



# Report from the Department of Justice

**March 4, 2020**

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# Statistics

Reporting Period: 11/16/20 – 2/15/21

**I. Total Petitions Filed in the United States Court of Federal Claims this Reporting Period: 1,249**

A. Minors: 33

B. Adults: 1,216

# Statistics

**Reporting Period: 11/16/20 – 2/15/21**

**Total Petitions Adjudicated this Reporting Period: 201**

**A. Compensated: 157**

**i. Cases conceded by HHS: 73**

**1. Decision awarding damages: 10**

**2. Decision adopting Proffer: 63**

**3. Decision adopting Settlement: 0**

**ii. Cases not conceded by HHS: 84**

**1. Decision awarding damages: 2**

**2. Decision adopting Proffer: 0**

**3. Decision adopting Settlement: 82**

**B. Not Compensated/Dismissed: 44**

# Statistics

Reporting Period: 11/16/20 – 2/15/21

**III. Total Petitions Voluntarily Withdrawn this Reporting Period (no judgment will be issued): 6**

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

## Decided Cases

### Appeals by Petitioner:

- *E.J. v. HHS* (Atty's Fees & Costs): Vacated & Remanded
- *Greene v. HHS* (Entitlement): Affirmed
- *Orloski v. HHS* (Entitlement): Affirmed
- *Yates v. HHS* (Entitlement): Withdrawn

### Appeals by Respondent:

- None at this time

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

## Pending Cases

### Appeals by Petitioner:

- *Kirby v. HHS* (Entitlement)
- *Kottenstette v. HHS* (Entitlement)
- *Morgan v. HHS* (Entitlement)

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

## Pending Cases

### Appeals by Respondent:

*Wright v. HHS (Entitlement)*

# Appeals: U.S. Court of Federal Claims

## Decided Cases

### Appeals by Petitioner:

- *A.Y. v. HHS* (Entitlement): Affirmed
- *Baldwin v. HHS* (Entitlement): Affirmed
- *DeLozier v. HHS* (Entitlement): Remanded
- *Demitor v. HHS* (Entitlement): Affirmed
- *Galvan v. HHS* (Entitlement): Affirmed
- *Jennings v. HHS* (Redaction): Affirmed
- *Porcello v. HHS* (Entitlement): Affirmed
- *Sanchez 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:

- *Bossenbroek v. HHS* (Damages)
- *Cottingham v. HHS* (Atty's Fees and Costs)
- *Dilascio v. HHS* (Entitlement)
- *Duncan v. HHS* (Entitlement)
- *Hughes v. HHS* (Entitlement)
- *Jones v. HHS* (Entitlement)
- *Sullivan v. HHS* (Entitlement)
- *Webb v. HHS* (Entitlement)

# Appeals: U.S. Court of Federal Claims

## Pending Cases

### Appeals by Respondent:

None at this time

# Scheduled Oral Arguments

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

- *Kottenstette v. HHS*, April 7, 2021
- *Kirby v. HHS*, April 8, 2021

## U.S. Court of Federal Claims:

- *Dilascio v. HHS*, April 1, 2021

# Adjudicated Settlements\*

Reporting Period: 11/16/20 – 2/15/21

| Vaccine(s)                               | Alleged Injury(ies) | Petition Filing to Settlement Filing |
|--|---------------------|--------------------------------------|
| 1. Flu                                   | CIDP                | 6 Years 2 Months                     |
| 2. HIB; DTaP; Hep B; IPV; PCV; Rotavirus | Quadriplegia; TM    | 6 Years 2 Months                     |
| 3. Flu                                   | SIRVA               | 4 Years 4 Months                     |
| 4. Flu                                   | CIDP                | 4 Years 3 Months                     |
| 5. Flu                                   | SIRVA               | 4 Years 2 Months                     |
| 6. DTaP; IPV; Varicella                  | TM                  | 4 Years 1 Month                      |
| 7. Flu                                   | SIRVA               | 4 Years                              |
| 8. TDaP                                  | SIRVA               | 3 Years 10 Months                    |
| 9. Flu                                   | GBS                 | 3 Years 10 Months                    |
| 10. Flu                                  | SIRVA               | 3 Years 6 Months                     |
| 11. Flu                                  | SIRVA               | 3 Years 5 Months                     |

