



# Report from the Department of Justice

**December 5, 2019**

**Catharine E. Reeves**

*Deputy Director, Torts Branch*

# Statistics

**Reporting Period: 8/16/19 – 11/15/19**

## **I. Total Petitions Filed in the United States Court of Federal Claims this Reporting Period: 376**

**A. Minors: 33**

**B. Adults: 343**

# Statistics

**Reporting Period: 8/16/19 – 11/15/19**

**Total Petitions Adjudicated this Reporting Period: 234**

A. Compensated: 181

i. Cases conceded by HHS: 66

1. Decision awarding damages: 2

2. Decision adopting Proffer: 64

3. Decision adopting Settlement: 0

ii. Cases not conceded by HHS: 115

1. Decision awarding damages: 2

2. Decision adopting Proffer: 3

3. Decision adopting Settlement: 110

B. Not Compensated/Dismissed: 53

i. Decision dismissing Non-OAP: 53

ii. Decision dismissing OAP: 0

# Statistics

**Reporting Period: 8/16/19 – 11/15/19**

**III. Total Petitions Voluntarily Withdrawn this Reporting Period (no judgment will be issued): 7**

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

## Decided Cases

### Appeals by Petitioner:

- *Boatmon v. HHS* (Entitlement) Affirmed
- *Gaiter v. HHS* (Entitlement) Affirmed

### Appeals by Respondent:

**None at this time**

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

## Pending Cases

### Appeals by Petitioner:

- *Austin v. HHS* (Entitlement)
- *Cottingham v. HHS* (Attys' Fees & Costs)
- *Dupuch-Carron v. HHS* (Entitlement)
- *E.J. v. HHS* (Attys' Fees & Costs)
- *K.G. v. HHS* (Entitlement)
- *Kreizenbeck v. HHS* (Entitlement)
- *L.M. (Sharpe) v. HHS* (Entitlement)
- *Nunez v. HHS* (Entitlement)
- *Sanchez v. HHS* (Entitlement)
- *Wyatt v. HHS* (Entitlement)

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

## Pending Cases

### Appeals by Respondent:

- *Lozano v. HHS* (Entitlement)

# Appeals: U.S. Court of Federal Claims

## Decided Cases

### Appeals by Petitioner:

- *Christner v. HHS* (Entitlement): Remanded
- *Dupuch-Carron v. HHS* (Entitlement): Affirmed
- *Frantz v. HHS* (Attys' Fees and Costs): Affirmed
- *Ling v. HHS* (Entitlement): Affirmed
- *Liu v. HHS* (Attys' Fees and Costs): Remanded
- *Zumwalt 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:

- *Berenji v. HHS* (Entitlement)
- *Dillenbeck v. HHS* (Damages)
- *Faup v. HHS* (Entitlement)
- *Greene v. HHS* (Entitlement)
- *L.P. v. HHS* (Attys' Fees & Costs)
- *Pickens v. HHS* (Interim Attys' Fees & Costs)
- *Rocha v. HHS* (Interim Attys' Fees & Costs)
- *Schultz v. HHS* (Interim Attys' Fees & Costs)
- *Webb v. HHS* (Entitlement)

# Appeals: U.S. Court of Federal Claims

## Pending Cases

### Appeals by Respondent:

- *Dillenbeck v. HHS* (Damages)
- *Harding v. HHS* (Attys' Fees & Costs)
- *Kottenstette v. HHS* (Entitlement)
- *Gomez v. HHS* (Attys' Fees & Costs)

