



# Report from the Department of Justice

**June 3, 2016**

**Catharine E. Reeves**

*Acting Deputy Director, Torts Branch*

# Statistics

**Reporting Period: 2/16/15 – 5/15/16**

- I. Total Petitions Filed in the United States Court of Federal Claims this reporting period: 206**
  - A. Minors: 38
  - B. Adults: 168

# Statistics

**Reporting Period: 2/16/15 – 5/15/16**

## **II. Total Petitions Adjudicated this reporting period: 225**

### **A. Compensated: 176**

#### **i. Cases conceded by HHS: 61**

- 1. Decision awarding damages: 1**
- 2. Decision adopting Proffer: 59**
- 3. Decision adopting Settlement: 1**

#### **ii. Cases not conceded by HHS: 115**

- 1. Decision awarding damages: 0**
- 2. Decision adopting Proffer: 0**
- 3. Decision adopting Settlement: 115**

### **B. Not Compensated/Dismissed: 49**

#### **i. Decision dismissing Non-OAP: 46**

#### **ii. Decision dismissing OAP: 3**

# Statistics

Reporting Period: 2/16/15 – 5/15/16

**III. Total Petitions Voluntarily Withdrawn this reporting period (no judgment will be issued): 9**

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

## Recently Decided Cases

### Appeals by Petitioner:

- *Padmanabhan v. HHS* (Entitlement): Affirmed per curiam
  - Petitioners filed a combined petition for panel rehearing and en banc hearing
- *Moriarty v. HHS* (Entitlement): Vacated, Remanded
- *D' Angiolini v. HHS* (Entitlement): Affirmed
- *Greenberg v. HHS* (Entitlement): Affirmed per curiam

### Appeals by Respondent:

- *Guerrero 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)
- *Nutall v. HHS* (Entitlement)
- *Contreras v. HHS* (Entitlement)
- *Milik v. HHS* (Entitlement)
- *R.K. v. HHS* (Entitlement)

# Appeals: U.S. Court of Federal Claims

## Recently Decided Cases

### Appeals by Petitioner:

- *Cozart v. HHS* (Entitlement): Affirmed
- *Faoro v. HHS* (Entitlement): Affirmed
- *Canuto v. HHS* (Entitlement): Affirmed
- *Bloch v. HHS* (Entitlement): MFR Dismissed
- *Kenzora v. HHS* (Entitlement): Affirmed
- *Godfrey v. HHS* (Entitlement): MFR Denied, Remand Decision Affirmed

### Appeals by Respondent:

- *Rehn v. HHS* (Attorneys' Fees and Costs): 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:

- *Marshall v. HHS* (Entitlement)
- *Spahn v. HHS* (Entitlement)
- *Spahn v. HHS* (Redaction)
- *Holt v. HHS* (Entitlement)
- *H.L. v. HHS* (Entitlement)
- *Vernacchio v. HHS* (Entitlement)
- *Bean-Sasser v. HHS* (Entitlement)
- *Tarsell v. HHS* (Entitlement)

### Appeals by Respondent:

- *Simmons v. HHS* (Attorneys' Fees and Costs)

\*Yellow cases are new this reporting period



# Scheduled Oral Arguments

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

- None scheduled at this time.

## U.S. Court of Federal Claims:

- None scheduled at this time.

# Adjudicated Settlements\*

Reporting Period: 2/16/15 – 5/15/16

Vaccine(s)	Alleged Injury(ies)	Petition Filing to Settlement Filing
Hep B	Encephalitis; Dystonia	5 Years; 6 Months
Flu	TM; MS; Neurological Symptoms	5 Years; 4 Months
Flu	Encephalitis	5 Years
Hep A; MMR; PCV	Hemolytic Uremic Syndrome	5 Years
Pediarix; Hemophilus influenza Type B; Prevnar	Death	4 Years; 6 Months
MMR	OMS	4 Years; 3 Months
Flu	CIDP	4 Years
MMR; Tdap	Chronic Arthritis; Wegener's Granulomatosis	4 Years
Flu	Rheumatologic Disorder; Immunologic disorder; Rheumatoid Arthritis	3 Years; 5 Months
Hep A; Varicella	Guillain-Barre Syndrome	2 Years; 2 Months

