



# Report from the Department of Justice

**December 3, 2020**

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# Statistics

Reporting Period: 8/16/20 – 11/15/20

**I. Total Petitions Filed in the United States Court of Federal Claims this Reporting Period: 411**

A. Minors: 37

B. Adults: 374

# Statistics

**Reporting Period: 8/16/20 – 11/15/20**

**Total Petitions Adjudicated this Reporting Period: 219**

**A. Compensated: 166**

**i. Cases conceded by HHS: 52**

**1. Decision awarding damages: 3**

**2. Decision adopting Proffer: 49**

**3. Decision adopting Settlement: 0**

**ii. Cases not conceded by HHS: 114**

**1. Decision awarding damages: 6**

**2. Decision adopting Proffer: 3**

**3. Decision adopting Settlement: 105**

**B. Not Compensated/Dismissed: 53**

# Statistics

Reporting Period: 8/16/20 – 11/15/20

**III. Total Petitions Voluntarily Withdrawn this Reporting Period (no judgment will be issued): 6**

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

## Decided Cases

### Appeals by Petitioner:

- *Cottingham v. HHS* (Atty's Fees & Costs): Vacated and Remanded
- *L.M. v. HHS* (Entitlement): Affirmed/Remanded in Part
- *Nunez v. HHS* (Entitlement): Affirmed
- *Wyatt v. HHS* (Entitlement): Affirmed

### Appeals by Respondent:

- *L.M. v. HHS* (Entitlement): Rehearing En Banc Denied

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

## Pending Cases

### Appeals by Petitioner:

- *E.J. v. HHS* (Atty's Fees & Costs)
- *Greene v. HHS* (Entitlement)
- *Kirby v. HHS* (Entitlement)
- *Kottenstette v. HHS* (Entitlement)
- *Morgan v. HHS* (Entitlement)
- *Orloski v. HHS* (Entitlement)

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

## Pending Cases

### Appeals by Respondent:

None at this time

# Appeals: U.S. Court of Federal Claims

## Decided Cases

### Appeals by Petitioner:

- *Abbott v. HHS* (Atty's Fees & Costs): Denied/Remanded in Part
- *Bailey v. HHS* (Entitlement): Affirmed
- *N.A.C. v. HHS* (Entitlement): Affirmed
- *L.P. v. HHS* (Atty's Fees & Costs): Affirmed
- *Martin v. HHS* (Entitlement): Affirmed
- *Perekotiy v. HHS* (Entitlement): Affirmed
- *Temes v. HHS* (Entitlement): Affirmed
- *Yates v. HHS* (Entitlement): Affirmed

# Appeals: U.S. Court of Federal Claims

## Decided Cases

### Appeals by Respondent:

None at this time

# Appeals: U.S. Court of Federal Claims

## Pending Cases

### Appeals by Petitioner:

- *Baldwin v. HHS* (Entitlement)
- *Bossenbroek v. HHS* (Entitlement)
- *DeLozier v. HHS* (Entitlement)
- *Demitor v. HHS* (Entitlement)
- *Galvan v. HHS* (Entitlement)
- *Jennings v. HHS* (Redaction)
- *Porcello v. HHS* (Entitlement)
- *Sanchez v. HHS* (Entitlement)

(Continued...)

# Appeals: U.S. Court of Federal Claims

## Pending Cases

### Appeals by Petitioner:

- *Webb v. HHS* (Entitlement)
- *Yeargin v. HHS* (Entitlement)

