



# Report from the Department of Justice

**September 4, 2020**

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# Statistics

Reporting Period: 2/16/20 – 8/15/20

**I. Total Petitions Filed in the United States Court of Federal Claims this Reporting Period: 567**

A. Minors: 47

B. Adults: 520

# Statistics

Reporting Period: 2/16/20 – 8/15/20

**Total Petitions Adjudicated this Reporting Period: 476**

A. Compensated: 372

i. Cases conceded by HHS: 164

1. Decision awarding damages: 16

2. Decision adopting Proffer: 148

3. Decision adopting Settlement: 0

ii. Cases not conceded by HHS: 208

1. Decision awarding damages: 5

2. Decision adopting Proffer: 2

3. Decision adopting Settlement: 201

B. Not Compensated/Dismissed: 104

# Statistics

Reporting Period: 2/16/20 – 8/15/20

**III. Total Petitions Voluntarily Withdrawn this Reporting Period (no judgment will be issued): 10**

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

## Decided Cases

### Appeals by Petitioner:

- *Austin v. HHS* (Entitlement): Affirmed
- *DaSilva v. HHS* (Entitlement): Dismissed
- *Dupuch-Carron v. HHS* (Entitlement): Affirmed
- *K.G. v. HHS* (Entitlement): Remanded
- *L.M. (Sharpe) v. HHS* (Entitlement): Affirmed/Remanded in part
- *Sanchez v. HHS* (Entitlement): Remanded

### Appeals by Respondent:

- *Lozano v. HHS* (Entitlement): Affirmed

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

## Pending Cases

### Appeals by Petitioner:

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

- *Bravo v. HHS* (Motion to Recuse): Denied
- *Kottenstette v. HHS* (Entitlement): Affirmed
- *Lewis v. HHS* (Atty's Fees & Costs): Affirmed/Remanded in part
- *Morgan v. HHS* (Entitlement): Affirmed
- *Orloski v. HHS* (Entitlement): Affirmed
- *Rocha v. HHS* (Interim Atty's Fees & Costs): Withdrawn
- *R.S. v. HHS* (Entitlement): Affirmed
- *Tullio v. HHS* (Entitlement): Affirmed

# Appeals: U.S. Court of Federal Claims

## Decided Cases

### Appeals by Respondent:

- *Middleton v. HHS* (Atty's Fees & Costs): Affirmed
- *Kirby v. HHS* (Entitlement): Reversed

# Appeals: U.S. Court of Federal Claims

## Pending Cases

### Appeals by Petitioner:

- *Abbott v. HHS* (Interim Atty's Fees & Costs)
- *Bailey v. HHS* (Entitlement)
- *Baldwin v. HHS* (Entitlement)
- *Bossenbroek v. HHS* (Entitlement)
- *Castaneda v. HHS* (Entitlement)
- *Galvan v. HHS* (Entitlement)
- *L.P. v. HHS* (Attys' Fees & Costs)
- *Martin v. HHS* (Entitlement)
- *Perekotiy v. HHS* (Entitlement)

(Continued...)

# Appeals: U.S. Court of Federal Claims

## Pending Cases

### Appeals by Petitioner:

- *Porcello v. HHS (Entitlement)*
- *Temes v. HHS (Entitlement)*
- *Webb v. HHS (Entitlement)*
- *Yates 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:

- *E.J. v. HHS*, September 3, 2020

## U.S. Court of Federal Claims:

None at this time

# Adjudicated Settlements\*

Reporting Period: 2/16/20 – 8/15/20

Vaccine(s)	Alleged Injury(ies)	Petition Filing to Settlement Filing
1. HPV; Hep A; Hep B; Flu	TM	6 Years 9 Months
2. Hep A; MMR; Varicella	Encephalopathy	6 Years 7 Months
3. Hep A; Hep B; meningococcal; Flu	Inflammatory Neuropathy	5 Years 4 Months
4. Flu	TM	4 Years 6 Months
5. Flu	GBS	4 Years
6. MMR; Tdap	TM	4 Years
7. Flu; HPV	TM; Neuromyelitis optica	3 Years 9 Months
8. Flu	GBS; TM	3 Years 6 Months
9. Flu	GBS	3 Years 5 Months
10. Tdap	Seizure Disorder	3 Years 2 Months
11. Flu	GBS	3 Years 1 Months

