

be limited to the amount in excess of the amount set forth in section 300aa-11(c)(1)(D)(i) of this title.”

Subsec. (b). Pub. L. 100-203, § 4303(e), substituted “may not include the compensation described in paragraph (1)(B) of subsection (a) of this section and may include attorneys’ fees and other costs included in a judgment under subsection (e) of this section, except that the total amount that may be paid as compensation under paragraphs (3) and (4) of subsection (a) of this section and included as attorneys’ fees and other costs under subsection (e) of this section may not exceed \$30,000” for “shall only include the compensation described in paragraphs (1)(A) and (2) of subsection (a) of this section”.

Pub. L. 100-203, § 4302(b)(1), substituted “effective date of this subpart” for “effective date of this part”.

Subsec. (e)(1). Pub. L. 100-203, § 4307(5), substituted “of the United States Claims Court” for “of a court” in two places.

Subsec. (e)(2). Pub. L. 100-203, § 4302(b), substituted “effective date of this subpart, filed a” for “effective date of this subchapter, filed a” and “effective date of this subpart in preparing” for “effective date of this part in preparing”.

Subsec. (f). Pub. L. 100-203, § 4303(d)(1)(B), (g), added par. (4) and redesignated a second subsec. (f), relating to the Program not being primarily liable, as subsec. (g).

Subsec. (f)(2). Pub. L. 100-203, § 4307(6), substituted “United States Claims Court” for “district court of the United States”.

Subsecs. (g), (h). Pub. L. 100-203, § 4303(g), redesignated a second subsec. (f), relating to the Program not being liable, as (g) and redesignated former subsec. (g) as (h).

Subsecs. (i), (j). Pub. L. 100-203, § 4303(a), (b), added subsecs. (i) and (j).

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102-572 effective Oct. 29, 1992, see section 911 of Pub. L. 102-572, set out as a note under section 171 of Title 28, Judiciary and Judicial Procedure.

EFFECTIVE DATE OF 1991 AMENDMENT

Amendment by section 201(f) of Pub. L. 102-168 effective as if in effect on and after Oct. 1, 1988, see section 201(i)(2) of Pub. L. 102-168, set out as a note under section 300aa-11 of this title.

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101-502 effective Sept. 30, 1990, see section 5(h) of Pub. L. 101-502, set out as a note under section 300aa-11 of this title.

EFFECTIVE DATE OF 1989 AMENDMENT

Amendment by Pub. L. 101-239 applicable to all pending and subsequently filed petitions, see section 6601(s)(2) of Pub. L. 101-239, set out as a note under section 300aa-10 of this title.

EFFECTIVE DATE OF 1988 AMENDMENT

Except as specifically provided in section 411 of Pub. L. 100-360, amendment by Pub. L. 100-360, as it relates to a provision in the Omnibus Budget Reconciliation Act of 1987, Pub. L. 100-203, effective as if included in the enactment of that provision in Pub. L. 100-203, see section 411(a) of Pub. L. 100-360, set out as a Reference to OBRA; Effective Date note under section 106 of Title 1, General Provisions.

§ 300aa-16. Limitations of actions

(a) General rule

In the case of—

(1) a vaccine set forth in the Vaccine Injury Table which is administered before October 1, 1988, if a vaccine-related injury or death oc-

curred as a result of the administration of such vaccine, no petition may be filed for compensation under the Program for such injury or death after the expiration of 28 months after October 1, 1988, and no such petition may be filed if the first symptom or manifestation of onset or of the significant aggravation of such injury occurred more than 36 months after the date of administration of the vaccine,

(2) a vaccine set forth in the Vaccine Injury Table which is administered after October 1, 1988, if a vaccine-related injury occurred as a result of the administration of such vaccine, no petition may be filed for compensation under the Program for such injury after the expiration of 36 months after the date of the occurrence of the first symptom or manifestation of onset or of the significant aggravation of such injury, and

(3) a vaccine set forth in the Vaccine Injury Table which is administered after October 1, 1988, if a death occurred as a result of the administration of such vaccine, no petition may be filed for compensation under the Program for such death after the expiration of 24 months from the date of the death and no such petition may be filed more than 48 months after the date of the occurrence of the first symptom or manifestation of onset or of the significant aggravation of the injury from which the death resulted.

