

the person bringing the action has given written notice of intent to commence such action to the Secretary.

(c) Costs of litigation

The court, in issuing any final order in any action under this section, may award costs of litigation (including reasonable attorney and expert witness fees) to any plaintiff who substantially prevails on one or more significant issues in the action.

(July 1, 1944, ch. 373, title XXI, §2131, as added Pub. L. 99-660, title III, §311(a), Nov. 14, 1986, 100 Stat. 3778; amended Pub. L. 100-203, title IV, §4305, Dec. 22, 1987, 101 Stat. 1330-224.)

AMENDMENTS

1987—Subsec. (c). Pub. L. 100-203, which directed that subsec. (c) be amended by substituting “to any plaintiff who substantially prevails on one or more significant issues in the action” for “to any party, whenever the court determines that such award is appropriate”, was executed by making the substitution for “to any party, whenever the court determines such award is appropriate”, to reflect the probable intent of Congress.

EFFECTIVE DATE

Subpart effective Dec. 22, 1987, see section 323 of Pub. L. 99-660, set out as a note under section 300aa-1 of this title.

§ 300aa-32. Judicial review

A petition for review of a regulation under this part may be filed in a court of appeals of the United States within 60 days from the date of the promulgation of the regulation or after such date if such petition is based solely on grounds arising after such 60th day.

(July 1, 1944, ch. 373, title XXI, §2132, as added Pub. L. 99-660, title III, §311(a), Nov. 14, 1986, 100 Stat. 3778.)

§ 300aa-33. Definitions

For purposes of this part:

(1) The term “health care provider” means any licensed health care professional, organization, or institution, whether public or private (including Federal, State, and local departments, agencies, and instrumentalities) under whose authority a vaccine set forth in the Vaccine Injury Table is administered.

(2) The term “legal representative” means a parent or an individual who qualifies as a legal guardian under State law.

(3) The term “manufacturer” means any corporation, organization, or institution, whether public or private (including Federal, State, and local departments, agencies, and instrumentalities), which manufactures, imports, processes, or distributes under its label any vaccine set forth in the Vaccine Injury Table, except that, for purposes of section 300aa-28 of this title, such term shall include the manufacturer of any other vaccine covered by that section. The term “manufacture” means to manufacture, import, process, or distribute a vaccine.

(4) The term “significant aggravation” means any change for the worse in a preexisting condition which results in markedly greater disability, pain, or illness accompanied by substantial deterioration of health.

(5) The term “vaccine-related injury or death” means an illness, injury, condition, or death associated with one or more of the vaccines set forth in the Vaccine Injury Table, except that the term does not include an illness, injury, condition, or death associated with an adulterant or contaminant intentionally added to such a vaccine.

(6)(A) The term “Advisory Commission on Childhood Vaccines” means the Commission established under section 300aa-19 of this title.

(B) The term “Vaccine Injury Table” means the table set out in section 300aa-14 of this title.

(July 1, 1944, ch. 373, title XXI, §2133, as added Pub. L. 99-660, title III, §311(a), Nov. 14, 1986, 100 Stat. 3778; amended Pub. L. 107-296, title XVII, §§1714-1716, Nov. 25, 2002, 116 Stat. 2320, 2321; Pub. L. 108-7, div. L, §102(a), Feb. 20, 2003, 117 Stat. 528.)

AMENDMENTS

2003—Pars. (3), (5), (7). Pub. L. 108-7 repealed Pub. L. 107-296, §§1714-1717, and provided that this chapter shall be applied as if the sections repealed had never been enacted. See 2002 Amendment notes below.

2002—Par. (3). Pub. L. 107-296, §1714, which directed amendment of first sentence by substituting “any vaccine set forth in the Vaccine Injury table, including any component or ingredient of any such vaccine” for “under its label any vaccine set forth in the Vaccine Injury Table” and of second sentence by inserting “including any component or ingredient of any such vaccine” before period at end, was repealed by Pub. L. 108-7.

Par. (5). Pub. L. 107-296, §1715, which directed insertion of “For purposes of the preceding sentence, an adulterant or contaminant shall not include any component or ingredient listed in a vaccine’s product license application or product label.” at end, was repealed by Pub. L. 108-7.

Par. (7). Pub. L. 107-296, §1716, which directed addition of par. (7), was repealed by Pub. L. 108-7, §102(a). Par. (7) read as follows: “The term ‘vaccine’ means any preparation or suspension, including but not limited to a preparation or suspension containing an attenuated or inactive microorganism or subunit thereof or toxin, developed or administered to produce or enhance the body’s immune response to a disease or diseases and includes all components and ingredients listed in the vaccine’s product license application and product label.”

EFFECTIVE DATE OF 2002 AMENDMENT

Pub. L. 107-296, title XVII, §1717, Nov. 25, 2002, 116 Stat. 2321, which provided that the amendments made by sections 1714, 1715, and 1716 (amending this section) shall apply to all actions or proceedings pending on or after Nov. 25, 2002, unless a court of competent jurisdiction has entered judgment (regardless of whether the time for appeal has expired) in such action or proceeding disposing of the entire action or proceeding, was repealed by Pub. L. 108-7, div. L, §102(a), Feb. 20, 2003, 117 Stat. 528.

