



Report from the Department of Justice

September 2, 2021

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Deputy Director, Torts Branch

Statistics

Reporting Period: 5/16/21 – 8/15/21

Total Petitions Filed in the United States Court of Federal Claims this Reporting Period: 342

A. Minors: 24

B. Adults: 318

Statistics

Reporting Period: 5/16/21 – 8/15/21

Total Petitions Adjudicated this Reporting Period: 221

A. Compensated: 175

i. Cases conceded by HHS: 71

1. Decision awarding damages: 5

2. Decision adopting Proffer: 66

3. Decision adopting Settlement: 0

ii. Cases not conceded by HHS: 104

1. Decision awarding damages: 2

2. Decision adopting Proffer: 0

3. Decision adopting Settlement: 102

B. Not Compensated/Dismissed: 46

Statistics

Reporting Period: 5/16/21 – 8/15/21

III. Total Petitions Voluntarily Withdrawn this Reporting Period (no judgment will be issued): 34

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

Decided Cases

Appeals by Petitioner:

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

- Sanchez v. HHS (Entitlement)

*Yellow cases are new this reporting period

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

Pending Cases

Appeals by Respondent:

Wright v. HHS (Entitlement)

*Yellow cases are new this reporting period

Appeals: U.S. Court of Federal Claims

Decided Cases

Appeals by Petitioner:

- *Cottingham v. HHS* (Atty's Fees and Costs): Reversed and Remanded
- *Germaine v. HHS* (Entitlement): Affirmed
- *Hughes v. HHS* (Entitlement): Affirmed
- *Jones v. HHS* (Entitlement): Remanded
- *Pankiw v. HHS* (Entitlement): Remanded
- *Webb v. HHS* (Entitlement): Affirmed
- *Whitfield v. HHS* (Entitlement): Affirmed

Appeals: U.S. Court of Federal Claims

Decided Cases

Appeals by Respondent:

- *Gross v. HHS* (Damages): Affirmed
- *Leming v. HHS* (Entitlement): Remanded

Appeals: U.S. Court of Federal Claims

Pending Cases

Appeals by Petitioner:

- *Bossenbroek v. HHS* (Damages)
- *Bull v. HHS* (Entitlement)
- *Colon v. HHS* (Entitlement)
- *Goodgame v. HHS* (Atty's Fees and Costs)
- *Loyd v. HHS* (Entitlement)
- *Villarroel v. HHS* (Entitlement)
- *Patton v. HHS* (Entitlement)
- *Perkins v. HHS* (Entitlement)
- *Wirtshafter v. HHS* (Atty's Fees and Costs)

Appeals: U.S. Court of Federal Claims

Pending Cases

Appeals by Respondent:

- *Flores 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:

- *Bull v. HHS*, September 15, 2021

Adjudicated Settlements*

Reporting Period: 5/16/21 – 8/15/21

Vaccine(s)	Alleged Injury(ies)	Petition Filing to Settlement Filing
1. TDaP	GBS	5 Years
2. HPV	TM	4 Years 6 Months
3. TDaP	TM	4 Years 5 Months
4. Flu	Cardiac Arrest	4 Years 4 Months
5. Flu	SIRVA	4 Years 3 Months
6. Flu	SIRVA	4 Years 3 Months
7. Hep A	Brachial Neuritis	4 Years 1 Months
8. Flu	SIRVA; CRPS	4 Years
9. Flu	SIRVA	4 Years
10. Prevnar 13	SIRVA	3 Years 10 Months
11. Flu; TDaP	SIRVA	3 Years 9 Months
*Terms of compensated settlements memorialized by Stipulation		

Adjudicated Settlements*

Reporting Period: 5/16/21 – 8/15/21

Vaccine(s)	Alleged Injury(ies)	Petition Filing to Settlement Filing
12. Flu	Neuromuscular weakness: Pain	3 Years 9 Months
13. Flu	TM	3 Years 8 Months
14. Flu	Anaphylaxis; Death	3 Years 6 Months
15. Flu	SIRVA	3 Years 6 Months
16. Flu	SIRVA	3 Years 5 Months
17. HPV	Uveitis	3 Years 3 Months
18. Hep A; Hep B	CIDP	3 Years 1 Months
19. Flu	SIRVA	2 Years 12 Months
20. TDaP	TM	2 Years 11 Months
21. Flu	SIRVA	2 Years 9 Months
*Terms of compensated settlements memorialized by Stipulation		

Adjudicated Settlements*

Reporting Period: 5/16/21 – 8/15/21

Vaccine(s)	Alleged Injury(ies)	Petition Filing to Settlement Filing
22. Flu	CRPS; Ulnar Neuropathy	2 Years 8 Months
23. Flu	SIRVA	2 Years 7 Months
24. Flu	SIRVA	2 Years 7 Months
25. Flu	SIRVA	2 Years 7 Months
26. Flu	SIRVA	2 Years 6 Months
27. Flu; Hep A	SIRVA	2 Years 6 Months
28. Flu	SIRVA	2 Years 6 Months
29. Flu	GBS	2 Years 6 Months
30. TDaP	SIRVA	2 Years 5 Months
31. Flu	GBS	2 Years 5 Months
32. Flu	SIRVA	2 Years 5 Months
*Terms of compensated settlements memorialized by Stipulation		

