



Report from the Department of Justice

June 5, 2014

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Deputy Director, Torts Branch

Statistics

Reporting Period: 2/16/14 – 5/15/14

- I. Total Petitions Filed in the United States Court of Federal Claims this reporting period: 122
 - A. Minors: 40
 - B. Adults: 82

Statistics

Reporting Period: 2/16/14 – 5/15/14

II. Total Petitions Adjudicated this reporting period: 120

A. Compensated: 78

i. Cases conceded by HHS: 11

1. Decision awarding damages: 0

2. Decision adopting Proffer: 11

3. Decision adopting Settlement: 0

ii. Cases not conceded by HHS: 67

1. Decision awarding damages: 0

2. Decision adopting Proffer: 3

3. Decision adopting Settlement: 64

B. Not Compensated/Dismissed: 42

i. Decision dismissing Non-OAP: 34

ii. Decision dismissing OAP: 8

Statistics

Reporting Period: 2/16/14 – 5/15/14

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 Total Petitions Voluntarily Withdrawn this reporting period (no judgment will be issued): 4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.
- HHS filed a brief in opposition to the petition on May 21, 2014.

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

Recently Decided Cases

Appeals by Petitioner:

- *Price v. HHS*: Affirmed per curiam
- *LaLonde v. HHS*: Affirmed (2-1)

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:

- *Simanski v. HHS** (Entitlement)
- *Flores v. HHS** (Entitlement)
- *Graves v. HHS** (Entitlement)
- *Koehn v. HHS* (Entitlement)

Appeals by Respondent:

- *Paluck** *v. HHS* (Entitlement)
- *Dobrydnev v. HHS* (Entitlement)

Appeals: U.S. Court of Federal Claims

Recently Decided Cases

Appeals by Petitioner:

- *Contreras v. HHS*: Remanded (Entitlement)
- *Chuisano v. HHS*: Affirmed (Attorneys' Fees and Costs)
- *Gerami v. HHS*: Affirmed (Entitlement)
- *Tompkins v. HHS*: Affirmed (Jurisdiction)
- *Flores v. HHS*: Affirmed (Entitlement)
- *Holmes 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:

- *Somosot v. HHS* (Statute of Limitations)
- *Griffin v. HHS* (Entitlement)
- *Crutchfield v. HHS* (Entitlement)
- *D'Angiolini v. HHS* (Entitlement)
- *Scanlon v. HHS* (Attorneys' Fees and Costs)
- *Stillwell v. HHS* (Entitlement)
- *Bast 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:

- None scheduled at this time

Adjudicated Settlements*

Reporting Period: 2/16/14 – 5/15/14

Vaccine(s)	Alleged Injury(ies)	Petition Filing to Settlement Filing
Hep B	Linear IgA disease	7 years, 3 months
Flu	Guillain-Barré Syndrome or Chronic Inflammatory Demyelinating Polyneuropathy	1 year, 9 months
Flu	Sensory axonal neuropathy	1 year, 4 months
Flu	Guillain-Barré Syndrome	1 year, 2 months
Flu	Death	6 years, 3 months
Flu	Chronic inflammatory demyelinating polyneuropathy	2 years, 4 months
Flu	Guillain-Barré Syndrome	1 year, 9 months
Flu	Guillain-Barré Syndrome	1 year, 2 months
Hep B	Involuntary muscle twitches, leaky gut syndrome, chronic constipation, blurred vision, numbness and tingling in arms and legs, fatigue, alopecia, and intermittent paralysis	11 years, 10 months
Varicella	Multiple sclerosis	3 years, 9 months

*Terms of settlement are memorialized by Stipulation

Adjudicated Settlements*

Reporting Period: 2/16/14 – 5/15/14

Vaccine(s)	Alleged Injury(ies)	Petition Filing to Settlement Filing
Td	Neuropathy, dysautonomia, Postural Orthostatic Tachycardia Syndrome, and/or Sjogren's syndrome	1 year, 3 months
Flu	Guillain-Barré Syndrome	1 year, 10 months
Flu	Rheumatoid arthritis	2 years, 5 months
Hep B	Seizures and mental status changes	4 years, 10 months
Flu	Guillain-Barré Syndrome and/or Chronic Inflammatory Demyelinating Polyneuropathy	4 years
PCV, Hep A, Varicella, MMR	Death	3 years, 2 months
Flu	Guillain-Barré Syndrome	1 year, 3 months
Flu	Shingles	7 months
DTaP	Vestibular neuritis	2 years, 11 months
Flu	Guillain-Barré Syndrome	2 years

