



Report from the Department of Justice

September 6, 2019

Heather L. Pearlman
Assistant Director, Torts Branch

Statistics

Reporting Period: 5/16/19 – 8/15/19

I. Total Petitions Filed in the United States Court of Federal Claims this Reporting Period: 307

A. Minors: 7

B. Adults: 300

Statistics

Reporting Period: 5/16/19 – 8/15/19

Total Petitions Adjudicated this Reporting Period: 228

A. Compensated: 179

i. Cases conceded by HHS: 86

1. Decision awarding damages: 3

2. Decision adopting Proffer: 82

3. Decision adopting Settlement: 1

ii. Cases not conceded by HHS: 93

1. Decision awarding damages: 4

2. Decision adopting Proffer: 2

3. Decision adopting Settlement: 87

B. Not Compensated/Dismissed: 49

i. Decision dismissing Non-OAP: 48

ii. Decision dismissing OAP: 1

Statistics

Reporting Period: 5/16/19 – 8/15/19

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 Total Petitions Voluntarily Withdrawn this Reporting Period (no judgment will be issued): 7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

- *Byrd v. HHS* (Entitlement) Affirmed
- *Moczek v. HHS* (Entitlement) Reversed

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)
- *Boatmon v. HHS* (Entitlement)
- *Cottingham v. HHS* (Attys' Fees & Costs)
- *Gaiter v. HHS* (Entitlement)
- *K.G. v. HHS* (Entitlement)
- *Kreizenbeck v. HHS* (Entitlement)
- ***L.M. (Sharpe) 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:

- *Braun v. HHS* (Entitlement): Affirmed
- *Chinea v. HHS* (Entitlement): Affirmed
- *E.J. v. HHS* (Attys' Fees & Costs): Affirmed
- *Mullen v. HHS* (Attys' Fees & Costs): Affirmed
- *Noe v. HHS* (Entitlement): Affirmed
- *Nunez v. HHS* (Entitlement): Affirmed
- *Wright v. HHS* (Entitlement): Reversed
- *Wyatt v. HHS* (Entitlement): Affirmed
- *Yalacki v. HHS* (Entitlement): Affirmed

Appeals: U.S. Court of Federal Claims

Decided Cases

Appeals by Respondent:

- *Lozano v. HHS* (Entitlement): Affirmed

Appeals: U.S. Court of Federal Claims

Pending Cases

Appeals by Petitioner:

- *Christner v. HHS* (Entitlement)
- *Dupuch-Carron v. HHS* (Entitlement)
- *Faup v. HHS* (Entitlement)
- *Frantz v. HHS* (Attys' Fees & Costs)
- *L.P. v. HHS* (Attys' Fees & Costs)
- *Ling v. HHS* (Entitlement)
- *Liu v. HHS* (Attys' Fees & Costs)
- *Rocha v. HHS* (Interim Attys' Fees)
- *Webb v. HHS* (Entitlement)
- *Zumwalt v. HHS* (Entitlement)

Appeals: U.S. Court of Federal Claims

Pending Cases

Appeals by Respondent:

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

Scheduled Oral Arguments

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

None at this time

U.S. Court of Federal Claims:

- *Dupuch-Carron v. HHS* on 9/5/2019

Adjudicated Settlements*

Reporting Period: 5/16/19 – 8/15/19

Vaccine(s)	Alleged Injury(ies)	Petition Filing to Settlement Filing
1. MMR; Hep B	MS; TM; Undifferentiated Connective Tissue Disease; Significant Aggravation	6 Years 1 month
2. Flu	GBS; CIDP	4 years 8 months
3. Flu	TM	3 years 8 months
4. Flu	Systemic Inflammatory Response Syndrome	3 years 8 months
5. Flu	Neurologic Disorder	3 years 7 months
6. TDaP	GBS; CIDP	3 years 5 months
7. TDaP	SIRVA	3 years 5 months
8. Flu	Dermatomyositis; Necrotizing Autoimmune Myopathy	3 years 1 month
9. HPV	Erythema Multiforme	3 years 1 month
10. Flu	CIDP	3 years 1 month
11. Flu	SIRVA	2 years 11 months

*Terms of compensated settlements memorialized by Stipulation

Adjudicated Settlements*

Reporting Period: 5/16/19 – 8/15/19

Vaccine(s)	Alleged Injury(ies)	Petition Filing to Settlement Filing
12. Flu	SIRVA	2 years 7 months
13. Flu	TM	2 years 7 months
14. Flu	SIRVA	2 years 7 months
15. Flu	Bell's Palsy	2 years 7 months
16. Hib	SIRVA	2 years 7 months
17. Flu	GBS	2 years 6 months
18. Flu	SIRVA	2 years 6 months
19. Flu	SIRVA	2 years 5 months
20. Flu	SIRVA	2 years 4 months
21. MMR	Thrombocytopenic Purpura	2 years 4 months
22. Flu	SIRVA	2 years 4 months