\*Terms of compensated settlements memorialized by Stipulation

# Adjudicated Settlements\*

Reporting Period: 2/16/20 – 8/15/20

Vaccine(s)	Alleged Injury(ies)	Petition Filing to Settlement Filing
12. Flu	GBS	3 Years
13. Flu	SIRVA	2 Years 11 Months
14. Flu	SIRVA	2 Years 11 Months
15. Flu	Chronic Inflammatory Demyelinating Polyneuropathy	2 Years 10 Months
16. Flu	GBS	2 Years 9 Months
17. Flu	Small Fiber Polyneuropathy	2 Years 7 Months
18. Flu	GBS	2 Years 7 Months
19. Flu; Tdap	Dermatomyositis	2 Years 6 Months
20. Td	SIRVA	2 Years 6 Months
21. Flu	GBS	2 Years 6 Months
22. Flu	SIRVA	2 Years 6 Months

\*Terms of compensated settlements memorialized by Stipulation

# Adjudicated Settlements\*

Reporting Period: 2/16/20 – 8/15/20

Vaccine(s)	Alleged Injury(ies)	Petition Filing to Settlement Filing
23. Meningococcal	Erythema Multiforme; Toxic Epidermal Necrolysis	2 Years 6 Months
24. Tdap	GBS	2 Years 5 Months
25. Flu	SIRVA	2 Years 5 Months
26. Flu	SIRVA	2 Years 5 Months
27. Flu	SIRVA	2 Years 4 Months
28. Flu	TM	2 Years 4 Months
29. Flu	SIRVA	2 Years 4 Months
30. Flu	SIRVA	2 Years 4 Months
31. Flu	SIRVA	2 Years 3 Months
32. Flu	SIRVA	2 Years 3 Months
33. Tdap	Brachial Neuritis	2 Years 1 Month

\*Terms of compensated settlements memorialized by Stipulation

# Adjudicated Settlements\*

Reporting Period: 2/16/20 – 8/15/20

Vaccine(s)	Alleged Injury(ies)	Petition Filing to Settlement Filing
34. Flu	SIRVA	2 Years 1 Month
35. Flu	SIRVA	2 Years 1 Month
36. Tdap	SIRVA	2 Years 1 Month
37. Hep B	SIRVA	2 Years
38. Flu	SIRVA	2 Years
39. Flu	SIRVA	2 Years
40. Flu	Parsonage-Turner Syndrome; Brachial Neuritis; Brachial Plexopathy	2 Years
41. Flu	Endocarditis	2 Years
42. Flu	SIRVA	1 Year 11 Months
43. Flu	SIRVA	1 Year 11 Months
44. Flu	GBS; CIDP	1 Year 11 Months

\*Terms of compensated settlements memorialized by Stipulation

# Adjudicated Settlements\*

Reporting Period: 2/16/20 – 8/15/20

Vaccine(s)	Alleged Injury(ies)	Petition Filing to Settlement Filing
45. Flu	SIRVA	1 Year 11 Months
46. Tdap	SIRVA	1 Year 11 Months
47. Flu	GBS; CIDP	1 Year 10 Months
48. Flu	Brachial Neuritis	1 Year 10 Months
49. Flu	SIRVA	1 Year 10 Months
50. Tdap	CIDP	1 Year 10 Months
51. Flu	SIRVA	1 Year 10 Months
52. Tdap	SIRVA	1 Year 9 Months
53. Tdap	ITP	1 Year 9 Months
54. Flu	SIRVA; Parsonage Turner Syndrome; Brachial Neuritis	1 Year
55. Flu	SIRVA	1 Year 8 Months

