benefit of the minor and to take any actions necessary to comply with State law requirements pertaining to such payments. If the requester is an adult who lacks the legal capacity to receive payment(s), the legal guardian must establish a guardianship or conservatorship of the estate account with court oversight, in accordance with State law, and payment will be made to that account. Documentation of guardianship (or conservatorship) is required for requesters who are minors or adults who lack legal capacity unless the Secretary waives this requirement for good cause.

(c) The Secretary has the discretion to make interim payments of benefits under this Program, even before a final determination as to the type(s) and total amount of benefits that will be paid. Interim payments will be made only in exceptional cases. The Secretary may, for example, make an interim payment of medical benefits that have been calculated before a final determination on benefits for lost employment income is completed, or of past medical benefits that have been calculated before a final calculation of future medical benefits is completed. The Secretary may make an interim payment even before a final eligibility or benefits determination is made (e.g., if a piece of documentation has not been obtained because a person with a severe countermeasure-related injury is hospitalized, but all other documentation is consistent with the requester meeting the eligibility requirements). If such a requester’s documentation is incomplete, the requester must submit the required documentation within the time-frame determined by the Secretary. The requester must agree that he or she will be obligated to repay the Secretary such benefits in the event that a Program payment is later determined to be incorrect. Any payments made on an interim basis will not entitle a requester to seek reconsideration of the Secretary’s decision on these benefits until the Secretary makes a final benefits determination.

§ 110.90 The Secretary’s right to recover benefits paid under this Program from third-party payers.

Upon payment of benefits under this Program, the Secretary will be subrogated to the rights of the requester and may assert a claim against any third-party payer with a legal or contractual obligation to pay for (or provide) such benefits and may recover from such third-party payer(s) the amount of benefits paid up to the amount of benefits the third-party payer has or had an obligation to pay for (or provide). In other words, the Secretary may pay benefits before the requester receives a payment from a third-party payer in certain circumstances. In those circumstances, the Secretary has a right to be reimbursed by the third-party payer. The circumstances in which the Secretary may assert this right include those in which the Secretary pays benefits under this Program to a requester before a final decision is made that a third-party payer has an obligation to pay such benefits to the requester. Requesters receiving benefits under this Program (or their representatives) shall assist the Secretary in recovering such benefits. In the event that a requester receives a benefit from a third-party payer after receiving the same type of benefits from the Secretary under this Program, the Secretary has a right to recover from the requester the amount of the benefit(s) received. The requester must notify and reimburse the Program within ten business days of receiving the third-party payment(s).

Subpart J—Reconsideration of the Secretary’s Determinations

§ 110.90 Reconsideration of the Secretary’s eligibility and benefits determinations.

(a) Right of reconsideration. A requester has the right to seek reconsideration of the Secretary’s determination that he or she is not eligible for Program benefits. In addition, a requester who asserts that the amount of the benefits paid (or the fact that certain benefits were not paid or payable)
§ 110.91 Secretary’s review authority.

Under section 319F–4(b)(4) of the Public Health Service Act (42 U.S.C. 247d–6e(b)(4)) (referencing section 262 of the PHS Act (42 U.S.C. 239a)), the Secretary may, at any time, on her own motion or on application, review any determination made under this part (including, but not limited to, determinations concerning eligibility, entitlement to benefits, and the calculation of amount of benefits under the Program). Upon review, the Secretary may affirm, vacate, or modify the determination in any manner the Secretary deems appropriate.

§ 110.92 No additional judicial or administrative review of determinations made under this part.

(a) Under section 319F–4(b)(4) of the PHS Act (42 U.S.C. 247d–6e(b)(4)) (referencing section 262 of the PHS Act (42 U.S.C. 239a)), no judicial review of the Secretary’s actions concerning eligibility and benefits determinations under this part (including, but not limited to, determinations concerning eligibility, the type or amount of benefits, and the method of payment of benefits) is permitted. In addition, no further administrative review of such actions are permitted unless the President specifically directs otherwise.

(b) Under section 319F–4(b)(5)(c) of the PHS Act (42 U.S.C. 247d–6e(b)(5)(c)), no judicial review of the Secretary’s actions in establishing or amending a Table (or Tables) for purposes of this part (which include, but are not limited to, identifying injuries on a Table (or choosing not to identify injuries on a Table), establishing time-frames or definitions for Table injuries, and amending a Table) is permitted.