# Scheduled Oral Arguments

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

- *Cottingham v. HHS, December 3, 2019*

## U.S. Court of Federal Claims:

- *Faup v. HHS, December 4, 2019*

# Adjudicated Settlements\*

Reporting Period: 8/16/19 – 11/15/19

Vaccine(s)	Alleged Injury(ies)	Petition Filing to Settlement Filing
1. MMR; Hep A; Flu	Acute Hemorrhagic Leukoencephalitis; ADEM	5 Years 6 Months
2. Flu	GBS	5 Years
3. Flu	ADEM; Auto-Immune Autonomic Ganglionopathy; Carpal Tunnel Syndrome; Cervical Spondylosis	4 Years 11 Months
4. Hep B	Uveitis; Retinal Migranes	4 Years 8 Months
5. Flu	SIRVA	4 Years 4 Months
6. Flu	Tnnitus	4 Years 1 Month
7. HPV; Meningococcal	Sjogren's Syndrome; Lupus	4 Years
8. Flu	Postural Orthostatic Tachycardia Syndrom; Inappropriate Sinus Tachycardia; Myopathy	3 Years 12 Months
9. TDaP	Wegener's Granulomatosis	3 Years 10 Months
10. TDaP	Neuromyelitis; TM	3 Years 5 Months
11. TDaP	GBS	3 Years 5 Months

\*Terms of compensated settlements memorialized by Stipulation

# Adjudicated Settlements\*

Reporting Period: 8/16/19 – 11/15/19

Vaccine(s)	Alleged Injury(ies)	Petition Filing to Settlement Filing
12. TDaP; MMR; IPV; Twinrix	GBS; CIDP	3 Years 3 Months
13. Flu	GBS	3 Years 2 Months
14. Flu	GBS	2 Years 11 Months
15. IPV; DTP/aP; MMR; Varicella	Dermatomyositis	2 Years 10 Months
16. MMR	TM	2 Years 10 Months
17. Flu	GBS; CIDP	2 Years 10 Months
18. Flu	SIRVA	2 Years 8 Months
19. Flu	SIRVA	2 Years 7 Months
20. DTaP	Seizure Disorder	2 Years 6 Months
21. PCV	Interstitial Lung Disease; Pulmonary Fibrosis; Death	2 Years 5 Months
22. Flu	GBS	2 Years 3 Months

\*Terms of compensated settlements memorialized by Stipulation

# Adjudicated Settlements\*

Reporting Period: 8/16/19 – 11/15/19

Vaccine(s)	Alleged Injury(ies)	Petition Filing to Settlement Filing
23. Flu	GBS	2 Years 3 Months
24. MMR	Dry Eyes; Dry Mouth	2 Years 3 Months
25. HPV; Gardasil	Vitiligo	2 Years 2 Months
26. Flu	SIRVA	2 Years 2 Months
27. Flu	GBS	2 Years 1 Month
28. Flu	GBS	2 Years 1 Month
29. Flu	TM	2 Years 1 Month
30. Flu	GBS	2 Years 1 Month
31. Flu	GBS	2 Years
32. Flu	SIRVA	2 Years
33. TDaP	SIRVA	2 Years
*Terms of compensated settlements memorialized by Stipulation		

# Adjudicated Settlements\*

Reporting Period: 8/16/19 – 11/15/19

Vaccine(s)	Alleged Injury(ies)	Petition Filing to Settlement Filing
34. Flu	SIRVA	2 Years
35. Flu	SIRVA; Chronic Regional Pain Syndrome	2 Years
36. Flu	SIRVA	2 Years
37. Flu	GBS	2 Years
38. Flu	GBS	1 Year 12 Months
39. Flu	SIRVA	1 Year 11 Months
40. Flu	SIRVA	1 Year 11 Months
41. Flu	SIRVA	1 Year 11 Months
42. Flu	SIRVA	1 Year 11 Months
43. Flu	SIRVA	1 Year 11 Months
44. Flu	GBS	1 Year 11 Months
*Terms of compensated settlements memorialized by Stipulation		

# Adjudicated Settlements\*

Reporting Period: 8/16/19 – 11/15/19

Vaccine(s)	Alleged Injury(ies)	Petition Filing to Settlement Filing
45. Flu	SIRVA	1 Year 11 Months
46. Flu	SIRVA	1 Year 11 Months
47. Flu; FluMist	Bell's Palsy	1 Year 10 Months
48. Flu	GBS	1 Year 10 Months
49. Prevnar 13	GBS	1 Year 10 Months
50. Flu	SIRVA	1 Year 10 Months
51. Flu	SIRVA	1 Year 10 Months
52. Flu	SIRVA	1 Year 10 Months
53. Flu	GBS	1 Year 10 Months
54. Flu	GBS	1 Year 10 Months
55. Flu	SIRVA	1 Year 10 Months
*Terms of compensated settlements memorialized by Stipulation		