\*Terms of compensated settlements memorialized by Stipulation

# Adjudicated Settlements\*

Reporting Period: 11/16/20 – 2/15/21

| Vaccine(s)    | Alleged Injury(ies) | Petition Filing to Settlement Filing |
|---------------|---------------------|--------------------------------------|
| 12. TDaP      | SIRVA               | 3 Years 4 Months                     |
| 13. Flu       | SIRVA               | 3 Years 4 Months                     |
| 14. Flu       | SIRVA               | 3 Years 3 Months                     |
| 15. Flu       | GBS                 | 3 Years 3 Months                     |
| 16. TDaP; PCV | GBS                 | 3 Years 3 Months                     |
| 17. Flu       | SIRVA               | 3 Years 3 Months                     |
| 18. Flu       | SIRVA               | 3 Years 1 Month                      |
| 19. Flu       | GBS                 | 3 Years 1 Month                      |
| 20. Flu       | SIRVA               | 3 Years 1 Month                      |
| 21. Flu       | SIRVA               | 3 Years                              |
| 22. Flu       | GBS; CIDP           | 3 Years                              |

\*Terms of compensated settlements memorialized by Stipulation

# Adjudicated Settlements\*

Reporting Period: 11/16/20 – 2/15/21

| Vaccine(s)     | Alleged Injury(ies)           | Petition Filing to Settlement Filing |
|----------------|-------------------------------|--------------------------------------|
| 23. Flu        | SIRVA                         | 3 Years                              |
| 24. Flu        | Brachial Neuritis             | 3 Years                              |
| 25. MMR        | ITP                           | 2 Years 11 Months                    |
| 26. Flu        | CIDP                          | 2 Years 11 Months                    |
| 27. DTaP; MMR  | Localization-Related Epilepsy | 2 Years 11 Months                    |
| 28. Flu        | SIRVA                         | 2 Years 10 Months                    |
| 29. Prevnar 13 | SIRVA                         | 2 Years 9 Months                     |
| 30. Flu        | SIRVA; Tissue Necrosis        | 2 Years 8 Months                     |
| 31. Flu        | SIRVA                         | 2 Years 7 Months                     |
| 32. Flu        | SIRVA                         | 2 Years 6 Months                     |
| 33. Flu        | CIDP                          | 2 Years 5 Months                     |

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# Adjudicated Settlements\*

Reporting Period: 11/16/20 – 2/15/21

| Vaccine(s)                | Alleged Injury(ies) | Petition Filing to Settlement Filing |
|---------------------------|---------------------|--------------------------------------|
| 34. Flu                   | GBS                 | 2 Years 5 Months                     |
| 35. DTaP; Hep B; IPV; Flu | TM                  | 2 Years 5 Months                     |
| 36. TDaP                  | SIRVA               | 2 Years 4 Months                     |
| 37. Flu                   | SIRVA               | 2 Years 4 Months                     |
| 38. Flu                   | SIRVA               | 2 Years 4 Months                     |
| 39. Hib; PCV              | Neutropenia         | 2 Years 4 Months                     |
| 40. Flu                   | SIRVA               | 2 Years 4 Months                     |
| 41. Flu                   | SIRVA               | 2 Years 4 Months                     |
| 42. Flu                   | SIRVA               | 2 Years 3 Months                     |
| 43. Flu                   | SIRVA               | 2 Years 2 Months                     |
| 44. Flu                   | SIRVA               | 2 Years 2 Months                     |

