



Report from the Department of Justice

March 6, 2020

Catharine E. Reeves

Deputy Director, Torts Branch

Statistics

Reporting Period: 11/16/19 – 2/15/20

I. Total Petitions Filed in the United States Court of Federal Claims this Reporting Period: 288

A. Minors: 36

B. Adults: 252

Statistics

Reporting Period: 11/16/19 – 2/15/20

Total Petitions Adjudicated this Reporting Period: 181

A. Compensated: 146

i. Cases conceded by HHS: 67

1. Decision awarding damages: 2

2. Decision adopting Proffer: 65

3. Decision adopting Settlement: 0

ii. Cases not conceded by HHS: 79

1. Decision awarding damages: 0

2. Decision adopting Proffer: 5

3. Decision adopting Settlement: 74

B. Not Compensated/Dismissed: 35

Statistics

Reporting Period: 11/16/19 – 2/15/20

III. Total Petitions Voluntarily Withdrawn this Reporting Period (no judgment will be issued): 11

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

Decided Cases

Appeals by Petitioner:

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

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)
- *Cottingham v. HHS* (Attys' Fees & Costs)
- *Dupuch-Carron v. HHS* (Entitlement)
- *E.J. v. HHS* (Attys' Fees & Costs)
- *K.G. v. HHS* (Entitlement)
- *L.M. v. HHS* (Entitlement)
- *Nunez 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:

- *Berenji v. HHS* (Entitlement): Affirmed
- *Dillenbeck v. HHS* (Damages): Affirmed
- *Faup v. HHS* (Entitlement): Affirmed
- *Greene v. HHS* (Entitlement): Affirmed
- *Pickens v. HHS* (Interim Atty's Fees & Costs): Affirmed
- *Schultz v. HHS* (Interim Attys' Fees & Costs): Withdrawn
- *Small v. HHS* (Entitlement): Affirmed

Appeals: U.S. Court of Federal Claims

Decided Cases

Appeals by Respondent:

- *Dillenbeck v. HHS* (Damages): Remanded
- *Gomez v. HHS* (Atty's Fees & Costs): Reversed
- *Harding v. HHS* (Atty's Fees & Costs): Affirmed
- *Kottenstette v. HHS* (Entitlement): Remanded

Appeals: U.S. Court of Federal Claims

Pending Cases

Appeals by Petitioner:

- *L.P. v. HHS* (Attys' Fees & Costs)
- *Morgan v. HHS* (Entitlement)
- *Orloski v. HHS* (Entitlement)
- *Rocha v. HHS* (Interim Attys' Fees & Costs)
- *Sarver v. HHS* (Entitlement)
- *Tullio v. HHS* (Entitlement)
- *Webb v. HHS* (Entitlement)

Appeals: U.S. Court of Federal Claims

Pending Cases

Appeals by Respondent:

- *Kirby v. HHS* (Entitlement)
- *Middleton v. HHS* (Atty's Fees & Costs)

Scheduled Oral Arguments

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

- *L.M. v. HHS*, March 3, 2020

U.S. Court of Federal Claims:

- None at this time

Adjudicated Settlements*

Reporting Period: 11/16/19 – 2/15/20

Vaccine(s)	Alleged Injury(ies)	Petition Filing to Settlement Filing
1. Meningococcal Conjugate	Severe Aplastic Anemia	4 Years 4 Months
2. Flu	GBS; Polymyalgia Rheumatica	4 Years 4 Months
3. Flu	GBS	3 Years 8 Months
4. Flu	SIRVA	3 Years 7 Months
5. Tdap	GBS; CIDP	3 Years 5 Months
6. Tdap	Ular Nerve Damage	3 Years 5 Months
7. Flu	ADEM; MS	3 Years 3 Months
8. Flu	SIRVA	3 Years 1 Months
9. Flu	TM	2 Years 12 Months
10. DTaP; MMR; IPV	Macrophagic Myofasciitis	2 Years 12 Months
11. Flu	TM	2 Years 11 Months