# Adjudicated Settlements\*

Reporting Period: 8/16/19 – 11/15/19

Vaccine(s)	Alleged Injury(ies)	Petition Filing to Settlement Filing
56. Flu	SIRVA	1 Year 10 Months
57. Flu	Bickerstaff's Brainstem Encephalitis	1 Year 10 Months
58. Flu	Patronage Turner Syndrome	1 Year 9 Months
59. TDaP	AIDP	1 Year 9 Months
60. Flu	Adhesive Cpasulitis	1 Year 9 Months
61. Flu	GBS	1 Year 9 Months
62. Flu	SIRVA	1 Year 8 Months
63. Flu	SIRVA	1 Year 8 Months
64. TDaP;	SIRVA	1 Year 8 Months
65. Flu	CIDP	1 Year 8 Months
66. Flu	SIRVA	1 Year 8 Months
*Terms of compensated settlements memorialized by Stipulation		

# Adjudicated Settlements\*

Reporting Period: 8/16/19 – 11/15/19

Vaccine(s)	Alleged Injury(ies)	Petition Filing to Settlement Filing
67. Flu	SIRVA	1 Year 8 Months
68. Flu	GBS	1 Year 8 Months
69. TDaP	SIRVA	1 Year 7 Months
70. Flu	SIRVA	1 Year 7 Months
71. Flu	GBS; CIDP	1 Year 7 Months
72. TDaP	SIRVA	1 Year 7 Months
73. Flu	SIRVA	1 Year 7 Months
74. Flu	SIRVA	1 Year 7 Months
75. MMR; DTaP	GBS	1 Year 6 Months
76. Flu	SIRVA	1 Year 6 Months
77. Flu	SIRVA	1 Year 6 Months

\*Terms of compensated settlements memorialized by Stipulation

# Adjudicated Settlements\*

Reporting Period: 8/16/19 – 11/15/19

Vaccine(s)	Alleged Injury(ies)	Petition Filing to Settlement Filing
78. TDaP	SIRVA	1 Year 5 Months
79. Flu	SIRVA	1 Year 5 Months
80. Flu	SIRVA	1 Year 5 Months
81. Flu	GBS	1 Year 5 Months
82. Flu	SIRVA	1 Year 5 Months
83. Flu	CIDP	1 Year 4 Months
84. Flu	SIRVA	1 Year 4 Months
85. Hep A; Meningococcal	Vasovagal Syncope	1 Year 4 Months
86. TDaP	SIRVA	1 Year 4 Months
87. Flu	SIRVA	1 Year 4 Months
88. Flu	SIRVA	1 Year 4 Months
*Terms of compensated settlements memorialized by Stipulation		

# Adjudicated Settlements\*

Reporting Period: 8/16/19 – 11/15/19

Vaccine(s)	Alleged Injury(ies)	Petition Filing to Settlement Filing
89. Flu	SIRVA	1 Year 4 Months
90. Flu	SIRVA	1 Year 4 Months
91. Flu	SIRVA	1 Year 3 Months
92. Flu	SIRVA	1 Year 3 Months
93. Tdap	SIRVA	1 Year 3 Months
94. Flu	Plexopathy	1 Years 3 Months
95. Flu	SIRVA	1 Year 3 Months
96. Flu	SIRVA	1 Year 2 Months
97. Flu	SIRVA	1 Year 2 Months
98. Flu	SIRVA	1 Year 2 Months
99. Flu	SIRVA	1 Year 2 Months
*Terms of compensated settlements memorialized by Stipulation		

# Adjudicated Settlements\*

Reporting Period: 8/16/19 – 11/15/19

Vaccine(s)	Alleged Injury(ies)	Petition Filing to Settlement Filing
100. Flu	SIRVA	1 Year 1 Month
101. Flu	SIRVA	1 Year 1 Month
102. Flu	SIRVA	1 Year 1 Month
103. Flu	SIRVA; Parsonage Turner Syndrome	1 Year 1 Month
104. Flu	SIRVA	1 Year 1 Month
105. Flu	Chronic Urticaria with dermatographism; Asthma	1 Year 1 Month
106. Flu	SIRVA; Bone Marrow Edema	1 Year 1 Month
107. Flu	GBS	1 Year
108. Flu	SIRVA	1 Year
109. Flu	GBS	1 Year
110. PCV	SIRVA	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.

