

111TH CONGRESS
1ST SESSION

H. R. 4096

To amend the Public Health Service Act to extend the deadlines applicable to filing petitions for compensation under the National Vaccine Injury Compensation Program.

IN THE HOUSE OF REPRESENTATIVES

NOVEMBER 17, 2009

Mr. PERRIELLO introduced the following bill; which was referred to the Committee on Energy and Commerce

A BILL

To amend the Public Health Service Act to extend the deadlines applicable to filing petitions for compensation under the National Vaccine Injury Compensation Program.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “National Vaccine In-
5 jury Compensation Program Modernization Act of 2009”.

6 **SEC. 2. EXTENSION OF FILING DEADLINE.**

7 (a) GENERAL RULE.—Section 2116(a) of the Public
8 Health Service Act (42 U.S.C. 300aa–16(a)) is amend-
9 ed—

1 (1) in paragraph (2), by striking “36 months”
2 and inserting “6 years (excluding any period during
3 which the person who suffered the injury has not yet
4 attained 18 years of age)”; and

5 (2) in paragraph (3)—

6 (A) by striking “24 months” and inserting
7 “6 years”; and

8 (B) by striking “48 months” and inserting
9 “6 years”; and

10 (3) in paragraphs (2) and (3), by striking “the
11 first symptom or manifestation of onset or of the
12 significant aggravation” each place it appears and
13 inserting “the first symptom, manifestation, or diag-
14 nosis, whichever is later, of onset or of the signifi-
15 cant aggravation”.

16 (b) ADDITIONAL PROVISIONS.—Section 2116(a) of
17 the Public Health Service Act (42 U.S.C. 300aa-16(a))
18 is amended by adding at the end the following:

19 “(d) ADDITIONAL EXTENSION.—

20 “(1) MINIMUM PERIOD.—If an injury or death
21 occurs as a result of a vaccine set forth in the Vac-
22 cine Injury Table which is administered after Sep-
23 tember 30, 1988, and before the date of the enact-
24 ment of this subsection, the end of the limitation pe-
25 riod applicable under paragraph (2) or (3) of sub-

1 section (a) for filing a petition for compensation
2 under the Program for such injury or death, not-
3 withstanding the provisions of such paragraphs,
4 shall be not earlier than 2 years after the date of the
5 enactment of this subsection.

6 “(2) EFFECT OF PREVIOUS DISMISSAL.—Not-
7 withstanding section 2111(b)(2), if a petition is filed
8 within the limitation period applicable under para-
9 graph (1), the petition may not be dismissed on the
10 basis of a previous dismissal for untimely filing.

11 “(e) DISCOVERY RULE.—The limitation period appli-
12 cable under paragraph (2) or (3) of subsection (a) shall
13 not begin to run until the person who suffered a vaccine-
14 related injury or death (or the legal representative thereof)
15 first knew or should have reasonably known that the per-
16 son may have experienced a vaccine-related injury or
17 death.”.

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