*Terms of compensated settlements memorialized by Stipulation

Adjudicated Settlements*

Reporting Period: 11/16/19 – 2/15/20

Vaccine(s)	Alleged Injury(ies)	Petition Filing to Settlement Filing
12. DTaP; IPV	Morphea	2 Years 10 Months
13. Flu	CIDP	2 Years 9 Months
14. Flu	CIDP	2 Years 7 Months
15. TDaP	SIRVA	2 Years 6 Months
16. Flu	GBS; CIDP; Quadriplegia; Peripheral Neuropathy; Respiratory Failure	2 Years 6 Months
17. Flu; Hep A; Meningococcal Vaccine	Chronic Urticaria; Angioedema	2 Years 5 Months
18. Prevnar	SIRVA	2 Years 5 Months
19. Flu	GBS	2 Years 5 Months
20. Flu	TM	2 Years 4 Months
21. TDaP	SIRVA	2 Years 3 Months
22. Flu	SIRVA	2 Years 3 Months

*Terms of compensated settlements memorialized by Stipulation

Adjudicated Settlements*

Reporting Period: 11/16/19 – 2/15/20

Vaccine(s)	Alleged Injury(ies)	Petition Filing to Settlement Filing
23. Flu	SIRVA	2 Years 3 Months
24. Tdap	SIRVA	2 Years 3 Months
25. Flu	TM	2 Years 3 Months
26. Tdap; Hep A; Hep B; Twinrix Vaccine	SIRVA	2 Years 3 Months
27. Flu	SIRVA	2 Years 2 Months
28. Flu	GBS	2 Years 1 Months
29. Flu	SIRVA	2 Years 1 Months
30. Flu	SIRVA	2 Years 1 Months
31. Flu	SIRVA	2 Years 1 Months
32. Flu	ADEM	2 Years 1 Month
33. Tdap	SIRVA	1 Year 12 Months

*Terms of compensated settlements memorialized by Stipulation

Adjudicated Settlements*

Reporting Period: 11/16/19 – 2/15/20

Vaccine(s)	Alleged Injury(ies)	Petition Filing to Settlement Filing
34. Flu	SIRVA	1 Year 11 Months
35. Flu	SIRVA	1 Year 11 Months
36. TDaP	Brachial Neuritis	1 Year 10 Months
37. Flu	GBS	1 Year 10 Months
38. Flu	GBS	1 Year 10 Months
39. Flu	SIRVA	1 Year 10 Months
40. Pneumococcal Conjugate	SIRVA	1 Year 9 Months
41. Flu	SIRVA	1 Year 9 Months
42. TDaP	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: 11/16/19 – 2/15/20

Vaccine(s)	Alleged Injury(ies)	Petition Filing to Settlement Filing
45. Flu	SIRVA	1 Year 8 Months
46. Flu	SIRVA	1 Year 7 Months
47. Flu	Vasovagal Syncope	1 Year 7 Months
48. Flu	SIRVA	1 Year 7 Months
49. TDaP	SIRVA	1 Year 7 Months
50. Flu	SIRVA	1 Year 6 Months
51. Flu	SIRVA	1 Year 6 Months
52. Flu	SIRVA	1 Year 6 Months
53. Flu	SIRVA	1 Year 6 Months
54. Flu	SIRVA	1 Year 5 Months
55. Flu	SIRVA	1 Year 5 Months

*Terms of compensated settlements memorialized by Stipulation

Adjudicated Settlements*

Reporting Period: 11/16/19 – 2/15/20

Vaccine(s)	Alleged Injury(ies)	Petition Filing to Settlement Filing
56. Flu	SIRVA	1 Year 5 Months
57. Flu	GBS	1 Year 5 Months
58. Flu	SIRVA	1 Year 5 Months
59. Flu	SIRVA	1 Year 5 Months
60. Flu	SIRVA	1 Year 5 Months
61. Flu	SIRVA	1 Year 5 Months
61. Flu	SIRVA	1 Year 4 Months
63. Flu	SIRVA	1 Year 4 Months
64. Flu	GBS	1 Year 4 Months
65. Flu	GBS	1 Year 4 Months
66. Flu	SIRVA	1 Year 4 Months

*Terms of compensated settlements memorialized by Stipulation

Adjudicated Settlements*

Reporting Period: 11/16/19 – 2/15/20

Vaccine(s)	Alleged Injury(ies)	Petition Filing to Settlement Filing
67. Flu	SIRVA	1 Year 3 Months
68. Flu	SIRVA	1 Year 3 Months
69. Flu	TM	1 Year 3 Months
70. Flu	SIRVA	1 Year 2 Months
71. Flu	SIRVA	1 Year 1 Month
72. Flu	Brachial Neuritis	1 Year 1 Month
73. Flu	GBS	1 Year
74. Flu	SIRVA	1 Year

*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.