\*Terms of compensated settlements memorialized by Stipulation

# Adjudicated Settlements\*

Reporting Period: 2/16/20 – 8/15/20

Vaccine(s)	Alleged Injury(ies)	Petition Filing to Settlement Filing
56. Flu	SIRVA	1 Year 9 Months
57. Flu	SIRVA	1 Year 8 Months
58. Flu	Brachial Neuritis	1 Year 8 Months
59. Flu	GBS	1 Year 8 Months
60. Tdap	SIRVA	1 Year 8 Months
61. Flu	SIRVA	1 Year 8 Months
62. Flu	SIRVA	1 Year 8 Months
63. Flu	SIRVA	1 Year 8 Months
64. Flu	SIRVA	1 Year 7 Months
65. Flu	SIRVA	1 Year 7 Months
66. MMR	Ocular Sixth Nerve Palsy	1 Year 7 Months

\*Terms of compensated settlements memorialized by Stipulation

# Adjudicated Settlements\*

Reporting Period: 2/16/20 – 8/15/20

Vaccine(s)	Alleged Injury(ies)	Petition Filing to Settlement Filing
67. Flu	SIRVA	1 Year 7 Months
68. Flu	SIRVA	1 Year 7 Months
69. PCV	SIRVA	1 Year 6 Months
70. Flu	SIRVA	1 Year 6 Months
71. Flu	GBS	1 Year 6 Months
72. Flu	SIRVA	1 Year 6 Months
73. Flu	CIDP	1 Year 6 Months
74. Flu	SIRVA	1 Year 6 Months
75. Flu	SIRVA	1 Year 5 Months
76. Flu	Myocarditis; Death	1 Year 5 Months
77. Flu	SIRVA	1 Year 5 Months

\*Terms of compensated settlements memorialized by Stipulation

# Adjudicated Settlements\*

Reporting Period: 2/16/20 – 8/15/20

Vaccine(s)	Alleged Injury(ies)	Petition Filing to Settlement Filing
78. Flu	SIRVA	1 Year 5 Months
79. Flu	SIRVA	1 Year 5 Months
80. Flu	SIRVA	1 Year 5 Months
81. Flu	SIRVA	1 Year 5 Months
82. Flu	SIRVA	1 Year 5 Months
83. Tdap	GBS	1 Year 4 Months
84. Flu	SIRVA	1 Year 4 Months
85. Flu	SIRVA	1 Year 3 Months
86. Flu	SIRVA	1 Year 3 Months
87. Flu	SIRVA	1 Year 3 Months
88. PCV	SIRVA	1 Year 3 Months

\*Terms of compensated settlements memorialized by Stipulation

# Adjudicated Settlements\*

Reporting Period: 2/16/20 – 8/15/20

Vaccine(s)	Alleged Injury(ies)	Petition Filing to Settlement Filing
89. Tdap	Epilepsy	1 Year 2 Months
90. Flu	SIRVA	1 Year 2 Months
91. Flu	SIRVA	1 Year 1 Month
92. Flu	GBS	1 Year 1 Month
93. Meningococcal	SIRVA	9 Months
94. TDaP; Varicella	Encephalitis; Brachial Neuritis; GBS	5 Years 1 Month
95. Flu	GBS	4 Years 6 Months
96. Flu	ADEM	4 Years 7 Months
97. Flu	Complex Regional Pain Syndrome (CRPS)	4 Years 8 Months
98. Flu	Multiple Sclerosos	4 Years 4 Months
99. TDaP	SIRVA; adhesive capsulitis	3 Years 6 Months

