



# Report from the Department of Justice

**June 18, 2021**

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# Statistics

Reporting Period: 2/16/21 – 5/15/21

**Total Petitions Filed in the United States Court of Federal Claims this Reporting Period: 278**

A. Minors: 27

B. Adults: 251

# Statistics

**Reporting Period: 2/16/21 – 5/15/21**

**Total Petitions Adjudicated this Reporting Period: 241**

**A. Compensated: 198**

**i. Cases conceded by HHS: 99**

**1. Decision awarding damages: 10**

**2. Decision adopting Proffer: 89**

**3. Decision adopting Settlement: 0**

**ii. Cases not conceded by HHS: 99**

**1. Decision awarding damages: 4**

**2. Decision adopting Proffer: 0**

**3. Decision adopting Settlement: 95**

**B. Not Compensated/Dismissed: 43**

# Statistics

Reporting Period: 2/16/21 – 5/15/21

**III. Total Petitions Voluntarily Withdrawn this Reporting Period (no judgment will be issued): 14**

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

## Decided Cases

### Appeals by Petitioner:

- *Cowart v. HHS (Entitlement):* Withdrawn
- *Morgan v. HHS (Entitlement):* Affirmed

### Appeals by Respondent:

- None at this time

\*Yellow cases are new this reporting period

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

## Pending Cases

### Appeals by Petitioner:

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

- *Dilascio v. HHS* (Entitlement): Affirmed
- *Duncan v. HHS* (Entitlement): Affirmed
- *Sullivan 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)
- *Germaine v. HHS* (Entitlement)
- *Hughes v. HHS* (Entitlement)
- *Jones v. HHS* (Entitlement)
- *Pankiw v. HHS* (Entitlement)
- *Perkins v. HHS* (Entitlement)
- *Webb v. HHS* (Entitlement)
- *Whitfield v. HHS* (Entitlement)

# Appeals: U.S. Court of Federal Claims

## Pending Cases

### Appeals by Respondent:

- *Gross v. HHS* (Entitlement)
- *Leming 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:

- *Jones v. HHS*, June 15, 2021
- *Leming v. HHS*, May 26, 2021

# Adjudicated Settlements\*

Reporting Period: 2/16/21 – 5/15/21

Vaccine(s)	Alleged Injury(ies)	Petition Filing to Settlement Filing
1. Flu	TM	6 years 11 months
2. Flu	TM; Diverticulitis; Hernia; Bowel Obstruction; Neurogenic Bladder	5 years 6 months
3. Flu	TM	4 years 5 months
4. Flu	SIRVA	4 years 3 months
5. Tdap	GBS	4 years 1 months
6. Flu	CIDP	3 years 7 months
7. Flu	SIRVA	3 years 7 months
8. Tdap; Flu	Anaphylaxis; GBS	3 years 7 months
9. Flu	SIRVA	3 years 6 months
10. Flu	SIRVA	3 years 6 months
11. Flu	SIRVA	3 years 6 months

\*Terms of compensated settlements memorialized by Stipulation

# Adjudicated Settlements\*

Reporting Period: 2/16/21 – 5/15/21

Vaccine(s)	Alleged Injury(ies)	Petition Filing to Settlement Filing
12. Flu	SIRVA	3 years 5 months
13. Tdap	SIRVA	3 years 3 months
14. Flu	Bursitis; Fibrosis; Left-Arm Impingement Syndrome	3 years 2 months
15. Flu	CIDP	3 years 2 months
16. Flu	GBS	3 years 2 months
17. Tdap	SIRVA	3 years 1 months
18. MMR	SIRVA	3 years
19. Flu	SIRVA	2 years 11 months
20. Flu	SIRVA	2 years 10 months
21. Flu	SIRVA	2 years 10 months
22. Flu	SIRVA	2 years 9 months

\*Terms of compensated settlements memorialized by Stipulation

# Adjudicated Settlements\*

Reporting Period: 2/16/21 – 5/15/21

Vaccine(s)	Alleged Injury(ies)	Petition Filing to Settlement Filing
23. Flu	SIRVA	2 years 8 months
24. Flu	SIRVA	2 years 7 months
25. Flu	SIRVA	2 years 7 months
26. Flu	Polyneuropathy	2 years 7 months
27. Flu	SIRVA	2 years 7 months
28. Flu	SIRVA	2 years 7 months
29. Flu	SIRVA, bilateral adhesive capsulitis, hyperthyroidism, elevated intraocular pressure, heel pain.	2 years 6 months
30. Tdap	GBS	2 years 5 months
31. Flu	GBS	2 years 5 months
32. Flu	SIRVA	2 years 4 months
33. Flu	CIDP	2 years 4 months