\*Terms of compensated settlements memorialized by Stipulation



# Adjudicated Settlements\*

Reporting Period: 11/16/20 – 2/15/21

| Vaccine(s) | Alleged Injury(ies) | Petition Filing to Settlement Filing |
|------------|---------------------|--------------------------------------|
| 45. Flu    | SIRVA               | 2 Years 2 Months                     |
| 46. Flu    | CIDP                | 2 Years 2 Months                     |
| 47. Flu    | SIRVA               | 2 Years 2 Months                     |
| 48. Flu    | SIRVA               | 2 Years 1 Month                      |
| 49. PCV    | SIRVA               | 2 Years 1 Month                      |
| 50. Flu    | Brachial Neuritis   | 2 Years 1 Month                      |
| 51. Flu    | SIRVA               | 2 Years                              |
| 52. Flu    | SIRVA               | 2 Years                              |
| 53. TDaP   | GBS                 | 1 Year 11 Months                     |
| 54. Flu    | SIRVA               | 1 Year 11 Months                     |
| 55. Flu    | SIRVA               | 1 Year 11 Months                     |

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# Adjudicated Settlements\*

Reporting Period: 11/16/20 – 2/15/21

| Vaccine(s) | Alleged Injury(ies) | Petition Filing to Settlement Filing |
|------------|---------------------|--------------------------------------|
| 56. Flu    | TM; ITP             | 1 Year 11 Months                     |
| 57. Flu    | SIRVA               | 1 Year 11 Months                     |
| 58. Flu    | GBS                 | 1 Year 10 Months                     |
| 59. Flu    | SIRVA               | 1 Year 10 Months                     |
| 60. Flu    | GBS                 | 1 Year 10 Months                     |
| 61. Tdap   | SIRVA               | 1 Year 9 Months                      |
| 62. Flu    | GBS                 | 1 Year 9 Months                      |
| 63. Flu    | SIRVA               | 1 Year 9 Months                      |
| 64. Flu    | Cellulitis          | 1 Years 9 Months                     |
| 65. PCV    | SIRVA               | 1 Year 9 Months                      |
| 66. Flu    | Brachial Plexopathy | 1 Year 9 Months                      |

\*Terms of compensated settlements memorialized by Stipulation

# Adjudicated Settlements\*

Reporting Period: 11/16/20 – 2/15/21

| 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. Flu          | SIRVA                              | 1 Year 7 Months                      |
| 70. Flu          | SIRVA                              | 1 Year 7 Months                      |
| 71. Hep A; Hep B | SIRVA                              | 1 Year 7 Months                      |
| 72. Flu          | SIRVA                              | 1 Year 7 Months                      |
| 73. Flu          | Inflammatory Granulomatous Lesions | 1 Year 7 Months                      |
| 74. Flu          | SIRVA                              | 1 Year 7 Months                      |
| 75. Flu          | SIRVA                              | 1 Year 7 Months                      |
| 76. Flu          | SIRVA                              | 1 Year 6 Months                      |
| 77. TDaP         | SIRVA                              | 1 Year 6 Months                      |

\*Terms of compensated settlements memorialized by Stipulation

# Adjudicated Settlements\*

Reporting Period: 11/16/20 – 2/15/21

| Vaccine(s)  | Alleged Injury(ies) | Petition Filing to Settlement Filing |
|---|---------------------|--------------------------------------|
| 78. Flu   | SIRVA               | 1 Year 6 Months                      |
| 79. DTaP; Hep A   | ITP                 | 1 Year 5 Months                      |
| 80. Flu   | SIRVA               | 1 Year 5 Months                      |
| 81. Flu   | GBS                 | 1 Year 2 Months                      |
| 82. Flu   | GBS                 | 10 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