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Adjudicated Settlements*

Reporting Period: 5/16/19 – 8/15/19

Vaccine(s)	Alleged Injury(ies)	Petition Filing to Settlement Filing
23. Flu	SIRVA	2 years 4 months
24. Flu	SIRVA	2 years 3 months
25. Flu	CIDP	2 years 3 months
26. PCV	SIRVA	2 years 3 months
27. Hep B	GBS; Inflammatory Polyneuropathy	2 years 2 months
28. Flu	GBS	2 years 2 months
29. Flu	GBS	2 years
30. MMR; IPV; MCV	Idiopathic Thrombocytopenia Purpura	1 year 11 months
31. Flu	CIDP	1 year 10 months
32. TDaP	SIRVA	1 year 10 months
33. Flu	Parsonage Turner Syndrome	1 year 10 months

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Adjudicated Settlements*

Reporting Period: 5/16/19 – 8/15/19

Vaccine(s)	Alleged Injury(ies)	Petition Filing to Settlement Filing
34. Flu	TDaP; GBS	1 year 10 months
35. Flu	GBS	1 year 10 months
36. Flu	GBS	1 year 10 months
37. Flu	TDaP; GBS; CIDP	1 year 9 months
38. Flu	SIRVA	1 year 9 months
39. Flu	SIRVA	1 year 9 months
40. TDaP	SIRVA	1 year 9 months
41. PCV	SIRVA	1 year 9 months
42. Flu	SIRVA	1 year 9 months
43. Flu	SIRVA	1 year 9 months
44. Flu	SIRVA	1 year 9 months

*Terms of compensated settlements memorialized by Stipulation

Adjudicated Settlements*

Reporting Period: 5/16/19 – 8/15/19

Vaccine(s)	Alleged Injury(ies)	Petition Filing to Settlement Filing
45. Flu	SIRVA	1 year 9 months
46. Flu	SIRVA	1 year 9 months
47. PCV	SIRVA	1 year 9 months
48. Flu	SIRVA	1 year 8 months
49. Flu	SIRVA	1 year 8 months
50. Flu	TDaP; GBS	1 year 8 months
51. Flu	SIRVA	1 year 8 months
52. Flu	SIRVA	1 year 8 months
53. TDaP	SIRVA	1 year 8 months
54. Flu	SIRVA	1 year 7 months
55. Flu	SIRVA	1 year 7 months

*Terms of compensated settlements memorialized by Stipulation

Adjudicated Settlements*

Reporting Period: 5/16/19 – 8/15/19

Vaccine(s)	Alleged Injury(ies)	Petition Filing to Settlement Filing
56. Flu	SIRVA	1 year 7 months
57. Flu	SIRVA	1 year 7 months
58. TD	SIRVA	1 year 7 months
59. TDaP	SIRVA	1 year 7 months
60. Flu	SIRVA	1 year 7 months
61. Flu	SIRVA	1 year 7 months
62. Flu	SIRVA	1 year 6 months
63. Flu	SIRVA	1 year 6 months
64. Flu	SIRVA	1 year 6 months
65. Flu	SIRVA	1 year 6 months
66. TDaP	SIRVA; Cellulitis; Abscess	1 year 5 months

*Terms of compensated settlements memorialized by Stipulation

Adjudicated Settlements*

Reporting Period: 5/16/19 – 8/15/19

Vaccine(s)	Alleged Injury(ies)	Petition Filing to Settlement Filing
67. TDaP	SIRVA	1 year 5 months
68. TD	SIRVA	1 year 5 months
69. TDaP	SIRVA	1 year 5 months
70. Flu	SIRVA	1 year 5 months
71. Flu	SIRVA	1 year 4 months
72. Flu	GBS	1 year 4 months
73. Flu	SIRVA	1 year 4 months
74. Flu	Brachial Neuritis	1 year 4 months
75. Flu	SIRVA	1 year 4 months
76. Flu	Cervical Myelitis	1 year 3 months
77. Flu	Rash; Wound Abscess	1 year 2 months

*Terms of compensated settlements memorialized by Stipulation

Adjudicated Settlements*

Reporting Period: 5/16/19 – 8/15/19

Vaccine(s)	Alleged Injury(ies)	Petition Filing to Settlement Filing
78. Flu	SIRVA	1 year 2 months
79. Flu	SIRVA	1 year 2 months
80. Flu	SIRVA	1 year 1 month
81. Flu	SIRVA	1 year 1 month
82. Flu	SIRVA	1 year 1 month
83. Flu	GBS; CIDP	1 year 1 month
84. TDaP	SIRVA	1 year 1 month
85. Flu	Angioedema	1 year
86. TDaP	SIRVA	1 year
87. Flu	Myositis	9 months

*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.