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# Adjudicated Settlements\*

Reporting Period: 2/16/21 – 5/15/21

Vaccine(s)	Alleged Injury(ies)	Petition Filing to Settlement Filing
34. Flu	SIRVA	2 years 4 months
35. Tdap	GBS	2 years 4 months
36. Flu	SIRVA	2 years 3 months
37. Flu	SIRVA	2 years 3 months
38. Flu	GBS	2 years 3 months
39. Flu	SIRVA	2 years 3 months
40. Flu	GBS	2 years 2 months
41. Flu	SIRVA	2 years 2 months
42. Flu	SIRVA	2 years 2 months
43. Flu	SIRVA	2 years 2 months
44. Tdap	Cellulitis	2 years 2 months

\*Terms of compensated settlements memorialized by Stipulation



# Adjudicated Settlements\*

Reporting Period: 2/16/21 – 5/15/21

Vaccine(s)	Alleged Injury(ies)	Petition Filing to Settlement Filing
45. PCV	Vasovagal syncope	2 years 2 months
46. Flu	SIRVA	2 years 1 months
47. Flu	SIRVA	2 years 1 months
48. Tdap	SIRVA	2 years 1 months
49. Hep A; Hep B	SIRVA	2 years 1 months
50. Flu	Brachial Neuritis	2 years 1 months
51. Flu	SIRVA	2 years 1 months
52. Flu	SIRVA	2 years 1 months
53. Flu	SIRVA	2 years
54. Flu	Rheumatoid Arthritis	2 years
55. Flu	TM	2 years

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# Adjudicated Settlements\*

Reporting Period: 2/16/21 – 5/15/21

Vaccine(s)	Alleged Injury(ies)	Petition Filing to Settlement Filing
56. Flu	SIRVA	2 years
57. Flu	SIRVA	2 years
58. Flu	CIDP	2 years
59. Flu	GBS	2 years
60. Flu	SIRVA	2 years
61. Tdap	SIRVA	2 years
62. Flu	SIRVA	1 year 11 months
63. Flu	CIDP	1 year 11 months
64. Flu	SIRVA	1 year 11 months
65. Tdap	GBS	1 year 10 months
66. Flu	SIRVA	1 year 10 months

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# Adjudicated Settlements\*

Reporting Period: 2/16/21 – 5/15/21

Vaccine(s)	Alleged Injury(ies)	Petition Filing to Settlement Filing
67. Flu	SIRVA	1 year 10 months
68. Flu	SIRVA	1 year 10 months
69. Flu	SIRVA	1 year 10 months
70. Tdap	GBS	1 year 10 months
71. Tdap	SIRVA	1 year 10 months
72. Tdap	SIRVA	1 year 10 months
73. Flu	SIRVA	1 year 9 months
74. Flu	GBS; CIDP	1 year 9 months
75. HPV	SIRVA	1 year 9 months
76. Flu	GBS	1 year 9 months
77. Flu	TM	1 year 9 months

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# Adjudicated Settlements\*

Reporting Period: 2/16/21 – 5/15/21

Vaccine(s)	Alleged Injury(ies)	Petition Filing to Settlement Filing
78. Flu	SIRVA	1 year 9 months
79. Flu	CIDP	1 year 8 months
80. Flu	GBS	1 year 8 months
81. Flu	SIRVA	1 year 8 months
82. Flu	SIRVA	1 year 8 months
83. Flu	GBS	1 year 8 months
84. PCV	SIRVA	1 year 7 months
85. Flu	SIRVA	1 year 7 months
86. PCV	SIRVA	1 year 7 months
87. Tdap	SIRVA	1 year 7 months
88. Flu	AIDP; CIDP	1 year 7 months

\*Terms of compensated settlements memorialized by Stipulation

# Adjudicated Settlements\*

Reporting Period: 2/16/21 – 5/15/21

Vaccine(s)	Alleged Injury(ies)	Petition Filing to Settlement Filing
89. Flu	SIRVA	1 year 6 months
90. Flu	Brachial Neuritis	1 year 6 months
91. Flu	GBS	1 year 6 months
92. Flu	GBS	1 year 5 months
93. Flu	GBS; CIDP	1 year 5 months
94. Flu	TM	1 year 5 months
95. Flu	SIRVA; Brachial Neuritis	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