# Appeals: U.S. Court of Federal Claims

## Pending Cases

### Appeals by Respondent:

None at this time

# Scheduled Oral Arguments

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

- *Orloski v. HHS*, January 6, 2021

## U.S. Court of Federal Claims:

- *DeLozier v. HHS*, December 9, 2020

# Adjudicated Settlements\*

Reporting Period: 8/16/20 – 11/15/20

Vaccine(s)	Alleged Injury(ies)	Petition Filing to Settlement Filing
1. Tdap	Anaphylactic Reaction; Optic Neuritis; Blindness	6 Years 1 Months
2. Tdap	CIDP	5 Years 3 Months
3. Tdap	GBS	5 Years 2 Months
4. Flu; Hep B	GBS; CIDP	4 Years 7 Months
5. DTaP; MCV	ITP	4 Years 4 Months
6. Hib	Right-Thigh Cellulitis; Abscess Scarring	4 Years 3 Months
7. Flu; FluMist	Optic Neuritis	4 Years 1 Months
8. Flu	TM	3 Years 8 Months
9. Flu	SIRVA	3 Years 8 Months
10. Flu	Brachial Neuritis	3 Years 7 Months
11. Flu	SIRVA	3 Years 4 Months

\*Terms of compensated settlements memorialized by Stipulation

# Adjudicated Settlements\*

Reporting Period: 8/16/20 – 11/15/20

Vaccine(s)	Alleged Injury(ies)	Petition Filing to Settlement Filing
12. Flu	SIRVA	3 Years 3 Months
13. Tdap	SIRVA	3 Years 3 Months
14. Tdap	GBS	3 Years 3 Months
15. Flu	SIRVA	3 Years 2 Months
16. Flu	SIRVA	3 Years 2 Months
17. Tdap	GBS; TM	3 Years 1 Month
18. Flu	GBS	3 Years
19. Flu	SIRVA	3 Years
20. Flu	Brachial Neuritis	3 Years
21. Flu; Tdap	TM	2 Years 12 Months
22. Flu	Clinically Isolated Syndrome; MS	3 Years

\*Terms of compensated settlements memorialized by Stipulation

# Adjudicated Settlements\*

Reporting Period: 8/16/20 – 11/15/20

Vaccine(s)	Alleged Injury(ies)	Petition Filing to Settlement Filing
23. Flu	SIRVA	2 Years 11 Months
24. Flu	SIRVA	2 Years 11 Months
25. HPV	Reactive Arthritis; Tendonitis; Juvenile Idiopathic Arthritis	2 Years 10 Months
26. Tdap	Radiculoplexus Neuropathy	2 Years 9 Months
27. Flu	TM	2 Years 7 Months
28. Flu	SIRVA	2 Years 7 Months
29. Flu	SIRVA	2 Years 7 Months
30. Flu	Axonal Polyneuropathy	2 Years 7 Months
31. PCV	Angioedema	2 Years 7 Months
32. Flu	Stevens Johnson Syndrome; Fibromyalgia; Insomnia; Fatigue	2 Years 5 Months
33. Flu	SIRVA	2 Years 5 Months

\*Terms of compensated settlements memorialized by Stipulation

# Adjudicated Settlements\*

Reporting Period: 8/16/20 – 11/15/20

Vaccine(s)	Alleged Injury(ies)	Petition Filing to Settlement Filing
34. Flu	GBS; TM	2 Years 5 Months
35. Flu	SIRVA	2 Years 5 Months
36. Tdap	Left Shoulder Bursitis	2 Years 5 Months
37. Flu	SIRVA	2 Years 4 Months
38. Flu	SIRVA	2 Years 4 Months
39. Flu	SIRVA	2 Years 4 Months
40. Flu	SIRVA	2 Years 3 Months
41. Tdap	GBS	2 Years 3 Months
42. Flu	SIRVA	2 Years 3 Months
43. Flu	GBS	2 Years 3 Months
44. Flu	SIRVA	2 Years 3 Months

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# Adjudicated Settlements\*

Reporting Period: 8/16/20 – 11/15/20

Vaccine(s)	Alleged Injury(ies)	Petition Filing to Settlement Filing
45. Flu	TM	2 Years 2 Months
46. Flu	SIRVA	2 Years 2 Months
47. Flu	SIRVA	2 Years 1 Month
48. Flu; TDap	GBS	2 Years 1 Month
49. Hep B	SIRVA	2 Years 1 Month
50. Tdap	GBS	2 Years 1 Month
51. Flu	SIRVA	2 Years 1 Month
52. Flu	GBS	2 Years
53. Flu	TM	2 Years
54. Flu	Allergic Reaction; Autoimmune Disorder	1 Year 11 Months
55. Flu	SIRVA	1 Year 11 Months