\*Terms of compensated settlements memorialized by Stipulation

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# Adjudicated Settlements\*

Reporting Period: 2/16/15 – 5/15/16

Vaccine(s)	Alleged Injury(ies)	Petition Filing to Settlement Filing
Tdap	Tendonitis; Bursitis; Adhesive Capsulitis	3 Years
Flu	Winged scapula	2 Years; 5 Months
Flu	Neurological Dmyelinating Injury	2 Years; 7 Months
Flu	Irritable Bowel Syndrome; Fibromyalgia; Myalgias; Chronic Pain; Dizziness; Headaches; Cognitive Impairments; Chronic Debilitating Fatigue	2 Years; 7 Months
Flu	CIDP	2 Years; 5 Months
HPV	Immune Thrombocytopenic Purpura	2 Years; 6 Months
Flu	Narcolepsy; Cataplexy; Hypersomnia; Ataxia	2 Years; 4 Months
Tdap	Demyelinating Disease of the Central Nervous System	2 Years; 3 Months
Tdap	Guillain-Barre Syndrome; CIDP	2 Years; 4 Months
Flu	Guillain-Barre Syndrome	2 Years; 4 Months

# Adjudicated Settlements\*

Reporting Period: 2/16/15 – 5/15/16

Vaccine(s)	Alleged Injury(ies)	Petition Filing to Settlement Filing
MMR	Measles; mumps; Rubella; Optic Neuritis; Photophobia; Trigeminal Neuralgia; Vestibular Neuritis; Permanent right hearing loss; Eustachian Tube Dysfunction; Sequelae.	1 Years; 3 Months
Flu	TM	1 Years; 3 Months
Flu	Guillain-Barre Syndrome	1 Years; 3 Months
Flu	Guillain-Barre Syndrome	1 Years; 4 Months
Tdap	Panuveitis; Uveitis; Vasculitis	1 Years; 3 Months
Flu	CIDP	1 Years; 3 Months
Flu; Tdap	Guillain-Barre Syndrome	1 Years; 4 Months
Tdap	Guillain-Barre Syndrome	2 Years; 1 Months
DTaP; Flu	Seizures	2 Years
Hep B	Lichenoid lesions	1 Years; 8 Months

# Adjudicated Settlements\*

Reporting Period: 2/16/15 – 5/15/16

Vaccine(s)	Alleged Injury(ies)	Petition Filing to Settlement Filing
Flu	Paresthesias; Small Fiber Neuropathy	2 Years
Flu	Guillain-Barre Syndrome	2 Years; 1 Months
Flu	Rheumatoid Arthritis	2 Years
Flu	Inappropriate Sinus Tachycardia	2 Years; 3 Months
HPV	Peripheral neuropathy; Irritable Bowel Syndrome; Fibromyalgia; Myalgias; Chronic Pain; Dizziness; Headaches; Cognitive Impairments; Chronic Debilitating Fatigue	2 Years
DTaP; Hep. A	Death; Necrotizing Myopathy	2 Years
Tdap; Meningococcal	Aplastic Anemia	1 Years; 8 Months
Flu; Hep B; HPV; MMR; Tdap; Varicella	Meningoencephalitis	1 Years; 8 Months
Flu	CIDP	1 Years; 7 Months
Flu	Acute respiratory distress syndrome	1 Years; 9 Months

\*Terms of compensated settlements memorialized by Stipulation

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# Adjudicated Settlements\*

Reporting Period: 2/16/15 – 5/15/16

Vaccine(s)	Alleged Injury(ies)	Petition Filing to Settlement Filing
Flu	Guillain-Barre Syndrome	1 Years; 9 Months
HPV; Varicella; Hep A	Headaches; Visual changes; Convergence and focusing disorder	1 Years; 7 Months
Flu	Guillain-Barre Syndrome; AIDP; CIDP	1 Years; 7 Months
Flu	Tinnitus	1 Years; 7 Months
Flu	SIRVA	1 Years; 5 Months
Rotavirus vaccine	Intussusception	1 Years; 7 Months
HPV	Pancreatitis	1 Years; 5 Months
Flu	CIDP	1 Years; 5 Months
Flu	Guillain-Barre Syndrome	1 Years; 4 Months
Flu	Cerebellar Ataxia; Seizure Disorder	2 Years; 1 Months

# Adjudicated Settlements\*

Reporting Period: 2/16/15 – 5/15/16

Vaccine(s)	Alleged Injury(ies)	Petition Filing to Settlement Filing
Hep A; Menactra; HPV	Chronic Inflammatory; CIDP	1 Years; 5 Months
Flu	Urticaria Rash with Angioedema; Steroid-Induced Psychosis	1 Years; 5 Months
Flu	SIRVA	1 Years; 5 Months
Tdap	Guillain-Barre Syndrome	1 Years; 4 Months
Flu	CIDM; Lewis-Sumner Syndrome	1 Years; 5 Months
Hep A; Hep B	Brachial Plexopathy	1 Years; 3 Months
Flu	Guillain-Barre Syndrome/CIDP	1 Years; 6 Months
Tdap	Guillain-Barre Syndrome	1 Years; 2 Months
Flu	SIRVA	6 Months
Flu; Tdap	Nerve Damage; Brachial Nueritis; Brachial Plexus; Chronic Myofascial Parascapular Pain; Depression; Anxiety	1 Years; 2 Months

