



Report from the Department of Justice

March 3, 2016

Vincent J. Matanoski

Deputy Director, Torts Branch

Statistics

Reporting Period: 11/16/15 – 2/15/16

- I. Total Petitions Filed in the United States Court of Federal Claims this reporting period: 237**
 - A. Minors: 47
 - B. Adults: 190

Statistics

Reporting Period: 11/16/15 – 2/15/16

II. Total Petitions Adjudicated this reporting period: 199

A. Compensated: 162

i. Cases conceded by HHS: 57

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

ii. Cases not conceded by HHS: 105

- 1. Decision awarding damages: 0**
- 2. Decision adopting Proffer: 0**
- 3. Decision adopting Settlement: 105**

B. Not Compensated/Dismissed: 37

i. Decision dismissing Non-OAP: 35

ii. Decision dismissing OAP: 2

Statistics

Reporting Period: 11/16/15 – 2/15/16

III. Total Petitions Voluntarily Withdrawn this reporting period (no judgment will be issued): 4

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

Recently Decided Cases

Appeals by Petitioner:

- *Padmanabhan v. HHS* (Entitlement): Affirmed
- *Rowan v. HHS* (Entitlement): Dismissed for Failure to Prosecute
- *Scharfenberger v. HHS* (Attorneys' Fees and Costs): Voluntarily Dismissed

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

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

Pending Cases

Appeals by Petitioner:

- *Mora v. HHS* (Relief from Judgment)
- *D'Angiolini v. HHS* (Entitlement)
- *Nutall v. HHS* (Entitlement)
- *Greenberg v. HHS* (Entitlement)
- *Contreras v. HHS* (Entitlement)
- *Milik v. HHS* (Entitlement)
- *Moriarty v. HHS* (Entitlement)

Appeals: U.S. Court of Federal Claims

Recently Decided Cases

Appeals by Petitioner:

- *Tomberlin v. HHS* (Entitlement): MFR Denied
- *R.K. v. HHS* (Entitlement): Affirmed
- *R.K. v. HHS* (Redaction): Affirmed

Appeals: U.S. Court of Federal Claims

Pending Cases

Appeals by Petitioner:

- *Cozart v. HHS* (Entitlement)
- *Godfrey v. HHS* (Entitlement)
- *Canuto v. HHS* (Entitlement)
- *Marshall v. HHS* (Entitlement)
- *Bloch v. HHS* (Entitlement)
- *Kenzora v. HHS* (Entitlement)
- *Spahn v. HHS* (Entitlement)
- *Holt v. HHS* (Entitlement)

Scheduled Oral Arguments

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

- *Milik v. HHS*: March 23, 2016
- *D'Angiolini v. HHS*: April 8, 2016

Adjudicated Settlements*

Reporting Period: 11/16/15 – 2/15/16

| Vaccine(s) | Alleged Injury(ies) | Petition Filing to Settlement Filing |
|--|--|--------------------------------------|
| DTaP; Hep B; IPV; PCV; Rotavirus Vaccine | Intussusception | 4 Years, 4 Years |
| Flu; Pneumovax; Tdap | Guillain-Barré Syndrome | 11 Months |
| Flu | Guillain-Barré Syndrome; CIDP | 1 Year, 1 Month |
| Flu | Guillain-Barré Syndrome | 9 Months |
| HPV; Meningococcal; Hep A; Dtap | Transverse Myelitis | 4 Years, 1 Month |
| Flu | Guillain-Barré Syndrome | 1 Year, 1 Month |
| Hep A | Guillain-Barré Syndrome | 9 Months |
| Flu | Transverse Myelitis | 9 Months |
| Flu | Guillain-Barré Syndrome | 7 Months |
| Flu | Guillain-Barré Syndrome; Axonal Polyneuropathy; Peripheral Neuropathy; Tremors | 1 Year, 5 Months |

*Terms of compensated settlements memorialized by Stipulation

(continued . . .)

Adjudicated Settlements*

Reporting Period: 11/16/15 – 2/15/16

| Vaccine(s) | Alleged Injury(ies) | Petition Filing to Settlement Filing |
|--|---|--------------------------------------|
| Flu | SIRVA | 9 Months |
| Flu | Guillain-Barré Syndrome | 6 Months |
| Flu | Guillain-Barré Syndrome | 11 Months |
| Tdap | Brachial Neuritis | 6 Months |
| IPV; Dtap; Varicella; MMR | Cerebrovascular Event | 2 Years, 5 Months |
| Flu; Tdap; HPV | Panic; Anxiety; Agoraphobia and Headaches | 2 Years, 3 Months |
| Flu | Guillain-Barré Syndrome | 2 Years, 1 month |
| Flu | Guillain-Barré Syndrome | 1 Year, 11 Months |
| Flu | Hypotensive Episode; Encephalopathy | 1 Year, 11 Months |
| Flu; Tdap Vaccine; MMR Vaccine; Polio Vaccine; Twinrix | Brachial Neuritis | 1 Year, 3 Months |

*Terms of compensated settlements memorialized by Stipulation

(continued . . .)

