



Report from the Department of Justice

March 6, 2014

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Statistics

Reporting Period: 11/16/13 – 2/15/14

- I. **Total Petitions Filed in the United States Court of Federal Claims this reporting period: 128**
 - A. Minors: 28
 - B. Adults: 100

Statistics

Reporting Period: 11/16/13 – 2/15/14

II. Total Petitions Adjudicated this reporting period: 113

A. Compensated: 52

i. Cases conceded by HHS: 8

1. Decision awarding damages: 0

2. Decision adopting Proffer: 8

3. Decision adopting Settlement: 0

ii. Cases not conceded by HHS: 44

1. Decision awarding damages: 0

2. Decision adopting Proffer: 4

3. Decision adopting Settlement: 40

B. Not Compensated/Dismissed: 61

i. Decision dismissing Non-OAP: 45

ii. Decision dismissing OAP: 16

Statistics

Reporting Period: 11/16/13 – 2/15/14

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 Total Petitions Voluntarily Withdrawn this reporting period (no judgment will be issued): 4

Appeals: U.S. Supreme Court

- *Tembenis v. Sebelius*: Petitioners filed a petition for a writ of certiorari on January 24, 2014.

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

Recently Decided Cases

Appeals by Petitioner:

- *Carson v. HHS*: Order denying combined petition for rehearing and rehearing en banc issued 12/27/13

Appeals by Respondent:

- *Snyder/Harris v. HHS*: Reversed (Entitlement)

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:

- *Koehn v. HHS** (Entitlement)
- *Price v. HHS** (Entitlement)
- *LaLonde v. HHS* (Entitlement)

Appeals by Respondent:

- *Dobrydnev v. HHS* (Entitlement)

Appeals: U.S. Court of Federal Claims

Recently Decided Cases

Appeals by Petitioner:

- *Simanski v. HHS* (Entitlement)
- *Dillon v. HHS*: Affirmed (Entitlement)
- *Scanlon v. HHS*: Affirmed (Jurisdiction)
- *Koehn v. HHS*: Affirmed (Entitlement)
- *Dodd v. HHS*: Affirmed (Entitlement)

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:

- *Contreras v. HHS** (Entitlement)
- *Chuisano v. HHS** (Entitlement)
- *Gerami v. HHS* (Entitlement)
- *Flores v. HHS* (Entitlement)
- *Tompkins v. HHS* (Entitlement)
- *Stillwell v. HHS* (Entitlement)
- *Bast v. HHS* (Entitlement)
- *Holmes v. HHS* (Entitlement)

Scheduled Oral Arguments

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

- None scheduled at this time

U.S. Court of Federal Claims:

- *Flores v. HHS*: February 26, 2014

Adjudicated Settlements*

Reporting Period: 11/16/13 – 2/15/14

Vaccine(s)	Alleged Injury(ies)	Petition Filing to Settlement Filing
DTaP, Hep B, IPV, Hib, PCV	Decrease in brain function	3 years, 6 months
Flu	Transverse myelitis	3 years, 1 month
DTaP, Hep B, IPV, Hib, PCV, RV	Massive gastrointestinal bleed and necrotizing enterocolitis, developmental delay	3 years, 9 months
DTaP, MMR	Adverse reaction	4 years
Flu	Guillain-Barré Syndrome	1 year, 10 months
Flu	Guillain-Barré Syndrome	1 year, 2 months
Flu	Guillain-Barré Syndrome	3 years, 4 months
MMR	Arthralgia	2 years, 2 months
Flu	Guillain-Barré Syndrome	1 year, 8 months
Flu	Acute demyelinating encephalomyelitis	3 years

*Terms of settlement are memorialized by Stipulation

Adjudicated Settlements*

Reporting Period: 11/16/13 – 2/15/14

Vaccine(s)	Alleged Injury(ies)	Petition Filing to Settlement Filing
Varicella, Hep A	Chronic idiopathic thrombocytopenia purpura	1 year, 7 months
Flu	Guillain-Barré Syndrome and/or chronic inflammatory demyelinating polyneuropathy	1 year, 11 months
Flu	Transverse myelitis	1 year, 1 month
Flu	Guillain-Barré Syndrome	3 years, 2 months
Flu	Neuro-ophthalmologic injury including optic neuritis	2 years, 3 months
Flu	Guillain-Barré Syndrome	10 months
Flu	Gastroparesis	1 year, 1 month
Flu	Brachial neuritis	1 year, 5 months
Tdap	Shoulder and upper arm pain, frozen shoulder, nerve pain, and/or bursitis	5 months
Flu	Guillain-Barré Syndrome	11 months

Adjudicated Settlements*

Reporting Period: 11/16/13 – 2/15/14

Vaccine(s)	Alleged Injury(ies)	Petition Filing to Settlement Filing
Flu	Hypersensitivity reaction, peripheral neuropathy, significant aggravation of pre-existing restless leg syndrome, and fibromyalgia	2 years, 2 months
Flu	Muscular myositis neuropathy	10 months
Tdap	Brachial neuritis, significant aggravation of fibromyalgia	1 year, 7 months
Flu	Guillain-Barré Syndrome	2 years, 4 months
Flu, Hep B	Transverse myelitis	1 year, 1 month
Flu	Idiopathic Thrombocytopenic Purpura	1 year, 7 months
HPV	Severe head trauma, right subdural hematoma, non-depressed skull fracture, seizure disorder, post-traumatic cognitive and physical impairments, headaches, fatigue, and dizziness	11 months
Flu	Rheumatoid arthritis, acute disseminated encephalomyelitis	2 years, 4 months
Flu	Brachial neuritis	9 months
RV	Intussusception	1 year, 7 months