\*Terms of compensated settlements memorialized by Stipulation

# Adjudicated Settlements\*

Reporting Period: 2/16/20 – 8/15/20

Vaccine(s)	Alleged Injury(ies)	Petition Filing to Settlement Filing
100. Flu	GBS	3 Years 4 Months
101. Flu	SIRVA	3 Years 4 Months
102. GBS	Flu	3 Years 4 Months
103. Flu	Thrombocytopenic Purpura	3 Years 3 Months
104. Flu	GBS	3 Years 2 Months
105. Flu	SIRVA	3 Years 2 Months
106. Flu	GBS	3 Years 1 Month
107. Flu	Thrombocytopenic Purpura	3 Years
108. Flu	SIRVA	2 Years 11 Months
109. Flu	CIDP	2 Years 11 Months
110. TDaP	SIRVA	2 Years 10 Months

\*Terms of compensated settlements memorialized by Stipulation

# Adjudicated Settlements\*

Reporting Period: 2/16/20 – 8/15/20

Vaccine(s)	Alleged Injury(ies)	Petition Filing to Settlement Filing
111. Flu	Cellulitis	2 Years 6 Months
112. Flu	TM	2 Years 9 Months
113. Flu	GBS	2 Years 10 Months
114. Flu	GBS	2 Years 8 Months
115. Flu	GBS	2 Years 8 Months
116. SIRVA	TDaP	2 Years 8 Months
117. Flu	GBS	2 Years 6 Months
118. Flu	SIRVA	2 Years 7 Months
119. SIRVA	TDaP	2 Years 7 Months
120. Flu	SIRVA	2 Years 6 Months
121. Flu	SIRVA	2 Years 6 Months

\*Terms of compensated settlements memorialized by Stipulation

# Adjudicated Settlements\*

Reporting Period: 2/16/20 – 8/15/20

Vaccine(s)	Alleged Injury(ies)	Petition Filing to Settlement Filing
122. Flu	SIRVA	2 Years 6 Months
123. Flu	SIRVA	2 Years 6 Months
124. Flu	Bell's Palsy	2 Years 5 Months
125. Hep B	Lichen Planus	2 Years 5 Months
126. Flu	SIRVA	2 Years 4 Months
127. Flu	SIRVA	2 Years 4 Months
128. Flu	Optic Neuritis	2 Years 2 Months
129. Flu	SIRVA	2 Years 3 Months
130. PCV	SIRVA	2 Years 3 Months
131. Flu	SIRVA	2 Years 3 Months
132. Flu	SIRVA	2 Years 2 Months

\*Terms of compensated settlements memorialized by Stipulation

# Adjudicated Settlements\*

Reporting Period: 2/16/20 – 8/15/20

Vaccine(s)	Alleged Injury(ies)	Petition Filing to Settlement Filing
133. Flu	SIRVA	2 Years 2 Months
134. Flu	SIRVA	2 Years 2 Months
135. Flu	SIRVA	2 Years 2 Months
136. Flu	SIRVA	2 Years 2 Months
137. Flu; Hep A	GBS	2 Years 2 Months
138. Flu	SIRVA; Brachial Neuritis	2 Years 2 Months
139. Flu; TDaP	SIRVA	2 Years
140. Flu	SIRVA	2 Years
141. Flu	SIRVA	2 Years 1 Month
142. Flu	SIRVA	2 Years 1 Months
143. Flu	SIRVA	2 Years 1 Months

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# Adjudicated Settlements\*

Reporting Period: 2/16/20 – 8/15/20

Vaccine(s)	Alleged Injury(ies)	Petition Filing to Settlement Filing
144. Flu	SIRVA	2 Years
145. Flu	TM	2 Years
146. Rotavirus	Intussusception	2 Years
147. Varicella	Chronic Urticaria	1 Year 11 Months
148. Flu	Regional Pain Syndrome	1 Year 11 Months
149. Flu	SIRVA	1 Year 11 Months
150. Flu	GBS	1 Year 10 Months
151. Flu	CIDP	1 Year 11 Months
152. Flu	GBS	1 Year 11 Months
153. Flu	GBS	1 Year 10 Months
154. Flu	SIRVA	1 Year 4 Months

