



Report from the Department of Justice

December 2, 2016

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Statistics

Reporting Period: 8/16/16 – 11/15/16

- I. Total Petitions Filed in the United States Court of Federal Claims this reporting period: 355
 - A. Minors: 34
 - B. Adults: 321

Statistics

Reporting Period: 8/16/16 – 11/15/16

II. Total Petitions Adjudicated this reporting period: 222

A. Compensated: 178

i. Cases conceded by HHS: 47

1. Decision awarding damages: 0

2. Decision adopting Proffer: 47

3. Decision adopting Settlement: 0

ii. Cases not conceded by HHS: 131

1. Decision awarding damages: 0

2. Decision adopting Proffer: 0

3. Decision adopting Settlement: 131

B. Not Compensated/Dismissed: 44

i. Decision dismissing Non-OAP: 42

ii. Decision dismissing OAP: 2

Statistics

Reporting Period: 8/16/16 – 11/15/16

III. Total Petitions Voluntarily Withdrawn this reporting period (no judgment will be issued): 10

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

Recently Decided Cases

Appeals by Petitioner:

- *Culligan v. HHS* (Entitlement): Voluntarily Dismissed
- *Meylor (M.) v. HHS* (Entitlement): Voluntarily Dismissed
- *Meylor (O.) v. HHS* (Entitlement): Voluntarily Dismissed
- *Fishkis v. HHS* (Entitlement): Voluntarily Dismissed
- *R.V. v. HHS* (Entitlement): 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:

- *R.K. v. HHS* (Entitlement)
- *G.G.M. v. HHS* (Relief from Judgment)
- *Contreras v. HHS* (Entitlement)
- *Canuto v. HHS* (Entitlement)
- *Murphy v. HHS* (Entitlement)
- *H.L. v. HHS* (Entitlement)
- *Lasnetski v. HHS* (Entitlement)

*Yellow cases are new this reporting period

Appeals: U.S. Court of Federal Claims

Recently Decided Cases

Appeals by Petitioner:

- *Garrison v. HHS* (Interim Attorneys' Fees and Costs): Affirmed
- *Reiling v. HHS* (Interim Attorneys' Fees and Costs): Dismissed
- *Copenhaver v. HHS* (Entitlement): Affirmed
- *Lasnetski v. HHS* (Entitlement): Affirmed

Appeals by Respondent:

- *Allicock v. HHS* (Attorneys' Fees and Costs): Affirmed
- *Simmons v. HHS* (Attorneys' Fees and Costs): Reversed

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:

- *Tarsell v. HHS* (Entitlement)
- *Spahn v. HHS* (Entitlement)
- *Spahn v. HHS* (Redaction)
- *Holt v. HHS* (Entitlement)
- *Curran v. HHS* (Attorneys' Fees and Costs)
- *Rus v. HHS* (Entitlement)
- *Brannigan v. HHS* (Attorneys' Fees and Costs)
- *Rich v. HHS* (Entitlement)

- *Mette v. HHS* (Entitlement)
- *Cunningham v. HHS* (Entitlement)
- *Moriarty v. HHS* (Entitlement)
- *K.T. v. HHS* (Entitlement)
- *Raymo v. HHS* (Attorneys' Fees and Costs) (on remand)
- *Mounts v. HHS* (Attorneys' Fees and Costs)

Appeals by Respondent:

- *Day v. HHS* (Interim Damages)

*Yellow cases are new this reporting period

Scheduled Oral Arguments

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

- *R.K. v. HHS*, December 6, 2016

U.S. Court of Federal Claims:

- None scheduled at this time.

Adjudicated Settlements*

Reporting Period: 8/16/16 – 11/15/16

Vaccine(s)	Alleged Injury(ies)	Petition Filing to Settlement Filing
1. Flu	GBS	7 Years 8 Months
2. Dtap; Hep B; HIB; IPV; PCV7	Seizures; Developmental Delay	7 Years
3. Flu	Gross Motor Regression; Ataxia; Speech Regression; Nystagmus; Significant Aggravation of Pre-existing Neurodevelopmental Disorder	6 Years 8 Months
4. Flu	GBS	6 Years 3 Months
5. HPV	MS; ADEM	6 Years
6. HPV; Gardasil	Aplastic Anemia; Epstein Barr Virus	5 Years
7. Flu	Lumbosacral Radiculoplexus Neuropathy	4 Years
8. TDaP; IPV; MMR; Hep A; HPV	ADEM; GBS	4 Years
9. TDaP	Vestibular Neuronitis	3 Years
10. Flu	Neurologic Injury; ADEM	3 Years

*Terms of compensated settlements memorialized by Stipulation

(continued . . .)