Adjudicated Settlements*

Reporting Period: 11/16/13 – 2/15/14

Vaccine(s)	Alleged Injury(ies)	Petition Filing to Settlement Filing
Flu	Guillain-Barré Syndrome	1 year, 3 months
Tdap	Arm injury	11 months
Flu	Neurological demyelinating injury	1 year, 7 months
DTaP, IPV, Hib, PCV, RV, Hep A, Hep B, MMR, Varicella	Eczema and/or atopic dermatitis, developmental and social delay	11 months
Flu	Guillain-Barré Syndrome and Bell's Palsy	1 year
Flu	Guillain-Barré Syndrome	3 years, 5 months
Flu	Bell's palsy	4 months
DTaP, meningococcal	Guillain-Barré Syndrome	3 years, 8 months
Flu	Guillain-Barré Syndrome	10 months
Flu	Guillain-Barré Syndrome	2 years, 11 months

Total Number of Judgments Adopting Settlement this reporting period: 40

*Terms of settlement are 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.

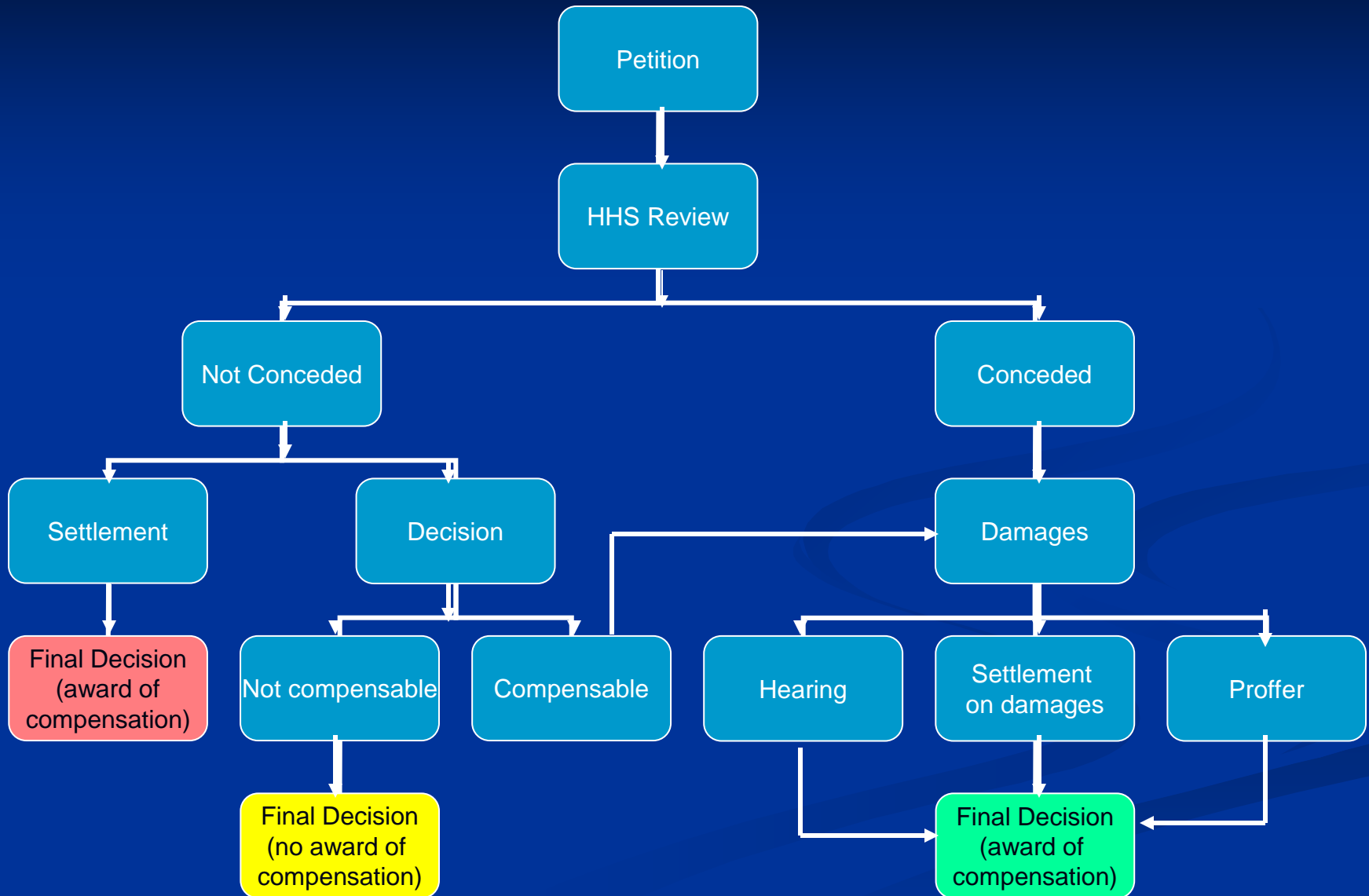
Glossary of Terms

- **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.₁₇

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