\*Terms of compensated settlements memorialized by Stipulation

# Adjudicated Settlements\*

Reporting Period: 2/16/20 – 8/15/20

Vaccine(s)	Alleged Injury(ies)	Petition Filing to Settlement Filing
155. Flu	SIRVA	1 Year 10 Months
156. Flu	Optic Neuritis	1 Year 10 Months
157. PCV	SIRVA	1 Year 10 Months
158. Flu	SIRVA	1 Year 10 Months
159. Flu	SIRVA	1 Year 8 Months
160. Flu	SIRVA	1 Year 9 Months
161. Flu	GBS	1 Year 9 Months
162. TDaP	GBS	1 Year 9 Months
163. Flu	Brachial Neuritis	1 Year 8 Months
164. Flu	GBS	1 Year 8 Months
165. Flu; TDaP	SIRVA	1 Year 8 Months

\*Terms of compensated settlements memorialized by Stipulation

# Adjudicated Settlements\*

Reporting Period: 2/16/20 – 8/15/20

Vaccine(s)	Alleged Injury(ies)	Petition Filing to Settlement Filing
166. Flu	SIRVA	1 Year 8 Months
167. Flu	ADEM	1 Year 8 Months
168. TDaP	SIRVA	1 Year 7 Months
169. Flu	SIRVA	1 Year 8 Months
170. TDaP	SIRVA	1 Year 7 Months
171. Flu	SIRVA	1 Year 7 Months
172. Flu	SIRVA	1 Year 7 Months
173. Flu	SIRVA	1 Year 7 Months
174. Flu	SIRVA	1 Year 7 Months
175. Flu	SIRVA	1 Year 7 Months
176. Flu	SIRVA	1 Year 7 Months

\*Terms of compensated settlements memorialized by Stipulation

# Adjudicated Settlements\*

Reporting Period: 2/16/20 – 8/15/20

Vaccine(s)	Alleged Injury(ies)	Petition Filing to Settlement Filing
177. Flu	SIRVA	1 Year 7 Months
178. Flu	SIRVA	1 Year 7 Months
179. Flu	Optic Neuritis	1 Year 6 Months
180. Flu	GBS	1 Years 7 Months
181. Tdap	SIRVA	1 Year 6 Months
182. Flu	SIRVA	1 Year 6 Months
183. Flu	SIRVA	1 Year 6 Months
184. PCV	SIRVA	1 Year 6 Months
185. PCV	SIRVA	1 Year 6 Months
186. Flu	GBS	1 Year 6 Months
187. Flu	SIRVA	1 Year 5 Months

\*Terms of compensated settlements memorialized by Stipulation

# Adjudicated Settlements\*

Reporting Period: 2/16/20 – 8/15/20

Vaccine(s)	Alleged Injury(ies)	Petition Filing to Settlement Filing
188. Flu	SIRVA	1 Year 6 Months
189. Flu	SIRVA	1 Year 6 Months
190. Flu	SIRVA	1 Year 5 Months
191. Flu	SIRVA	1 Year 5 Months
192. Meningococcal; TDaP; Hep A	Complex Regional Pain Syndrome (CRPS)	1 Year 5 Months
193. Flu	SIRVA	1 Year 5 Months
194. Flu	SIRVA	1 Year 5 Months
195. PCV	SIRVA	1 Year 4 Months
196. Flu	SIRVA	1 Year 4 Months
197. Flu	SIRVA	1 Year 4 Months
198. Flu	SIRVA	1 Year 3 Months

\*Terms of compensated settlements memorialized by Stipulation

# Adjudicated Settlements\*

Reporting Period: 2/16/20 – 8/15/20

Vaccine(s)	Alleged Injury(ies)	Petition Filing to Settlement Filing
199. Flu	SIRVA	1 Year 3 Months
200. Flu	SIRVA	1 Year 3 Months
201. Flu	ADEM	11 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.

