/17

Vaccine(s)	Alleged Injury(ies)	Petition Filing to Settlement Filing
34. Flu	SIRVA	1 Year, 5 Months
35. Flu	SIRVA; Adhesive Capsulitis; Rotator Cuff Tendinopathy	1 Year, 5 Months
36. Flu	Neuropathy	1 Year, 4 Months
37. Flu	TM	1 Year, 4 Months
38. TDaP	GBS	1 Year, 3 Months
39. Flu	SIRVA	1 Year, 3 Months
40. Flu	GBS	1 Year, 3 Months
41. Flu	SIRVA	1 Year, 3 Months
42. Flu	GBS	1 Year, 3 Months
43. DTaP; IPV; Hep B; Hib; PCV; Rotavirus	Synovitis	1 Year, 3 Months
44. Flu	GBS	1 Year, 2 Months

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Adjudicated Settlements*

Reporting Period: 8/16/17 – 11/15/17

Vaccine(s)	Alleged Injury(ies)	Petition Filing to Settlement Filing
45. TDaP; Flu	GBS	1 Year, 2 Months
46. Flu	SIRVA	1 Year, 2 Months
47. Flu	GBS	1 Year, 2 Months
48. Flu	GBS	1 Year, 2 Months
49. Flu	SIRVA	1 Year, 2 Months
50. PCV	SIRVA; Arm Cellulitis; Index Finger Stenosing; Tenosynovitis	1 Year, 1 Months
51. Flu	SIRVA	1 Year, 1 Month
52. Flu	SIRVA	1 Year, 1 Month
53. Flu	GBS	1 Year, 1 Month
54. Flu	SIRVA	1 Year, 1 Month
55. Flu	GBS; Miller Fisher Variant; Tibial Nerve Palsy	1 Year, 1 Month

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Adjudicated Settlements*

Reporting Period: 8/16/17 – 11/15/17

Vaccine(s)	Alleged Injury(ies)	Petition Filing to Settlement Filing
56. Flu	SIRVA	1 Year
57. Flu	SIRVA	1 Year
58. Flu	CIDP	1 Year
59. Flu	SIRVA	1 Year
60. Flu	GBS	1 Year
61. Flu	Significant Aggravation Pericarditis	1 Year
62. Flu	GBS	1 Year
63. Flu	SIRVA	1 Year
64. Flu	SIRVA	1 Year
65. Flu	SIRVA	1 Year
66. PCV	SIRVA	1 Year

*Terms of compensated settlements memorialized by Stipulation

Adjudicated Settlements*

Reporting Period: 8/16/17 – 11/15/17

Vaccine(s)	Alleged Injury(ies)	Petition Filing to Settlement Filing
67. Flu	SIRVA	9 Months
68. Tdap	Brachial Neuritis	9 Months
69. Flu	SIRVA	9 Months
70. Flu	Parsonage-Turner Syndrome; Brachial Plexopathy	9 Months
71. Flu	SIRVA	9 Months
72. Flu	SIRVA	9 Months
73. PCV	SIRVA	9 Months
74. Flu	SIRVA	9 Months
75. Flu	Polyneuropathy	9 Months
76. Flu	Mast Cell Activation Disorder	9 Months
77. Flu	SIRVA	9 Months

*Terms of compensated settlements memorialized by Stipulation

Adjudicated Settlements*

Reporting Period: 8/16/17 – 11/15/17

Vaccine(s)	Alleged Injury(ies)	Petition Filing to Settlement Filing
78. Flu	GBS	9 Months
79. Flu	GBS	9 Months
80. Flu	Parsonage-Turner Syndrome	8 Months
81. Flu	SIRVA	8 Months
82. Flu	SIRVA	7 Months
83. Flu	SIRVA	7 Months
84. Flu	SIRVA	6 Months
85. Flu	GBS	7 Months

*Terms of compensated settlements memorialized by Stipulation

Appendix

Glossary of Terms

- **Petitions Adjudicated:** Final judgment has entered on the petition in the United States Court of Federal Claims.
- **Final Judgment:** Clerk of Court, United States Court of Federal Claims, enters judgment awarding or denying compensation.
- **Compensable:** Petitioner received an award of compensation, which can be achieved through a concession by HHS, settlement, or decision on the merits by the special master, United States Court of Federal Claims.
- **Conceded by HHS:** HHS concluded that a petition should be compensated based on review and analysis of the medical records.