11

Adjudicated Settlements*

Reporting Period: 11/16/15 – 2/15/16

| Vaccine(s) | Alleged Injury(ies) | Petition Filing to Settlement Filing |
|---|--|--------------------------------------|
| DTaP; Hib; IPV; PCV; Rotavirus Vaccines | ADEM | 5 Years |
| Flu | Idiopathic Thrombocytopenic Purpura | 2 Years, 6 Months |
| Flu | Guillain-Barré Syndrome; CIDP | 2 Years, 4 Months |
| MMR | Idiopathic Thrombocytopenic Purpura | 2 Years, 10 Months |
| Flu | Guillain-Barré Syndrome | 1 Year, 1 Month |
| Flu | Peripheral Neuropathy | 1 Year, 8 Months |
| Flu | Guillain-Barré Syndrome; Varicella Zoster Reactivation | 2 Years, 2 Months |
| Flu | Guillain-Barré Syndrome; CIDP | 1 Year, 1 Month |
| Flu; Tdap | Guillain-Barré Syndrome | 1 Year, 7 Months |
| Flu | Small Fiber Neuropathy | 1 Year, 2 Months |

Adjudicated Settlements*

Reporting Period: 11/16/15 – 2/15/16

| Vaccine(s) | Alleged Injury(ies) | Petition Filing to Settlement Filing |
|----------------------------------|----------------------------------|--------------------------------------|
| Flu | Guillain-Barré Syndrome | 1 Year, 3 Months |
| IPV; Dtap; Hib-Hep B; Prevnar | Encephalopathy | 7 Years, 2 Months |
| Flu | Guillain-Barré Syndrome | 1 Year |
| Flu | SIRVA | 8 Months |
| Flu | CIDP; Death | 3 Years, 1 Month |
| Flu | Chronic Regional Pain Syndrome | 1 Year, 8 Months |
| Flu | Guillain-Barré Syndrome | 4 Months |
| Flu | Guillain-Barré Syndrome | 4 Months |
| Flu | SIRVA | 4 Months |
| Flu | Weakness; Fatigue; Abnormal Gait | 2 Years, 4 Months |

Adjudicated Settlements*

Reporting Period: 11/16/15 – 2/15/16

| Vaccine(s) | Alleged Injury(ies) | Petition Filing to Settlement Filing |
|------------|--------------------------------|--------------------------------------|
| DT | Guillain-Barré Syndrome | 2 Years, 3 Months |
| Flu | Guillain-Barré Syndrome | 1 Year |
| Tdap | Guillain-Barré Syndrome | 11 Months |
| Flu | SIRVA | 8 Months |
| Tdap | Guillain-Barré Syndrome | 6 Months |
| Flu | Guillain-Barré Syndrome | 10 Months |
| Flu | Guillain-Barré Syndrome | 2 Years |
| Flu | Guillain-Barré Syndrome; Death | 1 Year, 4 Months |
| Flu | Guillain-Barré Syndrome | 1 Year, 1 Month |
| Flu | Guillain-Barré Syndrome | 1 Year, 8 Months |

*Terms of compensated settlements memorialized by Stipulation

(continued . . .)

Adjudicated Settlements*

Reporting Period: 11/16/15 – 2/15/16

| Vaccine(s) | Alleged Injury(ies) | Petition Filing to Settlement Filing |
|------------|---|--------------------------------------|
| Flu | Guillain-Barré Syndrome | 1 Year, 6 Months |
| Flu; Tdap | Leukocytoclastic Vasculitis | 1 Year, 3 Months |
| Flu | Bell's Palsy | 2 Years, 2 Months |
| Flu | Guillain-Barré Syndrome | 9 Months |
| Flu | Guillain-Barré Syndrome | 10 Months |
| Flu | Guillain-Barré Syndrome | 1 Year, 10 Months |
| Flu | Guillain-Barré Syndrome | 8 Months |
| Flu | Transverse Myelitis | 2 Years, 1 Month |
| Flu | Guillain-Barré Syndrome | 11 Months |
| Flu | Small Fiber Neuropathy; Chronic Pain Syndrome | 1 Year |

