

on or before the last permissible date specified in paragraph (3), such individual shall be eligible for such compensation and benefits.

(3) The last permissible date referred to in paragraph (2) is the later of the following dates:

(A) April 30, 2003.

(B) The date that is 30 months after the date the individual first becomes aware that an illness covered by part B of a covered employee may be connected to the exposure of the covered employee in the performance of duty under section 7384n of this title.

(d) Covered tort cases

A tort case specified in this subsection is a tort case alleging a claim referred to in section 7385b of this title against a beryllium vendor or atomic weapons employer.

(e) Workers' compensation

This section does not apply to an administrative or judicial proceeding under a State or Federal workers' compensation law.

(Pub. L. 106-398, §1 [div. C, title XXXVI, §3645], Oct. 30, 2000, 114 Stat. 1654, 1654A-510; Pub. L. 107-107, div. C, title XXXI, §3151(a)(5), Dec. 28, 2001, 115 Stat. 1374.)

AMENDMENTS

2001—Subsecs. (a) to (d). Pub. L. 107-107 amended headings and text of subsecs. (a) to (d) generally, substituting present provisions for provisions relating to election to file suit in subsec. (a), applicable time limits in subsec. (b), dismissal of claims in subsec. (c), and dismissal of pending suit in subsec. (d).

§ 7385e. Certification of treatment of payments under other laws

Compensation or benefits provided to an individual under this subchapter—

(1) shall be treated for purposes of the internal revenue laws of the United States as damages for human suffering; and

(2) shall not be included as income or resources for purposes of determining eligibility to receive benefits described in section 3803(c)(2)(C) of title 31 or the amount of such benefits.

(Pub. L. 106-398, §1 [div. C, title XXXVI, §3646], Oct. 30, 2000, 114 Stat. 1654, 1654A-510; Pub. L. 108-375, div. C, title XXXI, §3162(e), Oct. 28, 2004, 118 Stat. 2186.)

AMENDMENTS

2004—Pub. L. 108-375 substituted “this subchapter” for “part B”.

§ 7385f. Claims not assignable or transferable; choice of remedies

(a) Claims not assignable or transferable

No claim cognizable under this subchapter shall be assignable or transferable.

(b) Choice of remedies

No individual may receive more than one payment of compensation under part B.

(Pub. L. 106-398, §1 [div. C, title XXXVI, §3647], Oct. 30, 2000, 114 Stat. 1654, 1654A-511; Pub. L. 108-375, div. C, title XXXI, §3162(f), Oct. 28, 2004, 118 Stat. 2186.)

AMENDMENTS

2004—Subsec. (a). Pub. L. 108-375 substituted “this subchapter” for “part B”.

§ 7385g. Attorney fees

(a) General rule

Notwithstanding any contract, the representative of an individual may not receive, for services rendered in connection with the claim of an individual for payment of lump-sum compensation under part B, more than that percentage specified in subsection (b) of a payment made under part B on such claim.

(b) Applicable percentage limitations

The percentage referred to in subsection (a) is—

(1) 2 percent for the filing of an initial claim for payment of lump-sum compensation; and

(2) 10 percent with respect to objections to a recommended decision denying payment of lump-sum compensation.

(c) Inapplicability to other services

This section shall not apply with respect to services rendered that are not in connection with such a claim for payment of lump-sum compensation.

(d) Penalty

Any such representative who violates this section shall be fined not more than \$5,000.

(Pub. L. 106-398, §1 [div. C, title XXXVI, §3648], Oct. 30, 2000, 114 Stat. 1654, 1654A-511; Pub. L. 107-107, div. C, title XXXI, §3151(a)(6), Dec. 28, 2001, 115 Stat. 1375.)

AMENDMENTS

2001—Subsec. (a). Pub. L. 107-107, §3151(a)(6)(A), inserted “for payment of lump-sum compensation” after “the claim of an individual”.

Subsec. (b)(1). Pub. L. 107-107, §3151(a)(6)(B), inserted “for payment of lump-sum compensation” after “initial claim”.

Subsec. (b)(2). Pub. L. 107-107, §3151(a)(6)(C), substituted “with respect to objections to a recommended decision denying payment of lump-sum compensation” for “with respect to any claim with respect to which a representative has made a contract for services before October 30, 2000”.

Subsecs. (c), (d). Pub. L. 107-107, §3151(a)(6)(D), (E), added subsec. (c) and redesignated former subsec. (c) as (d).

§ 7385h. Certain claims not affected by awards of damages

A payment under this subchapter shall not be considered as any form of compensation or reimbursement for a loss for purposes of imposing liability on any individual receiving such payment, on the basis of such receipt, to repay any insurance carrier for insurance payments, or to repay any person on account of worker's compensation payments; and a payment under this subchapter shall not affect any claim against an insurance carrier with respect to insurance or against any person with respect to worker's compensation.

(Pub. L. 106-398, §1 [div. C, title XXXVI, §3649], Oct. 30, 2000, 114 Stat. 1654, 1654A-511; Pub. L. 108-375, div. C, title XXXI, §3162(g), Oct. 28, 2004, 118 Stat. 2186.)

AMENDMENTS

2004—Pub. L. 108-375 substituted “this subchapter” for “part B” in two places.