Adjudicated Settlements*

Reporting Period: 2/16/14 – 5/15/14

Vaccine(s)	Alleged Injury(ies)	Petition Filing to Settlement Filing
Flu	Brachial plexus neuropathy	1 year, 6 months
Flu	Guillain-Barré Syndrome and/or Chronic Inflammatory Demyelinating Polyneuropathy	4 years, 6 months
Tdap	Demyelinating sensorimotor polyneuropathy	10 months
Flu	Guillain-Barré Syndrome	6 months
MMR, Varicella, Hep A	Acute encephalopathy and/or other injury that has resulted in a seizure disorder, global developmental delay, and quadriplegia; in the alternative, significant aggravation of a preexisting condition	1 year, 11 months
Flu	Bell's Palsy	1 year, 2 months
DTaP, IPV, MMR, Hib, PCV	Spastic tetraparesis and a leukodystrophy, or a vaccination induced central nervous white matter injury	5 years, 5 months
Flu	Brachial neuritis, and/or a complex regional pain syndrome, and/or carpal tunnel syndrome	2 years, 6 months
Flu	Guillain-Barré Syndrome	1 year, 2 months
Flu	Brachial plexopathy or brachial neuritis	1 year, 10 months

Adjudicated Settlements*

Reporting Period: 2/16/14 – 5/15/14

Vaccine(s)	Alleged Injury(ies)	Petition Filing to Settlement Filing
Flu	Guillain-Barré Syndrome	1 year, 8 months
Flu	Transverse myelitis	1 year, 7 months
Flu	Transverse myelitis	1 year, 6 months
DTaP	Alleged muscle and joint pain	9 months
Flu	Guillain-Barré Syndrome	8 months
Flu	Narcolepsy	2 years
Flu	Guillain-Barré Syndrome	1 year, 9 months
Flu	Guillain-Barré Syndrome	1 year, 6 months
Flu	Shingles	1 year, 1 month
Flu	Guillain-Barré Syndrome	1 year, 6 months

Adjudicated Settlements*

Reporting Period: 2/16/14 – 5/15/14

Vaccine(s)	Alleged Injury(ies)	Petition Filing to Settlement Filing
Flu	Lichenoid drug eruption	1 year, 1 month
Flu	Guillain-Barré Syndrome	1 year, 6 months
Flu	Guillain-Barré Syndrome	2 years, 8 months
Flu	Miller-Fisher variant of Guillain-Barré Syndrome	11 months
DTaP	Acute demyelinating encephalomyelitis	1 year, 4 months
Flu	Guillain-Barré Syndrome	1 year, 8 months
Flu	Guillain-Barré Syndrome	1 year, 8 months
Flu	Transverse myelitis	8 months
Hep A	Guillain-Barré Syndrome	3 years
Flu	Chronic inflammatory demyelinating polyneuropathy	2 years, 1 month

*Terms of settlement are memorialized by Stipulation

Adjudicated Settlements*

Reporting Period: 2/16/14 – 5/15/14

Vaccine(s)	Alleged Injury(ies)	Petition Filing to Settlement Filing
Flu	Guillain-Barré Syndrome	1 year, 7 months
Flu	Guillain-Barré Syndrome	7 months
Flu	Guillain-Barré Syndrome	3 years, 1 month
Tdap	Guillain-Barré Syndrome	1 year, 11 months
Flu	Guillain-Barré Syndrome	1 year, 10 months
MCV	Autoimmune meningitis and/or a headache condition	1 year, 8 months
Flu	Guillain-Barré Syndrome	1 year, 5 months
Flu	Guillain-Barré Syndrome	9 months
Tdap and/or MMR	Guillain-Barré Syndrome	1 year, 3 months
Tdap	Guillain-Barré Syndrome	1 year, 4 months

Adjudicated Settlements*

Reporting Period: 2/16/14 – 5/15/14

Vaccine(s)	Alleged Injury(ies)	Petition Filing to Settlement Filing
Flu	Guillain-Barré Syndrome	8 months
Flu	Guillain-Barré Syndrome	1 year
Hep A	Guillain-Barré Syndrome	2 years, 5 months
Hib, PCV, IPV, RV, Hep B, DTaP	Seizure disorder and/or infantile spasms	2 years, 2 months

Total Number of Judgments Adopting Settlement this reporting period: 64

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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.