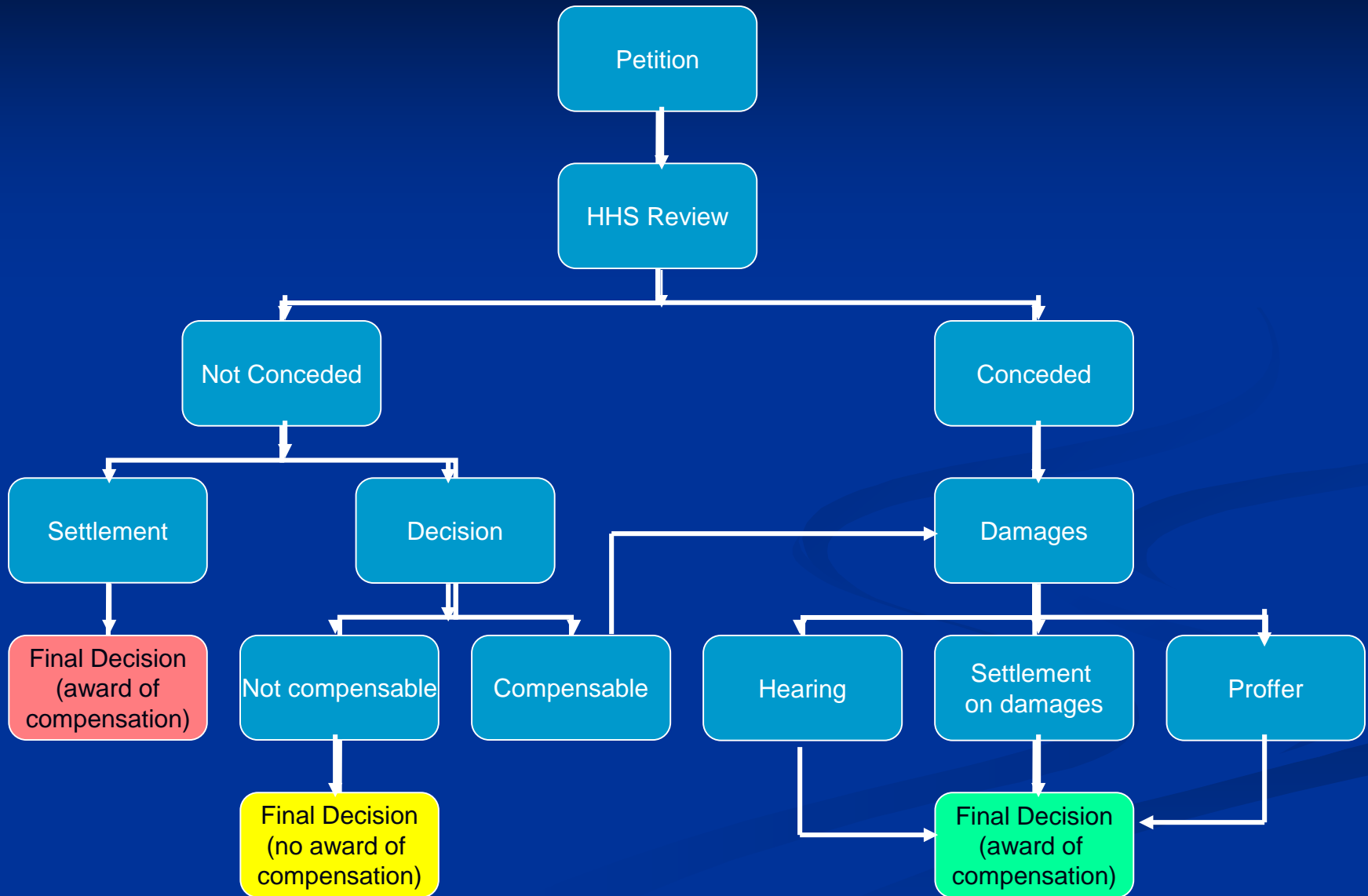
Glossary of Terms

- **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