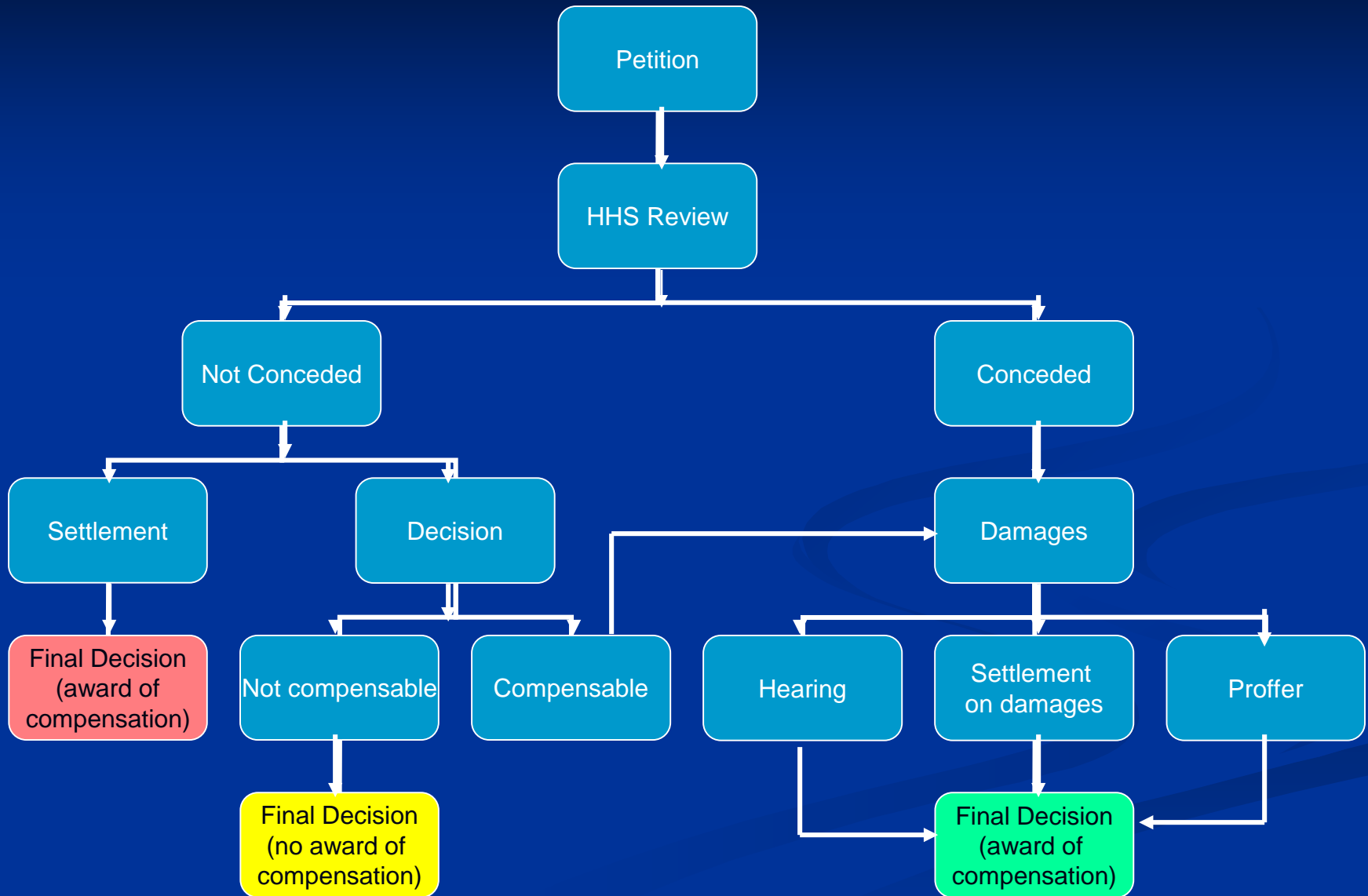
Glossary of Terms

- **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