\*Terms of compensated settlements memorialized by Stipulation

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# Adjudicated Settlements\*

Reporting Period: 2/16/15 – 5/15/16

Vaccine(s)	Alleged Injury(ies)	Petition Filing to Settlement Filing
Flu	SIRVA	6 Months
Flu	TM	5 Months
Flu	Guillain-Barre Syndrome	5 Months
Flu	Guillain-Barre Syndrome	1 Year; 1 Month
Flu	Guillain-Barre Syndrome	4 Months
Hep A; Hep B; Tdap; Meningococcal	Guillain-Barre Syndrome	1 Year; 3 Months
Flu	SIRVA	4 Months
Tdap	TM	1 Year; 2 Months
Flu	Polymyalgia Rheumatica	1 Year
Flu	Guillain-Barre Syndrome	1 Year; 2 Months

\*Terms of compensated settlements memorialized by Stipulation

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# Adjudicated Settlements\*

Reporting Period: 2/16/15 – 5/15/16

Vaccine(s)	Alleged Injury(ies)	Petition Filing to Settlement Filing
Flu	Rotator Cuff Tendonitis; Parsonage Turner Syndrome	1 Year
Flu	ADEM	9 Months
Flu	Guillain-Barre Syndrome	1 Year
Flu	Guillain-Barre Syndrome	1 Year
Flu	Guillain-Barre Syndrome	9 Months
Flu	SIRVA	1 Year
Flu; HPV; DTaP; Meningococcal	TM	1 Year; 2 Months
Flu	Post-vaccine Neuropathy	8 Months
Tdap; MMR; Hep A	Erythema Multiforme Major; Multi-Organ Failure; Cardiomyopathy; Ischemic Optic Neuropathy with Permanent Blindness	9 Months
Flu	TM	8 Months

\*Terms of compensated settlements memorialized by Stipulation

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# Adjudicated Settlements\*

Reporting Period: 2/16/15 – 5/15/16

Vaccine(s)	Alleged Injury(ies)	Petition Filing to Settlement Filing
Flu	Guillain-Barre Syndrome	9 Months
Flu	Guillain-Barre Syndrome	8 Months
Flu	Brachial Nueritis	9 Months
Flu	Guillain-Barre Syndrome	7 Months
Flu	SIRVA	1 Year
Flu	Guillain-Barre Syndrome/CIDP	8 Months
Tdap	Guillain-Barre Syndrome	8 Months
Flu; Tdap	SIRVA	9 Months
Flu	SIRVA	9 Months
Flu	Guillain-Barre Syndrome	1 Year

# Adjudicated Settlements\*

Reporting Period: 2/16/15 – 5/15/16

Vaccine(s)	Alleged Injury(ies)	Petition Filing to Settlement Filing
Flu	SIRVA	1 Year; 1 Month
Guillain-Barre Syndrome	Guillain-Barre Syndrome	7 Months
Tdap	SIRVA	7 Months
Flu	Shoulder Injury	8 Months
Flu	Guillain-Barre Syndrome	6 Months
Flu	Guillain-Barre Syndrome	6 Months
Flu	Guillain-Barre Syndrome	8 Months
Flu	Shoulder Injury; Mononeuropathy; Tendinopathy; Tendinitis	8 Months
Flu	SIRVA	6 Months
Flu	SIRVA	6 Months

\*Terms of compensated settlements memorialized by Stipulation

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# Adjudicated Settlements\*

Reporting Period: 2/16/15 – 5/15/16

Vaccine(s)	Alleged Injury(ies)	Petition Filing to Settlement Filing
Flu	Guillain-Barre Syndrome	6 Months
Flu	Guillain-Barre Syndrome; TM	7 Months
Tdap	SIRVA	7 Months
Flu	SIRVA	8 Months
Flu	Allergic reaction	7 Months
Flu	Complex Regional Pain Syndrome (CRPS)	8 Months
Flu	Guillain-Barre Syndrome	9 Months
Flu	SIRVA	10 Months
Flu	Death	11 Months
Flu	Guillain-Barre Syndrome	12 Months

