



# Report from the Department of Justice

September 3, 2015

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*Deputy Director, Torts Branch*

# Statistics

Reporting Period: 5/16/15 – 8/15/15

- I. Total Petitions Filed in the United States Court of Federal Claims this reporting period: 211
  - A. Minors: 36
  - B. Adults: 175

# Statistics

**Reporting Period: 5/16/15 – 8/15/15**

## **II. Total Petitions Adjudicated this reporting period: 156**

**A. Compensated: 115**

**i. Cases conceded by HHS: 29**

**1. Decision awarding damages: 0**

**2. Decision adopting Proffer: 28**

**3. Decision adopting Settlement: 1**

**ii. Cases not conceded by HHS: 86**

**1. Decision awarding damages: 0**

**2. Decision adopting Proffer: 1**

**3. Decision adopting Settlement: 85**

**B. Not Compensated/Dismissed: 41**

**i. Decision dismissing Non-OAP: 36**

**ii. Decision dismissing OAP: 5**

# Statistics

Reporting Period: 5/16/15 – 8/15/15

**III. Total Petitions Voluntarily Withdrawn this reporting period (no judgment will be issued): 11**

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

## Recently Decided Cases

### Appeals by Petitioner:

- *Stillwell v. HHS*: Affirmed
- *Crutchfield v. HHS*: Affirmed
- *Greenberg v. HHS*: Transferred to CFC

*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:

- *Contreras v. HHS*\* (Entitlement)
- *Milik v. HHS*\* (Entitlement)
- *Rowan v. HHS*\* (Entitlement)
- *Moriarty v. HHS* (Entitlement)
- *Hirmiz v. HHS* (Entitlement)

\*Yellow cases are new this reporting period

# Appeals: U.S. Court of Federal Claims

## Recently Decided Cases

### Appeals by Petitioner:

- *D'Angiolini v. HHS*: Affirmed (Entitlement)
- *Godfrey v. HHS*: Granted in part; Remanded for consideration of *Koehn* (Entitlement)
- *Rowan v. HHS*: Affirmed (Entitlement)
- *Santini v. HHS*: Affirmed (Entitlement)
- *Barclay v. HHS*: Affirmed (Entitlement)
- *Padmanabhan v. HHS*: Affirmed (Entitlement)
- *Mora v. HHS*: Relief Denied (Relief from Judgment)
- *Nutall v. HHS*: Affirmed (Entitlement)
- *McLeod-Hunt v. HHS*: Affirmed (Entitlement)
- *Whitney v. HHS*: Vacated and Remanded

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:

- *Scharfenberger v. HHS\** (Attorneys' Fees and Costs)
- *Guerrero v. HHS\** (Attorneys' Fees and Costs)
- *Greenberg v. HHS\** (Entitlement)
- *Holt v. HHS\** (Entitlement)
- *Waterman v. HHS\** (Entitlement)
- *Hodge v. HHS* (Entitlement)
- *Spahn v. HHS* (Entitlement)

\*Yellow cases are new this reporting period



# Scheduled Oral Arguments

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

- *Hirmiz v. HHS*: October 8, 2015

## U.S. Court of Federal Claims:

- *Hodge v. HHS*: September 3, 2015

# Adjudicated Settlements\*

Reporting Period: 5/16/15 – 8/15/15

Vaccine(s)	Alleged Injury(ies)	Petition Filing to Settlement Filing
Flu	Optic Neuritis	3 Years, 9 Months
Tdap	Shoulder Injury	9 Months
Flu	GBS	9 Months
Flu	Transverse Myelitis/ Neuromyelitis Optica	1 Year, 3 Months
Flu	GBS	1 Year, 6 Months
HPV	Chronic Urticaria	1 Year, 3 Months
Tdap, Flu	Pupuric Lesions/ Vasculitis/ Panniculitis	1 Year, 1 Month
Flu	Transverse Myelitis	11 Months
Tdap	GBS	1 Year, 4 Months
Flu	Frozen Shoulder Syndrome/ Pain/Loss of Motion/Stiffness/Weakness	6 Months

# Adjudicated Settlements\*

Reporting Period: 5/16/15 – 8/15/15

Vaccine(s)	Alleged Injury(ies)	Petition Filing to Settlement Filing
Tdap, Hep A	Brachial Plexus Neuritis	1 Year
Flu	GBS	1 Year, 3 Months
DTaP, Hib	Ataxia,	2 Years
MMR	ITP	1 Year 7 Months
Tdap	Shoulder Injury	5 Months
Flu	Bell's Palsy	1 Year, 2 Months
Flu	Myelitis	11 Months
Flu	GBS	11 Months
Flu	Transverse Myelitis	11 Months
Flu	GBS	10 Months