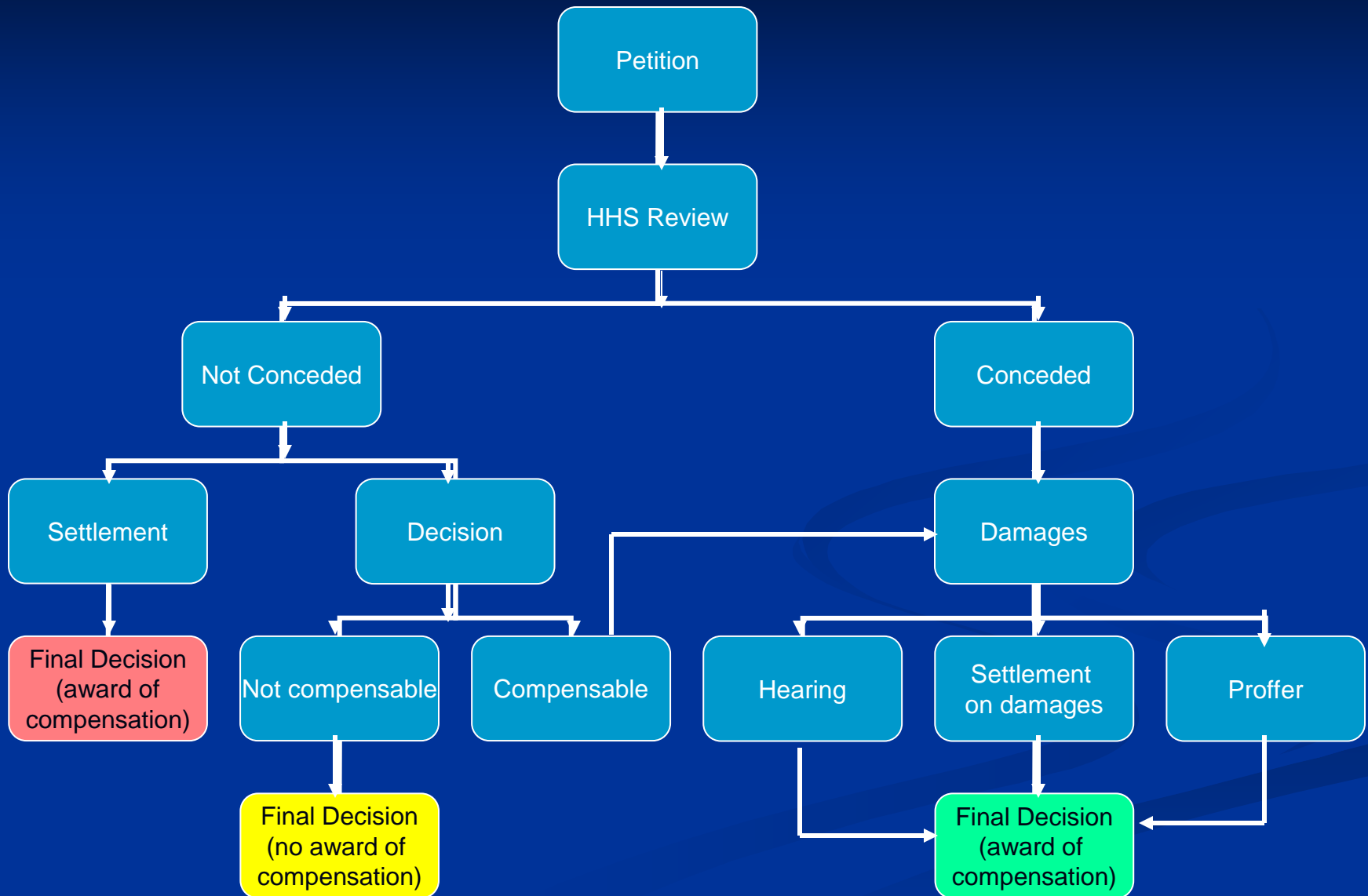
Glossary of Terms

- **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.₂₀

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