Adjudicated Settlements*

Reporting Period: 11/16/15 – 2/15/16

| Vaccine(s) | Alleged Injury(ies) | Petition Filing to Settlement Filing |
|---------------|-------------------------------------|--------------------------------------|
| TDaP | Pancreatitis; Death | 3 Years, 5 Months |
| Flu | Transverse Myelitis | 1 Year, 2 Months |
| Flu | Transverse Myelitis | 1 Year, 3 Months |
| Flu | Guillain-Barré Syndrome | 11 Months |
| Flu | Guillain-Barré Syndrome | 1 Year |
| Flu | Guillain-Barré Syndrome | 1 Year, 9 Months |
| Rubella; Tdap | Guillain-Barré Syndrome | 1 Year, 5 Months |
| MMR | Idiopathic Thrombocytopenia Purpura | 1 Year, 4 Months |
| Flu | Severe Shoulder Pain | 11 Months |
| Flu | Guillain-Barré Syndrome | 8 Months |

Adjudicated Settlements*

Reporting Period: 11/16/15 – 2/15/16

| Vaccine(s) | Alleged Injury(ies) | Petition Filing to Settlement Filing |
|------------------|---|--------------------------------------|
| Flu | Guillain-Barré Syndrome | 1 Year, 7 Months |
| Flu | Guillain-Barré Syndrome | 9 Months |
| Flu | SIRVA | 1 Year |
| Flu | Guillain-Barré Syndrome | 10 Months |
| Hepatitis B | Brachial Plexus Neuropathy | 10 Months |
| Flu, Tdap | Guillain-Barré Syndrome | 1 Year 5 Months |
| Flu | SIRVA | 7 Months |
| Flu; Hepatitis B | Guillain-Barré Syndrome | 5 Years, 10 Months |
| Flu | Guillain-Barré Syndrome | 3 Years, 10 Months |
| HPV | Neurological Symptoms; Chest Tightness; Gastrointestinal Symptoms; Joint Pain | 3 Years, 4 Months |

*Terms of compensated settlements memorialized by Stipulation

(continued . . .)

Adjudicated Settlements*

Reporting Period: 11/16/15 – 2/15/16

| Vaccine(s) | Alleged Injury(ies) | Petition Filing to Settlement Filing |
|------------|---|--------------------------------------|
| Dtap; Hib | Guillain-Barré Syndrome | 1 Year, 2 Months |
| Flu | Transverse Myelitis | 1 Year, 3 Months |
| Flu | Guillain-Barré Syndrome; CIDP | 11 Months |
| Flu | Guillain-Barré Syndrome | 1 Year |
| Flu | SIRVA | 8 Months |
| Flu | Guillain-Barré Syndrome | 1 Year |
| Flu | Guillain-Barré Syndrome | 11 Months |
| Tdap | Brachial Neuritis | 1 Year, 2 Months |
| Flu | Disorder of Immune and Neurological Systems | 2 Years |
| Flu | Overactive Immune Response | 2 Years, 5 Months |

*Terms of compensated settlements memorialized by Stipulation

(continued . . .)

Adjudicated Settlements*

Reporting Period: 11/16/15 – 2/15/16

| Vaccine(s) | Alleged Injury(ies) | Petition Filing to Settlement Filing |
|------------|-------------------------------|--------------------------------------|
| Flu | Guillain-Barré Syndrome; CIDP | 2 Years, 5 Months |
| Flu | Guillain-Barré Syndrome | 1 Year, 6 Months |
| Tdap | SIRVA | 2 Years, 10 Months |
| Flu | Guillain-Barré Syndrome | 11 Months |
| Flu | SIRVA | 11 Months |
| Flu | SIRVA | 9 Months |
| Flu | Guillain-Barré Syndrome | 7 Months |
| Flu | Guillain-Barré Syndrome | 8 Months |
| Flu | Encephalitis | 6 Years |
| Flu | Transverse Myelitis | 1 Year, 3 Months |

*Terms of compensated settlements memorialized by Stipulation

(continued . . .)