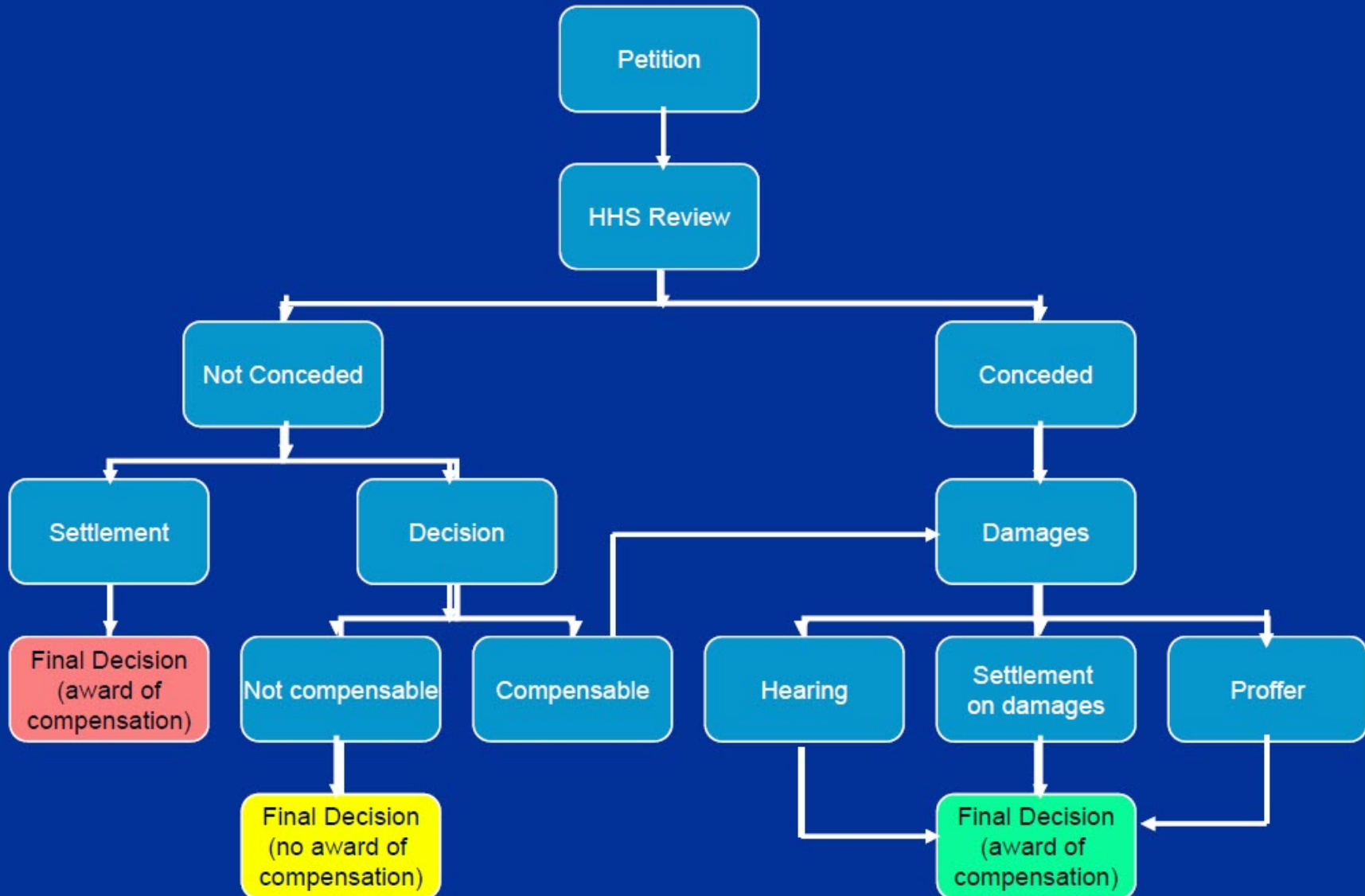
Glossary of Terms

- **Settlement:** Petition is resolved via a negotiated settlement between the parties, and results in the filing of a stipulation that memorializes the terms of the settlement.
- **Decision:** Special Master issues decision on the merits of the petition.
- **Non-compensable/Dismissed:** Petition dismissed.
- **Proffer:** After discussions between the parties regarding a reasonable amount of damages, respondent will file a suggested award of compensation, known within the Program as a “Proffer,” which is also agreed to by petitioners and their counsel. The Proffer is reviewed by the presiding special master to determine that it represents a reasonable measure of the amount of the award and describes compensation pursuant to 42 U.S.C. § 300aa-15(a). The special master issues a final decision consistent with the terms of the Proffer.²¹

Glossary of Terms

- **Affirmed:** Case has been reviewed on appeal, and the court on appeal agreed with the decision of the lower court.
- **Reversed:** Case has been reviewed on appeal, and the court on appeal disagreed with the decision of the lower court. The court on appeal typically provides reasons for reversing, and that decision becomes the law of the case, absent further appeal.
- **Remanded:** Case has been reviewed on appeal, and the reviewing court has a problem with the decision, and sends it back to the lower court. Typically, a case is remanded with a specific question or issue for the lower court to address.
- **Vacated:** Case has been reviewed on appeal, and the reviewing court has voided the lower court's decision.

Petition Processing in the Office of Special Masters



Levels of Appeal in Vaccine Act Cases

U.S. Supreme Court

U.S. Court of Appeals for the
Federal Circuit

U.S. Court of Federal Claims

Office of Special Masters

Appeals Process