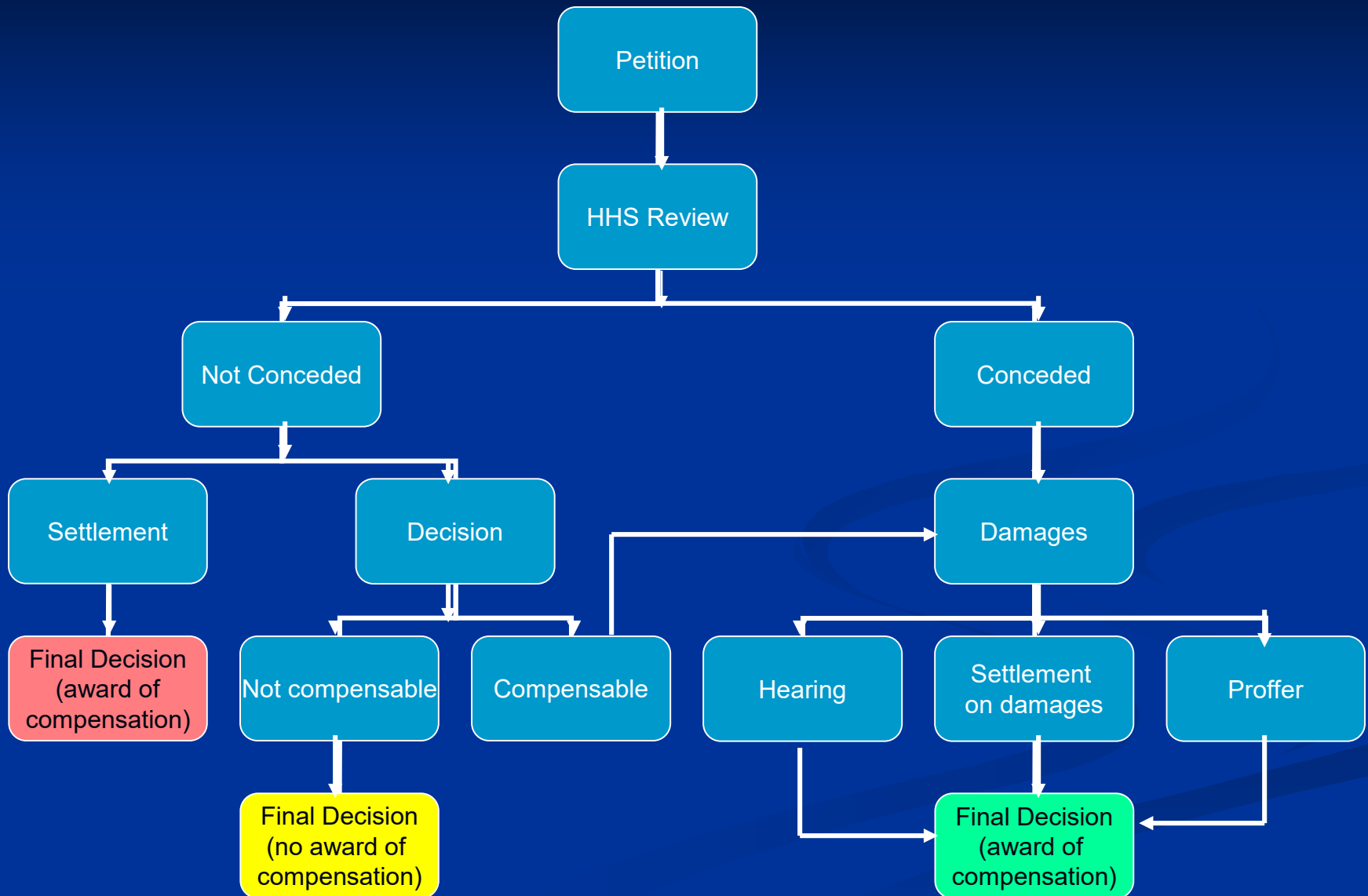
# Glossary of Terms

- **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