CONSTRUCTION OF AMENDMENTS

Pub. L. 108-7, div. L, §102(b), (c), Feb. 20, 2003, 117 Stat. 528, provided that:

“(b) APPLICATION OF THE PUBLIC HEALTH SERVICE ACT.—The Public Health Service Act (42 U.S.C. 201 et seq.) shall be applied and administered as if the sections repealed by subsection (a) [repealing sections 1714 to 1717 of Pub. L. 107-296, which amended this section and enacted provisions set out as a note under this section] had never been enacted.

“(c) RULE OF CONSTRUCTION.—No inference shall be drawn from the enactment of sections 1714 through 1717

of the Homeland Security Act of 2002 (Public Law 107-296), or from this repeal [repealing sections 1714 to 1717 of Pub. L. 107-296], regarding the law prior to enactment of sections 1714 through 1717 of the Homeland Security Act of 2002 (Public Law 107-296) [Nov. 25, 2002]. Further, no inference shall be drawn that subsection (a) or (b) affects any change in that prior law, or that Leroy v. Secretary of Health and Human Services, Office of Special Master, No. 02-392V (October 11, 2002), was incorrectly decided.”

§ 300aa-34. Termination of program

(a) Reviews

The Secretary shall review the number of awards of compensation made under the program to petitioners under section 300aa-11 of this title for vaccine-related injuries and deaths associated with the administration of vaccines on or after December 22, 1987, as follows:

(1) The Secretary shall review the number of such awards made in the 12-month period beginning on December 22, 1987.

(2) At the end of each 3-month period beginning after the expiration of the 12-month period referred to in paragraph (1) the Secretary shall review the number of such awards made in the 3-month period.

(b) Report

(1) If in conducting a review under subsection (a) the Secretary determines that at the end of the period reviewed the total number of awards made by the end of that period and accepted under section 300aa-21(a) of this title exceeds the number of awards listed next to the period reviewed in the table in paragraph (2)—

(A) the Secretary shall notify the Congress of such determination, and

(B) beginning 180 days after the receipt by Congress of a notification under paragraph (1), no petition for a vaccine-related injury or death associated with the administration of a vaccine on or after December 22, 1987, may be filed under section 300aa-11 of this title.

Section 300aa-11(a) of this title and subpart B of this part shall not apply to civil actions for damages for a vaccine-related injury or death for which a petition may not be filed because of subparagraph (B).

(2) The table referred to in paragraph (1) is as follows:

Period reviewed:	Total number of awards by the end of the period reviewed
12 months after December 22, 1987	150
13th through the 15th month after December 22, 1987	188
16th through the 18th month after December 22, 1987	225
19th through the 21st month after December 22, 1987	263
22nd through the 24th month after December 22, 1987	300
25th through the 27th month after December 22, 1987	338
28th through the 30th month after December 22, 1987	375
31st through the 33rd month after December 22, 1987	413
34th through the 36th month after December 22, 1987	450

Period reviewed:

37th through the 39th month after December 22, 1987	488
40th through the 42nd month after December 22, 1987	525
43rd through the 45th month after December 22, 1987	563
46th through the 48th month after December 22, 1987	600.

(July 1, 1944, ch. 373, title XXI, §2134, as added Pub. L. 100-203, title IV, § 4303(f), Dec. 22, 1987, 101 Stat. 1330-222.)

CODIFICATION

In subsecs. (a) and (b), “December 22, 1987” 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.

SUBCHAPTER XX—REQUIREMENTS FOR CERTAIN GROUP HEALTH PLANS FOR CERTAIN STATE AND LOCAL EMPLOYEES

§ 300bb-1. State and local governmental group health plans must provide continuation coverage to certain individuals

(a) In general

In accordance with regulations which the Secretary shall prescribe, each group health plan that is maintained by any State that receives funds under this chapter, by any political subdivision of such a State, or by any agency or instrumentality of such a State or political subdivision, shall provide, in accordance with this subchapter, that each qualified beneficiary who would lose coverage under the plan as a result of a qualifying event is entitled, under the plan, to elect, within the election period, continuation coverage under the plan.

(b) Exception for certain plans

Subsection (a) shall not apply to—

(1) any group health plan for any calendar year if all employers maintaining such plan normally employed fewer than 20 employees on a typical business day during the preceding calendar year, or

(2) any group health plan maintained for employees by the government of the District of Columbia or any territory or possession of the United States or any agency or instrumentality.

(July 1, 1944, ch. 373, title XXII, §2201, as added Pub. L. 99-272, title X, §10003(a), Apr. 7, 1986, 100 Stat. 232; amended Pub. L. 101-239, title VI, §6801(a)(1), Dec. 19, 1989, 103 Stat. 2296.)

AMENDMENTS

1989—Subsec. (b). Pub. L. 101-239 struck out at end “Under regulations, rules similar to the rules of subsections (a) and (b) of section 52 of title 26 (relating to employers under common control) shall apply for purposes of paragraph (1).”

EFFECTIVE DATE OF 1989 AMENDMENT

Pub. L. 101-239, title VI, §6801(a)(2), Dec. 19, 1989, 103 Stat. 2297, provided that: “The amendment made by

Total number of awards by the end of the period reviewed