# Adjudicated Settlements\*

Reporting Period:5/16/15 – 8/15/15

Vaccine(s)	Alleged Injury(ies)	Petition Filing to Settlement Filing
Flu	GBS	10 Months
Flu	Chronic Urticaria	9 Months
Flu	GBS	10 Months
Flu	GBS	2 Years, 6 Months
Flu	Brachial Neuritis	11 Months
Flu	GBS	1 Year, 8 Months
Flu	Lipoma	8 Months
Flu	GBS	11 Months
Flu	GBS	2 Years, 6 Months
Flu	GBS/CIDP	4 Years, 4 Months

# Adjudicated Settlements\*

Reporting Period: 5/16/15 – 8/15/15

Vaccine(s)	Alleged Injury(ies)	Petition Filing to Settlement Filing
Flu	CIDP	1 Year, 8 Months
Flu	Transverse Myelitis	3 Years, 8 Months
Flu	Intractable Headaches	1 Year, 9 Months
Tdap, Flu	Transverse Myelitis	7 Months
Flu	GBS	6 Months
Flu	GBS	11 Months
Flu	GBS	11 Months
Flu	Shoulder Injury	10 Months
Flu	Shoulder Injury	9 Months
Hep B, DTaP, Hib, PCV13, Inactivated Polio	Infantile Spasms/ Related Seuelae	4 Years, 1 Month

# Adjudicated Settlements\*

Reporting Period: 5/16/15 – 8/15/15

Vaccine(s)	Alleged Injury(ies)	Petition Filing to Settlement Filing
Flu	Neurological Defects	2 Years, 8 Months
Flu	GBS	1 Year, 8 Months
Flu	GBS	8 Months
HPV	Polyarthrititis, Polyarthralgia, Seronegative Rheumatoid Arthritis	1 Year, 1 Month
Flu	Shoulder Injury	1 Year
Flu	SIRVA	1 Year, 4 Months
Tdap, HPV	Pemphigus Vulgaris	1 Year, 5 Months
Flu	GBS	1 Year, 5 Months
Flu	Brachial Neuritis	9 Months
Flu	CIDP	11 Months

# Adjudicated Settlements\*

Reporting Period: 5/16/15 – 8/15/15

Vaccine(s)	Alleged Injury(ies)	Petition Filing to Settlement Filing
Flu	Transverse Myelitis	1 Year, 10 Months
Flu	GBS	1 Year, 9 Months
Flu	Transverse Myelitis	6 Months
Tdap	Allergic Reaction/ Immune-Mediated Condition	1 Year, 2 Months
Flu	Adhesive Capsulitis	11 Months
Flu	SIRVA	1 Year, 8 Months
Flu	ITP	1 Year, 2 Months
Flu	GBS	5 Months
Hep B	Autoimmune Disorder/UCTD	2 Years
Flu	Shoulder Injury	8 Months

# Adjudicated Settlements\*

Reporting Period: 5/16/15 – 8/15/15

Vaccine(s)	Alleged Injury(ies)	Petition Filing to Settlement Filing
Flu	GBS	10 Months
MMR	ITP	1 Year, 3 Months
Flu	SIRVA	10 Months
Hep B	Rheumatoid Arthritis/ Arthritis/ Fatigue	2 Years, 6 Months
Td	GBS	4 Years, 11 Months
Flu	Brachial Neuritis	1 Year
Flu	GBS	1 Year
Flu	Brachial Neuritis	5 Months
HPV	Cerebral Vasculitis/ Death	5 Years, 5 Months
Flu	GBS	7 Months



# Adjudicated Settlements\*

Reporting Period: 5/16/15 – 8/15/15

Vaccine(s)	Alleged Injury(ies)	Petition Filing to Settlement Filing
Hep B	Transverse Myelitis / Chronic Pain Syndrome/Neuropathic Pain	1 Year, 10 Months
Flu	GBS	9 Months
Flu	Brachial Plexopathy	10 Months
Flu	Transverse Myelitis/Death	10 Months
Flu	GBS	10 Months
Meningococcal	Transverse Myelitis	2 Years, 2 Months
Flu	ADEM	1 Year, 4 Months
Tdap	Seizure Condition	11 Months
Flu	SIRVA	11 Months
Flu	Arm Pain	10 Months

\*Terms of compensated settlements memorialized by Stipulation

(continued . . .)