\*Terms of compensated settlements memorialized by Stipulation

# Adjudicated Settlements\*

Reporting Period: 8/16/20 – 11/15/20

Vaccine(s)	Alleged Injury(ies)	Petition Filing to Settlement Filing
56. Flu	TM; GBS	1 Year 11 Months
57. Flu	GBS; CIDP	1 Year 11 Months
58. Flu	SIRVA	1 Year 11 Months
59. Flu	GBS	1 Year 11 Months
60. Flu	SIRVA	1 Year 11 Months
61. Flu	SIRVA	1 Year 11 Months
62. Flu	SIRVA	1 Year 11 Months
63. Flu	SIRVA	1 Year 11 Months
64. Flu	SIRVA	1 Year 10 Months
65. Flu	SIRVA	1 Year 10 Months
66. Flu	Brachial Neuritis	1 Year 10 Months

\*Terms of compensated settlements memorialized by Stipulation

# Adjudicated Settlements\*

Reporting Period: 8/16/20 – 11/15/20

Vaccine(s)	Alleged Injury(ies)	Petition Filing to Settlement Filing
67. Tdap	SIRVA	1 Year 10 Months
68. Flu	GBS	1 Year 10 Months
69. Flu; Pneumococcal Vaccine	GBS	1 Year 10 Months
70. Flu	CIDP	1 Year 10 Months
71. Tdap	SIRVA	1 Year 10 Months
72. Flu	SIRVA	1 Year 9 Months
73. Flu	SIRVA	1 Year 9 Months
74. Flu	SIRVA	1 Year 9 Months
75. Flu	Brachial Neuritis	1 Year 9 Months
76. Flu	GBS	1 Year 9 Months
77. Flu	SIRVA	1 Year 10 Months

\*Terms of compensated settlements memorialized by Stipulation

# Adjudicated Settlements\*

Reporting Period: 8/16/20 – 11/15/20

Vaccine(s)	Alleged Injury(ies)	Petition Filing to Settlement Filing
78. Flu	SIRVA	1 Year 8 Months
79. Tdap	GBS	1 Year 8 Months
80. Flu	SIRVA	1 Year 8 Months
81. Flu	SIRVA	1 Year 8 Months
82. Flu	SIRVA	1 Year 8 Months
83. Flu; Tdap	GBS; CIDP	1 Year 8 Months
84. Flu	SIRVA	1 Year 8 Months
85. Flu	SIRVA	1 Year 8 Months
86. Flu	SIRVA	1 Year 8 Months
87. Flu	SIRVA	1 Year 8 Months
88. Flu	SIRVA	1 Year 7 Months

\*Terms of compensated settlements memorialized by Stipulation

# Adjudicated Settlements\*

Reporting Period: 8/16/20 – 11/15/20

Vaccine(s)	Alleged Injury(ies)	Petition Filing to Settlement Filing
89. Flu	SIRVA	1 Year 7 Months
90. Flu	SIRVA	1 Year 7 Months
91. Tdap	SIRVA	1 Year 7 Months
92. Flu	SIRVA	1 Year 6 Months
93. Tdap	SIRVA; Brachial Neuritis	1 Year 6 Months
94. Flu	SIRVA	1 Year 6 Months
95. Tdap	SIRVA	1 Year 6 Months
96. Flu	SIRVA	1 Year 6 Months
97. Flu	TM	1 Year 5 Months
98. Tdap	GBS	1 Year 5 Months
99. Flu	SIRVA	1 Year 5 Months

\*Terms of compensated settlements memorialized by Stipulation

# Adjudicated Settlements\*

Reporting Period: 8/16/20 – 11/15/20

Vaccine(s)	Alleged Injury(ies)	Petition Filing to Settlement Filing
100. Flu	GBS	1 Year 5 Months
101. Flu	SIRVA	1 Year 5 Months
102. Flu	SIRVA	1 Year 4 Months
103. Flu	SIRVA	1 Year 4 Months
104. Flu	SIRVA	1 Year 4 Months
105. Flu	SIRVA; Brachial Plexopathy	1 Year
*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.