Adjudicated Settlements*

Reporting Period: 8/16/16 – 11/15/16

Vaccine(s)	Alleged Injury(ies)	Petition Filing to Settlement Filing
11. Flu	GBS	3 Years
12. Flu; TDaP	CIDP; GBS	3 Years
13. Flu	ADEM	3 Years
14. Flu	TM	3 Years
15. PCV	Mastocytosis	3 Years
16. Flu	GBS	2 Years 9 Months
17. Flu	GBS; CIDP	2 Years 9 Months
18. HPV	Muscle Damage	2 Years 7 Months
19. Flu	Autonomic Nervous System Impairment	2 Years 6 Months
20. TDaP; Hep A; Hep B	Lichen Planus	2 Years 5 Months

*Terms of compensated settlements memorialized by Stipulation

(continued . . .)

Adjudicated Settlements*

Reporting Period: 8/16/16 – 11/15/16

Vaccine(s)	Alleged Injury(ies)	Petition Filing to Settlement Filing
21. TDaP	GBS	2 Years 4 Months
22. Flu	CIDP; GBS	2 Years 3 Months
23. DTaP; Hep A; Hep B; Flu; Menactra; Viral Polio Inactivated	GBS; AIDP	2 Years 3 Months
24. Flu	Neurologic Demyelinating Injury	2 Years 3 Months
25. Flu	Polymyalgia Rheumatica	2 Years 3 Months
26. Hep A	ADEM; MS	2 Years
27. Flu	Encephalopathy	2 Years
28. Flu	CIDP	2 Years
29. TDaP; Hep A; Varicella Vaccine; HPV	Transverse Myelitis	2 Years
30. Flu	Neuromyelitis Optica; TM	2 Years

*Terms of compensated settlements memorialized by Stipulation

(continued . . .)

Adjudicated Settlements*

Reporting Period: 8/16/16 – 11/15/16

Vaccine(s)	Alleged Injury(ies)	Petition Filing to Settlement Filing
31. Flu	GBS	2 Years 4 Months
32. Tdap	Brachial Neuritis	2 Years
33. Flu	SIRVA	2 Years
34. Flu	SIRVA; Brachial Neuritis	2 Years
35. Flu	GBS	2 Years
36. HPV	Hair loss; Seborrheic Dermatitis; Alopecia Totalis	2 Years
37. Flu	Chronic Urticaria	2 Years
38. Flu	GBS	2 Years
39. Flu	SIRVA	1 Year 8 Months
40. Flu	SIRVA	1 Year 8 Months

*Terms of compensated settlements memorialized by Stipulation

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Adjudicated Settlements*

Reporting Period: 8/16/16 – 11/15/16

Vaccine(s)	Alleged Injury(ies)	Petition Filing to Settlement Filing
41. HPV	TM	1 Year 7 Months
42. Flu	Polyneuropathy	1 Year 8 Months
43. Flu	GBS	1 Year 6 Months
44. Flu	Vasculitis	1 Year 6 Months
45. TDaP; Hep A; IPV; Meningococcal Conjugate	Inflammatory Brachial Plexopathy; Adhesive Capsulitis	1 Year 6 Months
46. Flu	SIRVA; Cellulitis	1 Year 6 Months
47. HPV	Myocarditis	1 Year 6 Months
48. Flu	Neurologic Injuries	1 Year 7 Months
49. Flu	Brachial Neuritis	1 Year 5 Months
50. Flu	Encephalitis	1 Year 5 Months

*Terms of compensated settlements memorialized by Stipulation

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Adjudicated Settlements*

Reporting Period: 8/16/16 – 11/15/16

Vaccine(s)	Alleged Injury(ies)	Petition Filing to Settlement Filing
51. Haemophilus Influenzae Type-B	Kawasaki Disease	1 Year 5 Months
52. DTaP; IPV; Hib; PCV	Abscesses; Scarring	1 Year 4 Months
53. Flu; TDaP;	GBS; PTS	1 Year 4 Months
54. DtaP; IPV	Chronic Urticaria	1 Year 4 Months
55. Flu; Hep A	Ataxia	1 Year 4 Months
56. Flu	TM	1 Year 4 Months
57. Flu	GBS	1 Year 3 Months
58. Flu	GBS	1 Year 3 Months
59. Flu	GBS	1 Year 3 Months
60. MMR; Hep A; Polio	ITP	1 Year 2 Months