# Adjudicated Settlements\*

Reporting Period: 5/16/15 – 8/15/15

Vaccine(s)	Alleged Injury(ies)	Petition Filing to Settlement Filing
Tdap, Flu	ADEM	1 Year, 4 Months
Flu	Infection/ Sepsis/ Neurological Injuries	7 Months
DTaP	Encephalopathy/ Other Neurological Injuries	8 Years, 8 Months
Flu	GBS/Death	2 Years, 11 Months
Flu	SIRVA	1 Year
Flu	GBS	11 Months

***Total Number of Judgments Adopting Settlement this reporting period: 86***

# 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.

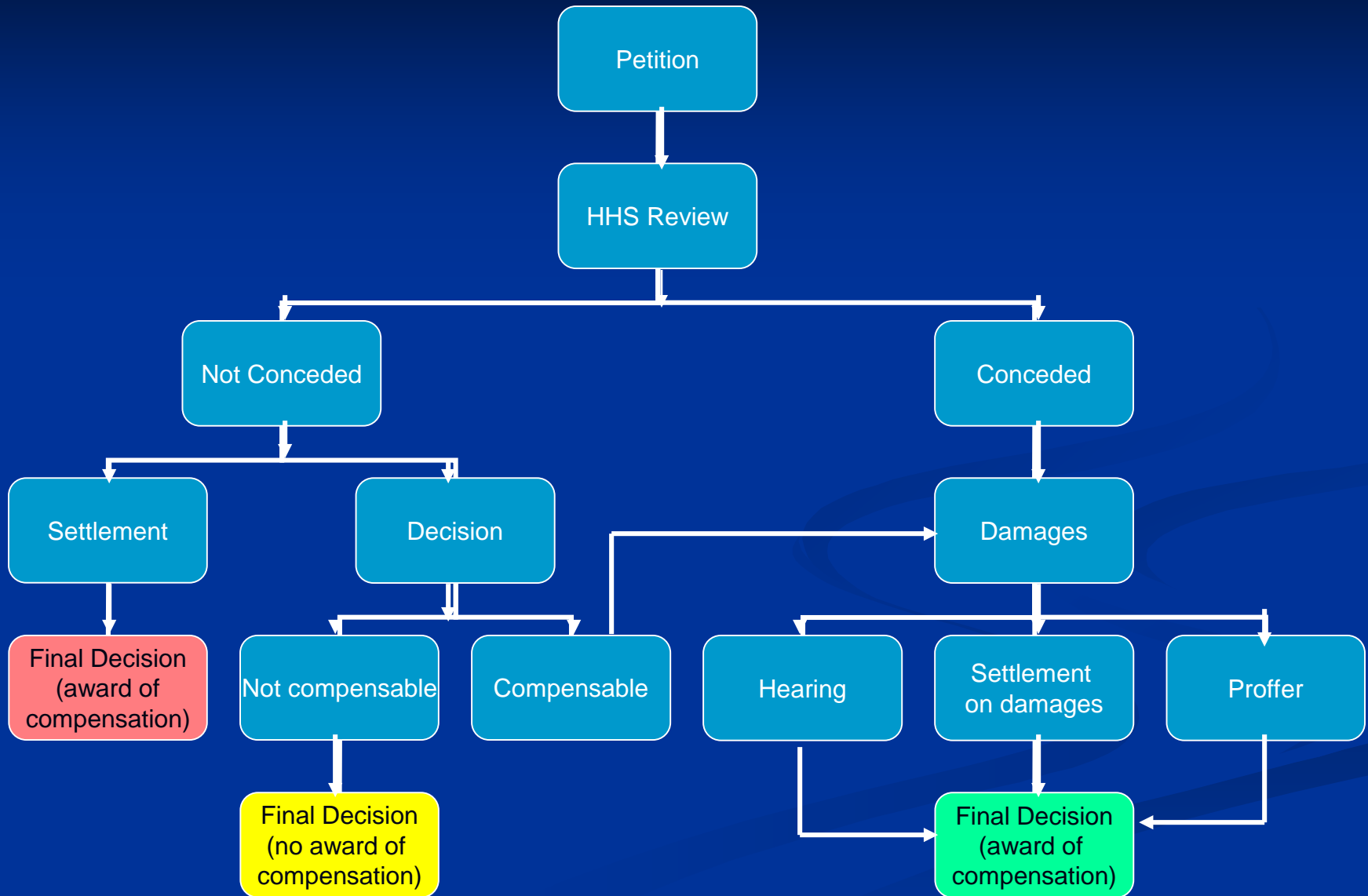
# Glossary of Terms

- **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