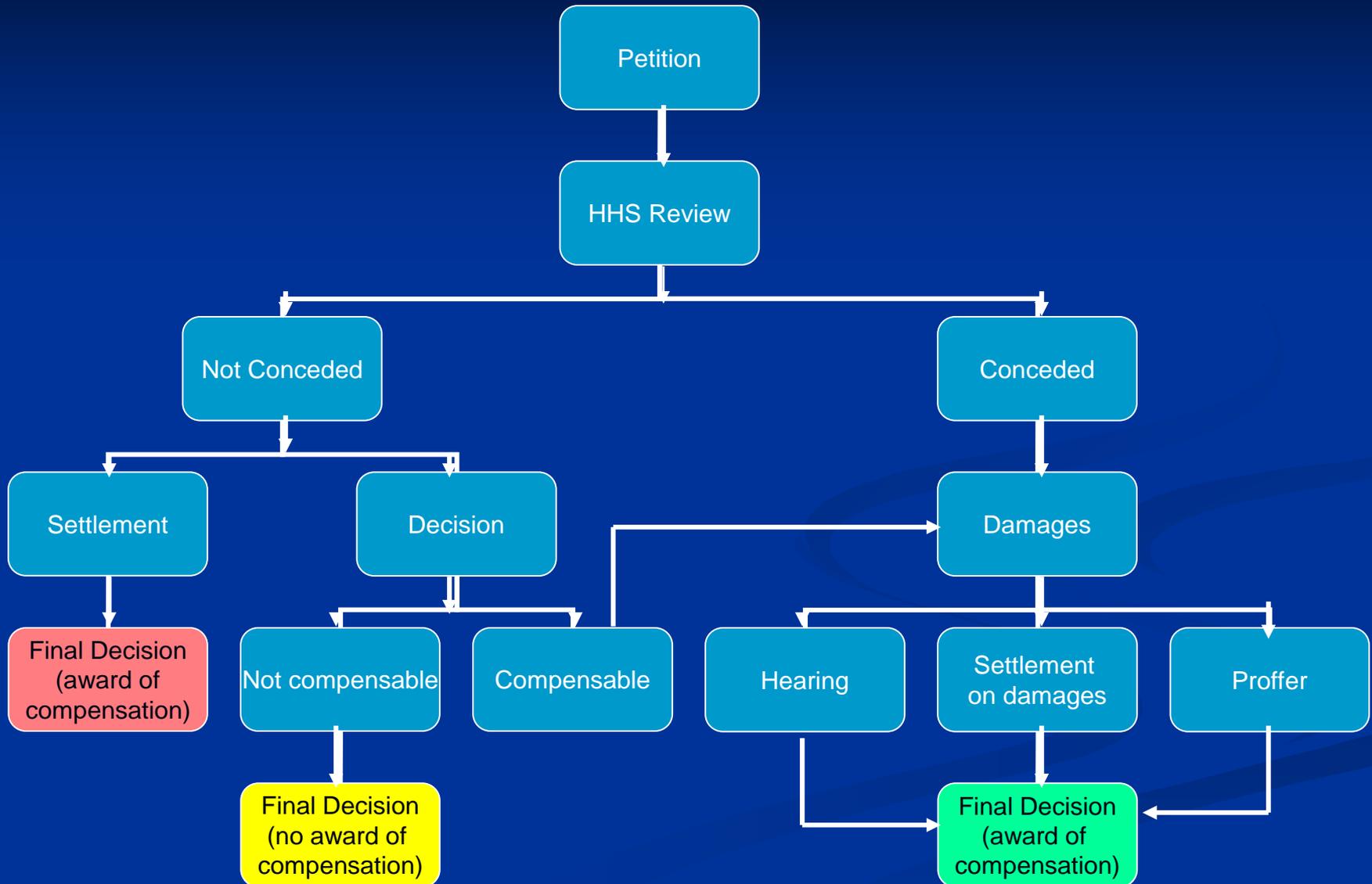
# Glossary of Terms

- **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.

# 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