Adjudicated Settlements*

Reporting Period: 8/16/16 – 11/15/16

Vaccine(s)	Alleged Injury(ies)	Petition Filing to Settlement Filing
61. Flu	GBS	1 Year 3 Months
62. DTaP; IPV; Hep B; Rotavirus; Hib; MMR; PCV7; Varicella	Cerebellitis; Cerebellar ataxia; Torticollis; Neurologic Impairments; Diphtheria-tetanus-acellular pertussis	1 Year 2 Months
63. Flu	Linchen Planus	1 Year 2 Months
64. Flu	SIRVA	1 Year 2 Months
65. TDaP	SIRVA	1 Year 2 Months
66. TDaP; Hep B	GBS	1 Year 2 Months
67. Flu	TM	1 Year 1 Month
68. Flu	Viral Encephalitis; Acute Retinal Necrosis	1 Year 1 Month
69. TDaP; Flu	Brachial Neuritis	1 Year 1 Month
70. Flu	GBS	1 Year 1 Month

*Terms of compensated settlements memorialized by Stipulation

(continued . . .)

Adjudicated Settlements*

Reporting Period: 8/16/16 – 11/15/16

Vaccine(s)	Alleged Injury(ies)	Petition Filing to Settlement Filing
71. Flu	SIRVA	1 Year 2 Months
72. Flu	SIRVA	1 Year
73. Flu	GBS; CIDP	1 Year 1 Month
74. Flu	GBS	1 Year
75. Flu	GBS	1 Year
76. Flu	CIDP	1 Year
77. Flu	GBS	1 Year
78. Flu	TM	1 Year
79. Flu	TM	1 Year
80. Flu	SIRVA	1 Year

*Terms of compensated settlements memorialized by Stipulation

(continued . . .)

Adjudicated Settlements*

Reporting Period: 8/16/16 – 11/15/16

Vaccine(s)	Alleged Injury(ies)	Petition Filing to Settlement Filing
81. Flu	GBS	1 Year
82. Tdap	Radial Nerve Injury	11 Months
83. MMR	Idiopathic Thrombocytopenic Purpura	1 Year
84. Flu	TM	9 Months
85. Flu	SIRVA	9 Months
86. Tdap	SIRVA	9 Months
87. Tetanus Vaccine	SIRVA	9 Months
88. Flu	Brachial Plexopathy	9 Months
89. Flu	SIRVA	9 Months
90. Flu	GBS	9 Months

*Terms of compensated settlements memorialized by Stipulation

(continued . . .)

Adjudicated Settlements*

Reporting Period: 8/16/16 – 11/15/16

Vaccine(s)	Alleged Injury(ies)	Petition Filing to Settlement Filing
91. Flu	SIRVA	9 Months
92. Flu	GBS	9 Months
93. Flu	GBS	9 Months
94. TDaP	SIRVA	9 Months
95. Flu	Polyneuropathy	9 Months
96. Flu	Brachial Neuritis	9 Months
97. TDaP	SIRVA	9 Months
98. Flu	Neuritis Myositis; Polyneuropathy	8 Months
99. Flu	GBS	8 Months
100. Flu	SIRVA	8 Months

*Terms of compensated settlements memorialized by Stipulation

(continued . . .)

Adjudicated Settlements*

Reporting Period: 8/16/16 – 11/15/16

Vaccine(s)	Alleged Injury(ies)	Petition Filing to Settlement Filing
101. Flu	GBS	8 Months
102. Flu	SIRVA; Neuropathy; Rheumatoid Arthritis	9 Months
103. Flu	Brachial Neuritis	8 Months
104. Flu	SIRVA	8 Months
105. Flu	GBS	7 Months
106. HPV	Left Cranial Nerve Palsy	8 Months
107. Flu	GBS; Bell's Palsy	8 Months
108. Flu	SIRVA	7 Months
109. Flu	SIRVA	7 Months
110. Flu	GBS	8 Months

*Terms of compensated settlements memorialized by Stipulation

(continued . . .)

Adjudicated Settlements*

Reporting Period: 8/16/16 – 11/15/16

Vaccine(s)	Alleged Injury(ies)	Petition Filing to Settlement Filing
111. Flu	TM	7 Months
112. TDaP	GBS; SIRVA	7 Months
113. Flu	GBS	7 Months
114. Flu	SIRVA	7 Months
115. Flu	TM	7 Months
116. Flu	GBS	6 Months
117. TDaP	Nodular Fasciitis	7 Months
118. Flu	SIRVA	6 Months
119. Flu	GBS	6 Months
120. Flu	SIRVA	6 Months

*Terms of compensated settlements memorialized by Stipulation

(continued . . .)