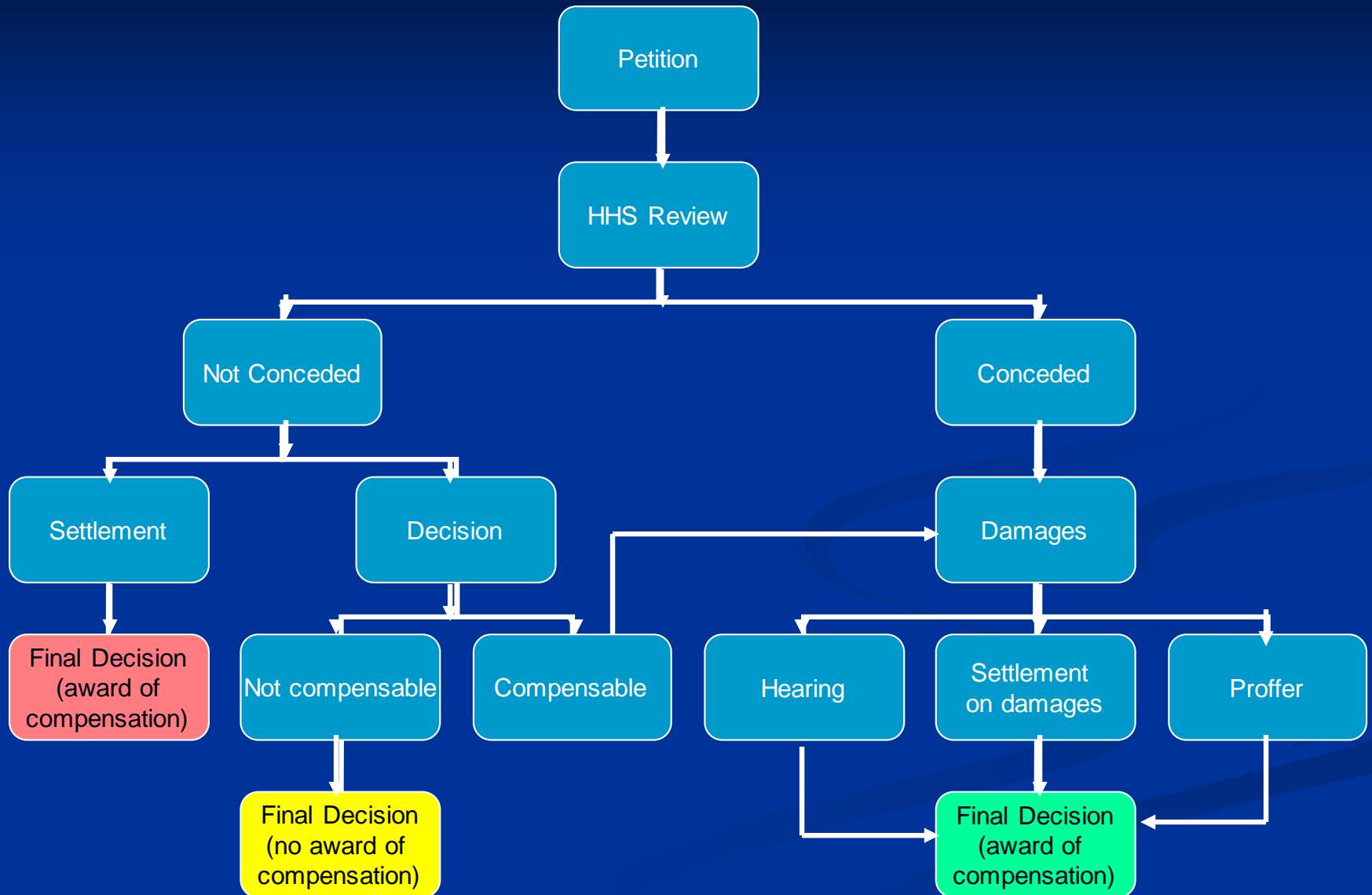
- **Settlement:** Petition is resolved via a negotiated settlement between the parties, and results in the filing of a stipulation that memorializes the terms of the settlement.
- **Decision:** Special Master issues decision on the merits of the petition.
- **Non-compensable/Dismissed:** Petition dismissed.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