(b) Effect of revised table

If at any time the Vaccine Injury Table is revised and the effect of such revision is to permit an individual who was not, before such revision, eligible to seek compensation under the Program, or to significantly increase the likelihood of obtaining compensation, such person may, notwithstanding section 300aa-11(b)(2) of this title, file a petition for such compensation not later than 2 years after the effective date of the revision, except that no compensation may be provided under the Program with respect to a vaccine-related injury or death covered under the revision of the table if—

(1) the vaccine-related death occurred more than 8 years before the date of the revision of the table, or

(2) the vaccine-related injury occurred more than 8 years before the date of the revision of the table.

(c) State limitations of actions

If a petition is filed under section 300aa-11 of this title for a vaccine-related injury or death, limitations of actions under State law shall be stayed with respect to a civil action brought for such injury or death for the period beginning on the date the petition is filed and ending on the date (1) an election is made under section 300aa-21(a) of this title to file the civil action or (2) an election is made under section 300aa-21(b) of this title to withdraw the petition.

(July 1, 1944, ch. 373, title XXI, § 2116, as added Pub. L. 99-660, title III, § 311(a), Nov. 14, 1986, 100 Stat. 3769; amended Pub. L. 100-203, title IV, § 4302(b)(2), Dec. 22, 1987, 101 Stat. 1330-221; Pub. L. 101-239, title VI, § 6601(m)(1), Dec. 19, 1989, 103 Stat. 2291; Pub. L. 101-502, § 5(e), Nov. 3, 1990, 104

Stat. 1287; Pub. L. 102-168, title II, §201(d)(2), Nov. 26, 1991, 105 Stat. 1103; Pub. L. 103-66, title XIII, §13632(a)(1), Aug. 10, 1993, 107 Stat. 645.)

CODIFICATION

In subsec. (a)(1) to (3), "October 1, 1988" and "October 1, 1988," substituted for "the effective date of this subpart" on authority of section 323 of Pub. L. 99-660, as amended, set out as an Effective Date note under section 300aa-1 of this title.

PRIOR PROVISIONS

A prior section 2116 of act July 1, 1944, was successively renumbered by subsequent acts and transferred, see section 238m of this title.

AMENDMENTS

1993—Subsec. (b). Pub. L. 103-66 substituted "or to significantly increase the likelihood of obtaining compensation, such person may, notwithstanding section 300aa-11(b)(2) of this title, file" for "such person may file".

1991—Subsec. (c). Pub. L. 102-168 substituted "or (2)" for " (2)" and struck out " , or (3) the petition is considered withdrawn under section 300aa-21(b) of this title."

1990—Subsec. (a)(1). Pub. L. 101-502, §5(e)(1), substituted "28 months" for "24 months" and inserted before comma at end "and no such petition may be filed if the first symptom or manifestation of onset or of the significant aggravation of such injury occurred more than 36 months after the date of administration of the vaccine".

Subsec. (c). Pub. L. 101-502, §5(e)(2), substituted "and ending on the date (1) an election is made under section 300aa-21(a) of this title to file the civil action, (2) an election is made under section 300aa-21(b) of this title to withdraw the petition, or (3) the petition is considered withdrawn under section 300aa-21(b) of this title" for "and ending on the date a final judgment is entered on the petition".

1989—Subsec. (c). Pub. L. 101-239 substituted "300aa-11 of this title" for "300aa-11(b) of this title".

1987—Subsec. (a). Pub. L. 100-203 substituted "effective date of this subpart" for "effective date of this subchapter" in pars. (1) to (3).