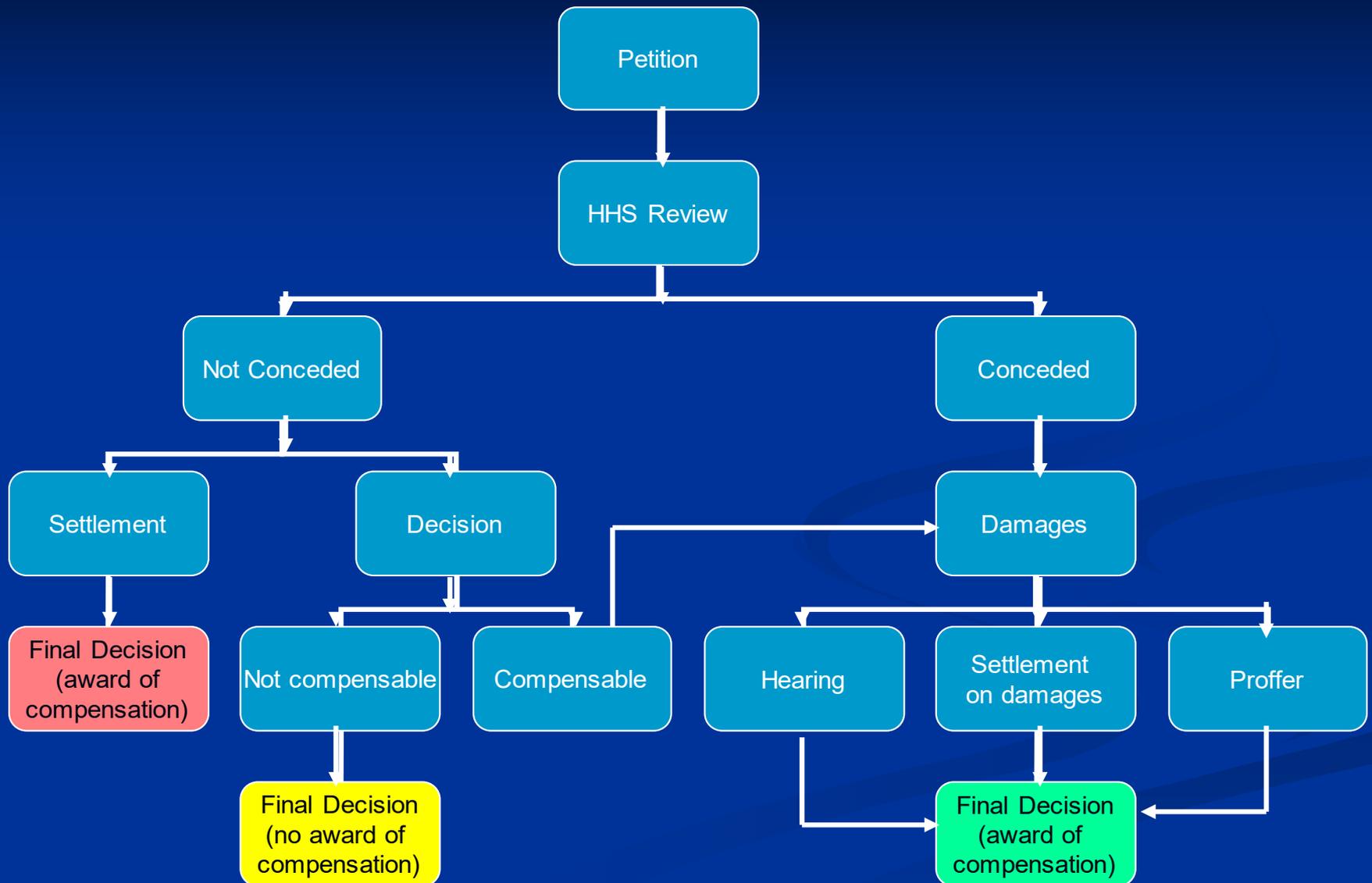
# Glossary of Terms

- **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.

# 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