Adjudicated Settlements*

Reporting Period: 5/16/21 – 8/15/21

Vaccine(s)	Alleged Injury(ies)	Petition Filing to Settlement Filing
33. Flu	Lumbosacral Radiculoplexus neuropathy	2 Years 4 Months
34. Flu	GBS	2 Years 4 Months
35. Hep B	SIRVA	2 Years 4 Months
36. Flu	SIRVA	2 Years 3 Months
37. Flu	SIRVA	2 Years 3 Months
38. Flu	SIRVA	2 Years 3 Months
39. TDaP	SIRVA	2 Years 2 Months
40. PCV	SIRVA	2 Years 2 Months
41. Flu	CIDP	2 Years 2 Months
42. Flu	SIRVA	2 Years 1 Months
43. Flu	SIRVA	2 Years 1 Months
*Terms of compensated settlements memorialized by Stipulation		

Adjudicated Settlements*

Reporting Period: 5/16/21 – 8/15/21

Vaccine(s)	Alleged Injury(ies)	Petition Filing to Settlement Filing
44. Flu	GBS	2 Years 1 Months
45. Flu	SIRVA	2 Years 1 Months
46. Flu	SIRVA	2 Years 1 Months
47. TDaP; PCV	GBS	2 Years 1 Months
48. TD	SIRVA	2 Years 1 Months
49. Flu	SIRVA	2 Years 1 Months
50. Flu	SIRVA	2 Years
51. Flu	SIRVA	2 Years
52. PCV	SIRVA	2 Years
53. Flu	GBS	2 Years
54. Flu	SIRVA	1 Year 11 Months
*Terms of compensated settlements memorialized by Stipulation		

Adjudicated Settlements*

Reporting Period: 5/16/21 – 8/15/21

Vaccine(s)	Alleged Injury(ies)	Petition Filing to Settlement Filing
55. Flu	SIRVA	1 Year 11 Months
56. Flu	SIRVA	1 Year 11 Months
57. Flu	SIRVA	1 Year 11 Months
58. Flu	SIRVA	1 Year 11 Months
59. TDaP	GBS	1 Year 11 Months
60. Flu	SIRVA	1 Year 11 Months
61. TD	GBS	1 Year 11 Months
62. Flu	SIRVA	1 Year 10 Months
63. Flu	SIRVA	1 Year 10 Months
64. TDaP	SIRVA	1 Year 10 Months
65. TDaP	GBS	1 Year 10 Months
*Terms of compensated settlements memorialized by Stipulation		

Adjudicated Settlements*

Reporting Period: 5/16/21 – 8/15/21

Vaccine(s)	Alleged Injury(ies)	Petition Filing to Settlement Filing
66. TDaP	SIRVA	1 Year 10 Months
67. Flu	SIRVA	1 Year 10 Months
68. Flu	SIRVA	1 Year 10 Months
69. Flu; PCV	SIRVA	1 Year 10 Months
70. Flu	SIRVA	1 Year 9 Months
71. Td	GBS	1 Year 9 Months
72. Flu	Axillary nerve injury	1 Year 9 Months
73. Flu	GBS	1 Year 9 Months
74. Flu	SIRVA	1 Year 9 Months
75. Hep B	SIRVA	1 Year 9 Months
76. Flu	SIRVA	1 Year 9 Months
*Terms of compensated settlements memorialized by Stipulation		

Adjudicated Settlements*

Reporting Period: 5/16/21 – 8/15/21

Vaccine(s)	Alleged Injury(ies)	Petition Filing to Settlement Filing
77. Flu	SIRVA	1 Year 9 Months
78. Tdap	SIRVA	1 Year 9 Months
79. Flu	GBS	1 Year 9 Months
80. Flu	SIRVA	1 Year 8 Months
81. Flu	SIRVA	1 Year 8 Months
82. Flu	Brachial Neuritis	1 Year 7 Months
83. Hep A	SIRVA	1 Year 7 Months
84. Flu	SIRVA	1 Year 7 Months
85. TM	Flu	1 Year 7 Months
86. Tdap	Brachial Neuritis	1 Year 6 Months
87. Flu	SIRVA	1 Year 6 Months
*Terms of compensated settlements memorialized by Stipulation		