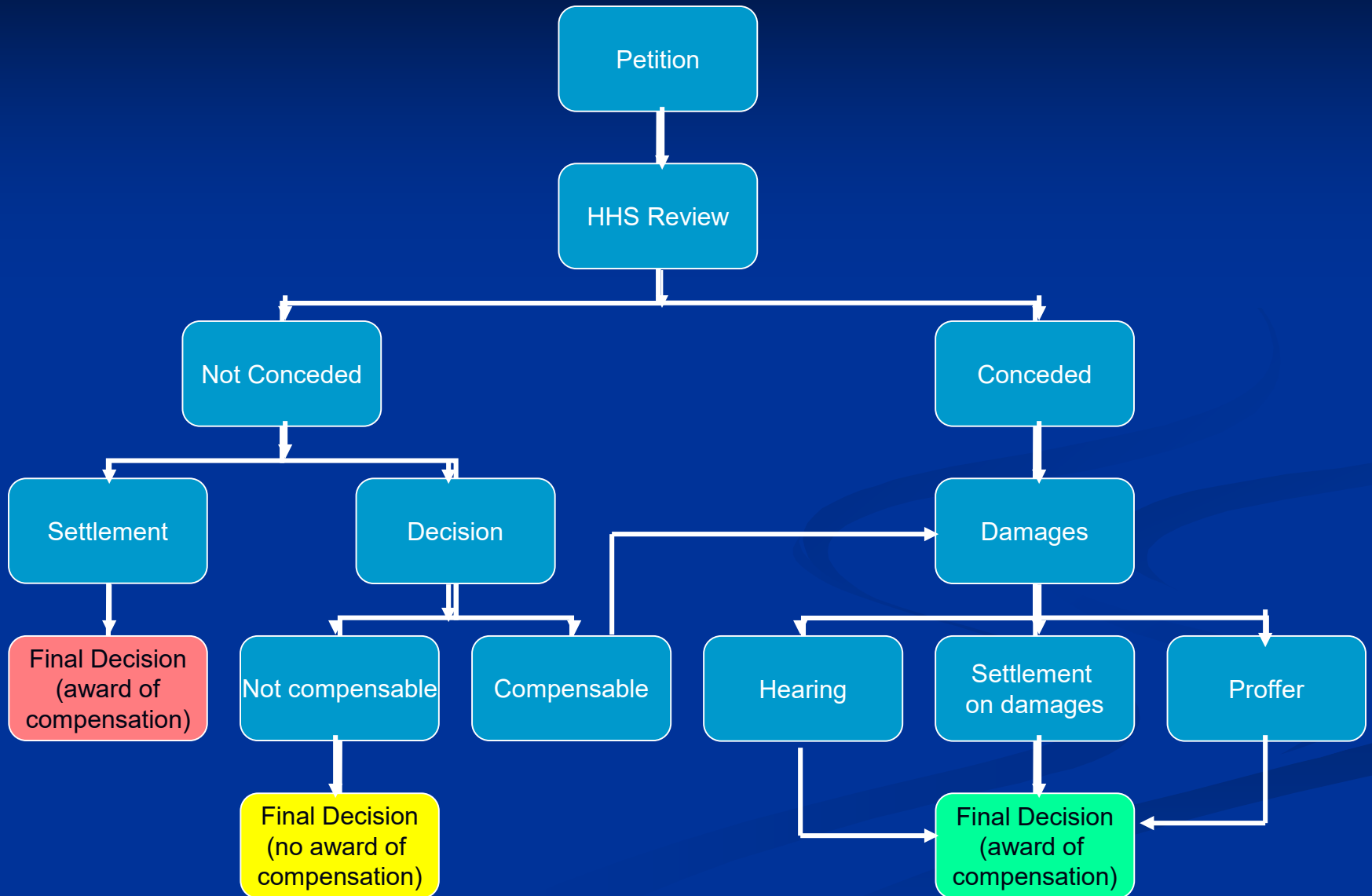
- **Settlement:** Petition is resolved via a negotiated settlement between the parties, and results in the filing of a stipulation that memorializes the terms of the settlement.
- **Decision:** Special Master issues decision on the merits of the petition.
- **Non-compensable/Dismissed:** Petition dismissed.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