EFFECTIVE DATE OF 1991 AMENDMENT

Amendment by Pub. L. 102-168 effective as if in effect on and after Oct. 1, 1988, see section 201(i)(2) of Pub. L. 102-168, set out as a note under section 300aa-11 of this title.

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101-502 effective Sept. 30, 1990, see section 5(h) of Pub. L. 101-502, set out as a note under section 300aa-11 of this title.

EFFECTIVE DATE OF 1989 AMENDMENT

For applicability of amendments by Pub. L. 101-239 to petitions filed after Dec. 19, 1989, petitions currently pending in which the evidentiary record is closed, and petitions currently pending in which the evidentiary record is not closed, with provision for an immediate suspension for 30 days of all pending cases, see section 6601(s)(1) of Pub. L. 101-239, set out as a note under section 300aa-10 of this title.

§ 300aa-17. Subrogation

(a) General rule

Upon payment of compensation to any petitioner under the Program, the trust fund which has been established to provide such compensation shall be subrogated¹ to all rights of the pe-

tioner with respect to the vaccine-related injury or death for which compensation was paid, except that the trust fund may not recover under such rights an amount greater than the amount of compensation paid to the petitioner.

(b) Disposition of amounts recovered

Amounts recovered under subsection (a) shall be collected on behalf of, and deposited in, the Vaccine Injury Compensation Trust Fund established under section 9510 of title 26.

(July 1, 1944, ch. 373, title XXI, §2117, as added Pub. L. 99-660, title III, §311(a), Nov. 14, 1986, 100 Stat. 3770; amended Pub. L. 100-203, title IV, §4307(7), Dec. 22, 1987, 101 Stat. 1330-225; Pub. L. 101-239, title VI, §6601(m)(2), Dec. 19, 1989, 103 Stat. 2291.)

AMENDMENTS

1989—Subsec. (b). Pub. L. 101-239 substituted "the Vaccine Injury Compensation Trust Fund established under section 9510 of title 26" for "the trust fund which has been established to provide compensation under the Program".

1987—Subsec. (a). Pub. L. 100-203 struck out par. (1) designation before "Upon" and struck out par. (2) which read as follows: "In any case in which it deems such action appropriate, a district court of the United States may, after entry of a final judgment providing for compensation to be paid under section 300aa-15 of this title for a vaccine-related injury or death, refer the record of such proceeding to the Secretary and the Attorney General with such recommendation as the court deems appropriate with respect to the investigation or commencement of a civil action by the Secretary under paragraph (1)."

EFFECTIVE DATE OF 1989 AMENDMENT

For applicability of amendments by Pub. L. 101-239 to petitions filed after Dec. 19, 1989, petitions currently pending in which the evidentiary record is closed, and petitions currently pending in which the evidentiary record is not closed, with provision for an immediate suspension for 30 days of all pending cases, see section 6601(s)(1) of Pub. L. 101-239, set out as a note under section 300aa-10 of this title.

§ 300aa-18. Repealed. Pub. L. 100-203, title IV, § 4303(d)(2)(B), Dec. 22, 1987, 101 Stat. 1330-222

Section, act July 1, 1944, ch. 373, title XXI, §2118, as added Nov. 14, 1986, Pub. L. 99-660, title III, §311(a), 100 Stat. 3771, provided for annual increases for inflation of compensation under subsections (a)(2) and (a)(4) of section 300aa-15 of this title and civil penalty under section 300aa-27(b) of this title.

§ 300aa-19. Advisory Commission on Childhood Vaccines

(a) Establishment

There is established the Advisory Commission on Childhood Vaccines. The Commission shall be composed of:

(1) Nine members appointed by the Secretary as follows:

(A) Three members who are health professionals, who are not employees of the United States, and who have expertise in the health care of children, the epidemiology, etiology, and prevention of childhood diseases, and the adverse reactions associated with vaccines, of whom at least two shall be pediatricians.

¹ So in original. Probably should be "subrogated".