Adjudicated Settlements*

Reporting Period: 11/16/15 – 2/15/16

| Vaccine(s) | Alleged Injury(ies) | Petition Filing to Settlement Filing |
|------------|---|--------------------------------------|
| Flu | Guillain-Barré Syndrome | 1 Year, 5 Months |
| MMR | Measles, Mumps, Rubella, Optic Neuritis, Photophobia, Trigeminal Neuralgia Vestibular Neuritis, Permanent Right Dysfunction | 1 Year, 4 Months |
| Flu | Guillain-Barré Syndrome | 1 Year, 3 Months |
| Flu | Guillain-Barré Syndrome | 9 Months |
| Flu | Shoulder Injury | 7 Months |
| Flu | Guillain-Barré Syndrome | 1 Year |
| Flu | ADEM | 10 Months |
| Flu | Neuropathy | 9 Months |

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.

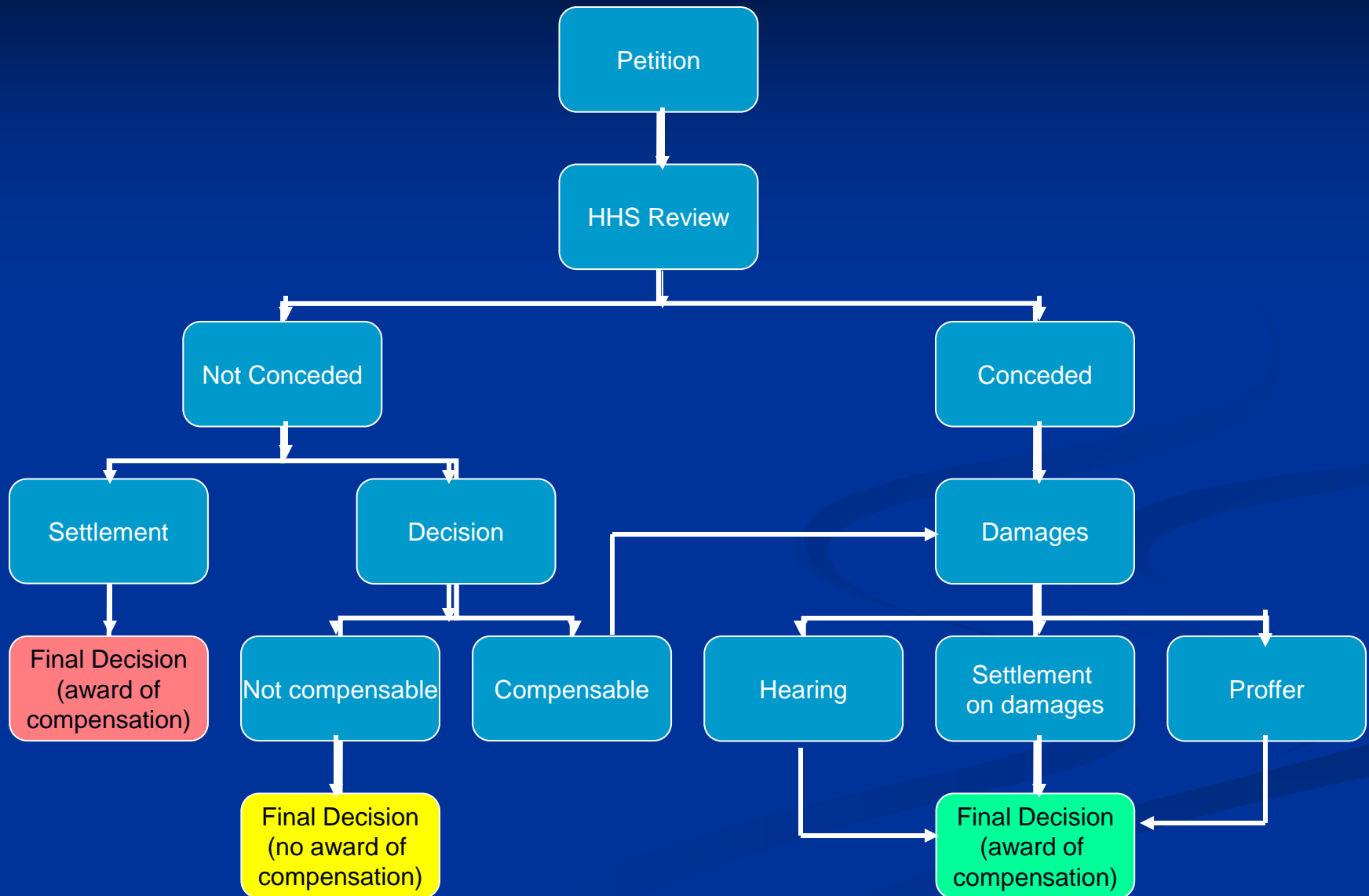
Glossary of Terms

- **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