Adjudicated Settlements*

Reporting Period: 8/16/16 – 11/15/16

Vaccine(s)	Alleged Injury(ies)	Petition Filing to Settlement Filing
121. Flu	Brachial Neuritis	6 Months
122. TDaP	SIRVA	6 Months
123. Flu	SIRVA	6 Months
124. Flu	GBS	5 Months
125. Flu	GBS	6 Months
126. Flu	TM	5 Months
127. Flu	SIRVA	5 Months
128. Flu	GBS	5 Months
129. Flu	GBS; Chronic Pain	4 Months
130. Flu	GBS	4 Months

*Terms of compensated settlements memorialized by Stipulation

(continued . . .)

Adjudicated Settlements*

Reporting Period: 8/16/16 – 11/15/16

Vaccine(s)	Alleged Injury(ies)	Petition Filing to Settlement Filing
131. Pneumococcal Conjugate Vaccine	SIRVA	1 Month

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.

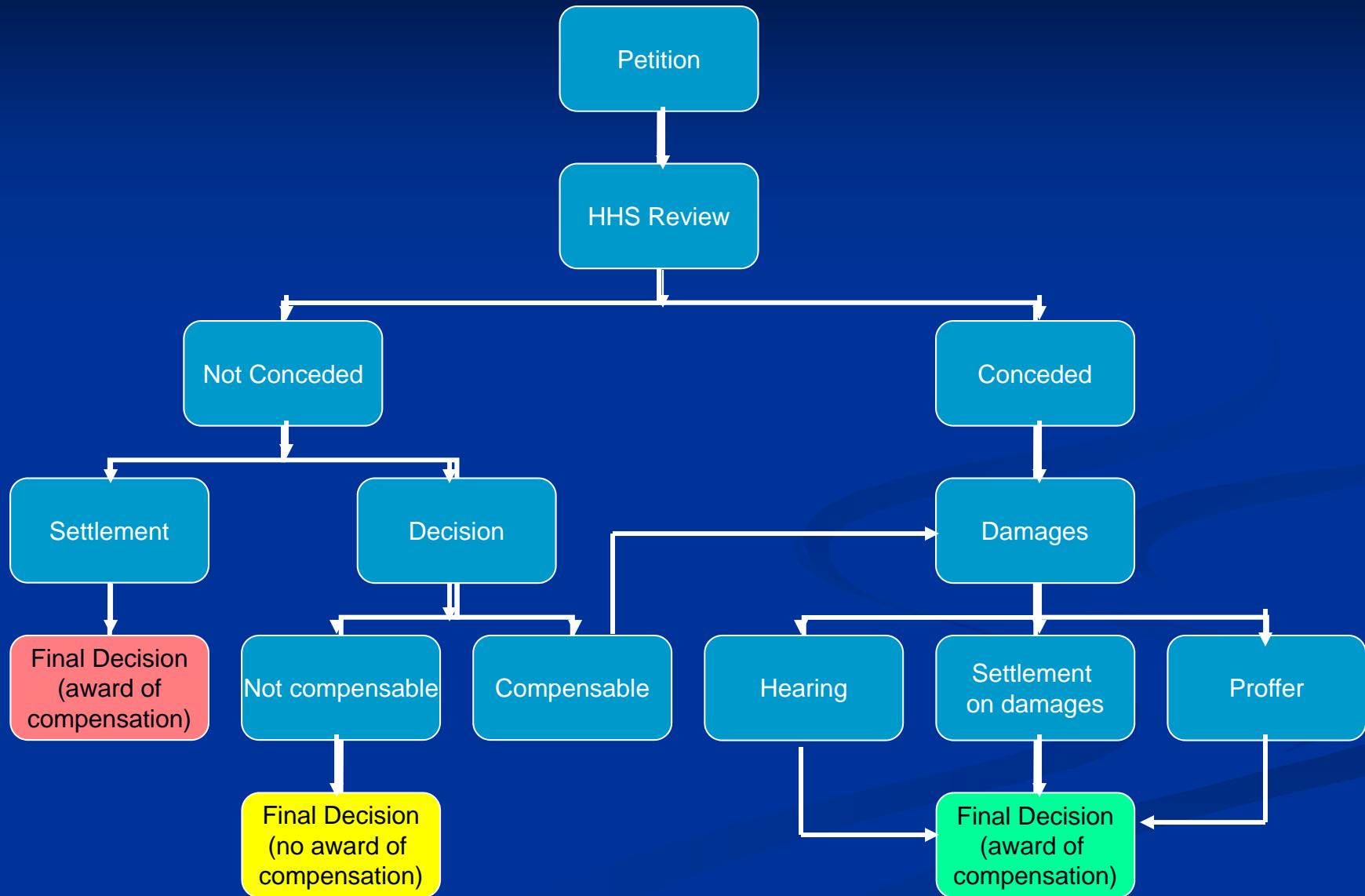
Glossary of Terms

- **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.²⁶

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