Adjudicated Settlements*

Reporting Period: 5/16/21 – 8/15/21

Vaccine(s)	Alleged Injury(ies)	Petition Filing to Settlement Filing
88. Tetanus; Prevnar 13	GBS	1 Year 5 Months
89. TDaP	SIRVA	1 Year 5 Months
90. Flu	SIRVA	1 Year 5 Months
91. Flu	SIRVA	1 Year 5 Months
92. Flu	SIRVA; Brachial Neuritis; Parsonage Turner Syndrome	1 Year 4 Months
93. TDaP	SIRVA	1 Year 4 Months
94. Flu	SIRVA	1 Year 3 Months
95. Flu	TM	1 Year 3 Months
96. Flu	TM	1 Year 3 Months
97. Flu	SIRVA	1 Year 2 Months
98. Flu	Brachial Neuritis	1 Year 2 Months
*Terms of compensated settlements memorialized by Stipulation		

Adjudicated Settlements*

Reporting Period: 5/16/21 – 8/15/21

Vaccine(s)	Alleged Injury(ies)	Petition Filing to Settlement Filing
99. TDaP	GBS	1 Year 1 Month
100. TDaP	GBS	1 Year
101. Flu	TM	9 Months
102. Flu	GBS	8 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.

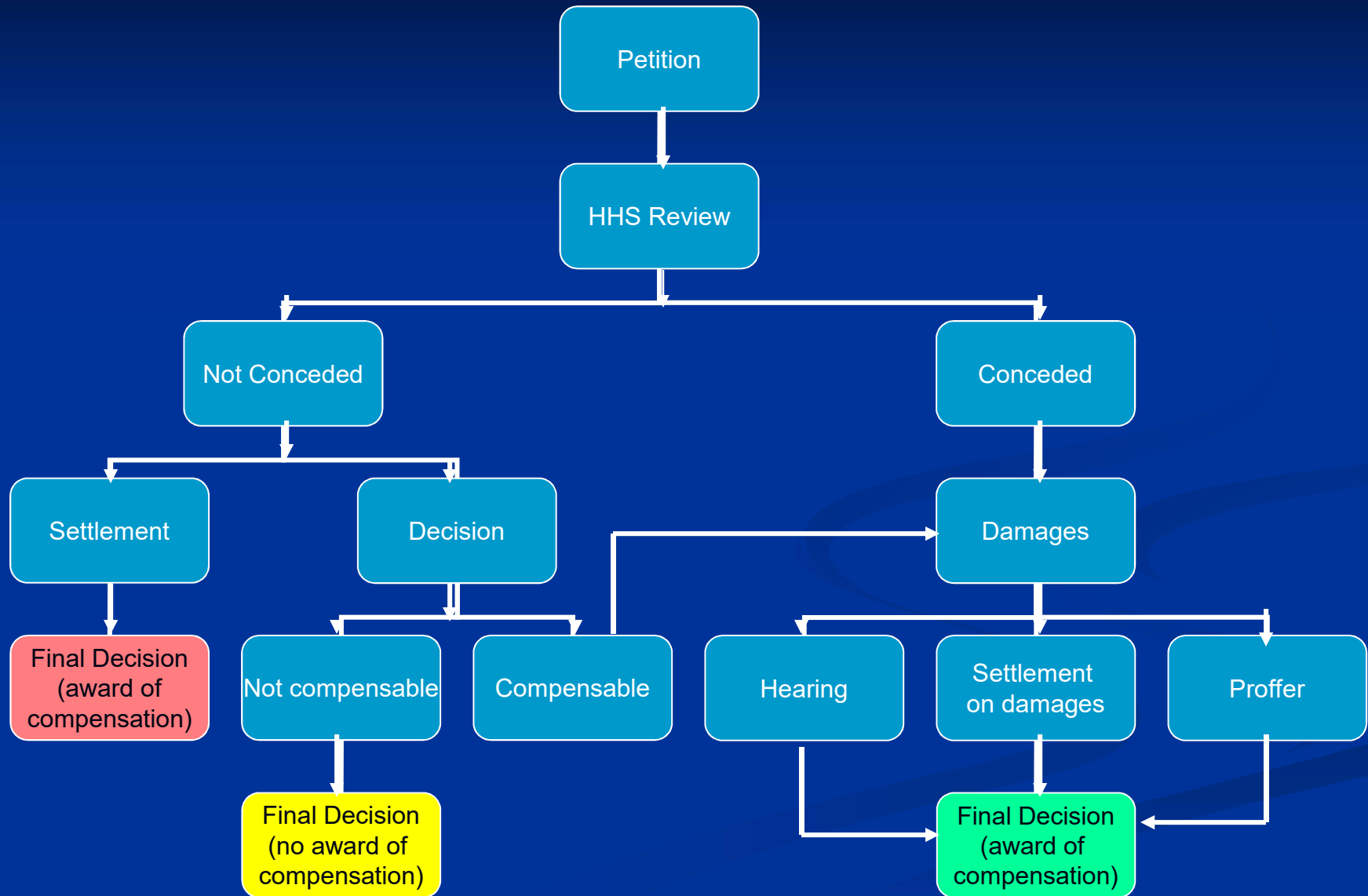
Glossary of Terms

- **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