\*Terms of compensated settlements memorialized by Stipulation

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# Adjudicated Settlements\*

Reporting Period: 2/16/15 – 5/15/16

Vaccine(s)	Alleged Injury(ies)	Petition Filing to Settlement Filing
Flu	Guillain-Barre Syndrome	13 Months
Flu	Guillain-Barre Syndrome	14 Months
Flu	Guillain-Barre Syndrome	15 Months
Flu	Brachial Neuritis	16 Months
Tdap	SIRVA	17 Months
Hep B	Neurological Injuries; Bilateral Extremity Numbness; Balance Problems; Small Fiber Neurologic Injuries; Peripheral Neuropathy; Essential Tremors	28 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

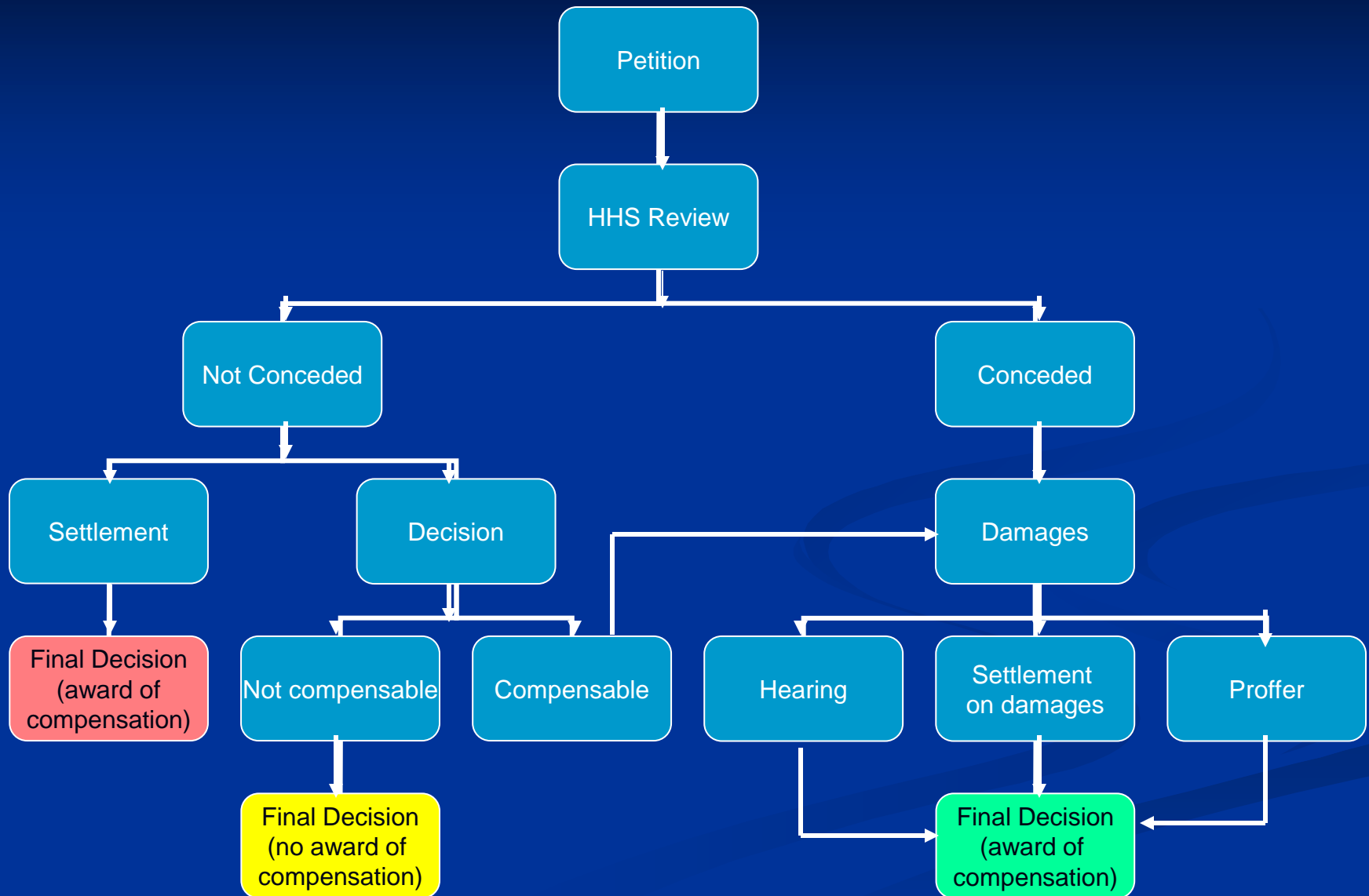
- **Settlement:** Petition is resolved via a negotiated settlement between the parties, and results in the filing of a stipulation that memorializes the terms of the settlement.
- **Decision:** Special Master issues decision on the merits of the petition.
- **Non-compensable/Dismissed:** Petition dismissed.
- **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

