

(July 1, 1944, ch. 373, title XXI, §2105, as added Pub. L. 99-660, title III, §311(a), Nov. 14, 1986, 100 Stat. 3758.)

Editorial Notes

REFERENCES IN TEXT

Section 300aa-4 of this title, referred to in subsec. (b)(3), (4), was repealed by Pub. L. 105-362, title VI, §601(a)(1)(H), Nov. 10, 1998, 112 Stat. 3285.

PRIOR PROVISIONS

A prior section 300aa-5, act July 1, 1944, §2106, was successively renumbered by subsequent acts and transferred, see section 238c of this title.

A prior section 2105 of act July 1, 1944, was repealed by Pub. L. 99-117, §12(f), Oct. 7, 1985, 99 Stat. 495. See section 300cc-4 of this title.

Statutory Notes and Related Subsidiaries

TERMINATION OF ADVISORY COMMITTEES

Advisory committees established after Jan. 5, 1973, to terminate not later than the expiration of the 2-year period beginning on the date of their establishment, unless, in the case of a committee established by the President or an officer of the Federal Government, such committee is renewed by appropriate action prior to the expiration of such 2-year period, or in the case of a committee established by the Congress, its duration is otherwise provided by law. See section 1013 of Title 5, Government Organization and Employees.

Pub. L. 93-641, §6, Jan. 4, 1975, 88 Stat. 2275, set out as a note under section 217a of this title, provided that an advisory committee established pursuant to the Public Health Service Act shall terminate at such time as may be specifically prescribed by an Act of Congress enacted after Jan. 4, 1975.

§ 300aa-6. Authorization of appropriations

(a) To carry out this part other than section 300aa-2(9) of this title there are authorized to be appropriated such sums as may be necessary for each of the fiscal years 2004 and 2005.

(b) To carry out section 300aa-2(9) of this title there are authorized to be appropriated such sums as may be necessary for each of the fiscal years 2004 and 2005.

(July 1, 1944, ch. 373, title XXI, §2106, as added Pub. L. 99-660, title III, §311(a), Nov. 14, 1986, 100 Stat. 3758; amended Pub. L. 101-502, §4, Nov. 3, 1990, 104 Stat. 1286; Pub. L. 108-276, §2(c), July 21, 2004, 118 Stat. 842.)

Editorial Notes

PRIOR PROVISIONS

A prior section 300aa-6, act July 1, 1944, §2107, was successively renumbered by subsequent acts and transferred, see section 238d of this title.

A prior section 2106 of act July 1, 1944, was successively renumbered by subsequent acts and transferred, see section 238c of this title.

Prior sections 300aa-7 to 300aa-9, act July 1, 1944, §§2108-2110, respectively, were successively renumbered by subsequent acts and transferred, see sections 238e to 238g, respectively, of this title.

AMENDMENTS

2004—Pub. L. 108-276 substituted provisions authorizing appropriations for fiscal years 2004 and 2005 for provisions authorizing appropriations for fiscal years 1991 through 1995 in subsecs. (a) and (b).

1990—Pub. L. 101-502 substituted provisions authorizing appropriations for fiscal years 1991 through 1995

for provisions authorizing appropriations for fiscal years 1987 through 1991 in subsecs. (a) and (b).

PART 2—NATIONAL VACCINE INJURY COMPENSATION PROGRAM

SUBPART A—PROGRAM REQUIREMENTS

§ 300aa-10. Establishment of program

(a) Program established

There is established the National Vaccine Injury Compensation Program to be administered by the Secretary under which compensation may be paid for a vaccine-related injury or death.

(b) Attorney's obligation

It shall be the ethical obligation of any attorney who is consulted by an individual with respect to a vaccine-related injury or death to advise such individual that compensation may be available under the program¹ for such injury or death.

(c) Publicity

The Secretary shall undertake reasonable efforts to inform the public of the availability of the Program.

(July 1, 1944, ch. 373, title XXI, §2110, as added Pub. L. 99-660, title III, §311(a), Nov. 14, 1986, 100 Stat. 3758; amended Pub. L. 101-239, title VI, §6601(b), Dec. 19, 1989, 103 Stat. 2285.)

Editorial Notes

PRIOR PROVISIONS

A prior section 300aa-10, act July 1, 1944, §2111, was successively renumbered by subsequent acts and transferred, see section 238h of this title.

A prior section 2110 of act July 1, 1944, was successively renumbered by subsequent acts and transferred, see section 238g of this title.

AMENDMENTS

1989—Subsec. (c). Pub. L. 101-239 added subsec. (c).

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 1989 AMENDMENT

Section 6601(s) of Pub. L. 101-239, as amended by Pub. L. 102-572, title IX, §902(b)(1), Oct. 29, 1992, 106 Stat. 4516, provided that:

“(1) Except as provided in paragraph (2), the amendments made by this section [amending this section and sections 300aa-11 to 300aa-17, 300aa-21, 300aa-23, 300aa-26, and 300aa-27 of this title] shall apply as follows:

“(A) Petitions filed after the date of enactment of this section [Dec. 19, 1989] shall proceed under the National Vaccine Injury Compensation Program under title XXI of the Public Health Service Act [42 U.S.C. 300aa-1 et seq.] as amended by this section.

“(B) Petitions currently pending in which the evidentiary record is closed shall continue to proceed under the Program in accordance with the law in effect before the date of the enactment of this section, except that if the United States Court of Federal Claims is to review the findings of fact and conclusions of law of a special master on such a petition, the court may receive further evidence in conducting such review.

“(C) Petitions currently pending in which the evidentiary record is not closed shall proceed under the

¹ So in original. Probably should be capitalized.

Program in accordance with the law as amended by this section.

All pending cases which will proceed under the Program as amended by this section shall be immediately suspended for 30 days to enable the special masters and parties to prepare for proceeding under the Program as amended by this section. In determining the 240-day period prescribed by section 2112(d) of the Public Health Service Act [42 U.S.C. 300aa-12(d)], as amended by this section, or the 420-day period prescribed by section 2121(b) of such Act [42 U.S.C. 300aa-21(b)], as so amended, any period of suspension under the preceding sentence shall be excluded.

“(2) The amendments to section 2115 of the Public Health Service Act [42 U.S.C. 300aa-15] shall apply to all pending and subsequently filed petitions.”

EFFECTIVE DATE

Subpart effective Oct. 1, 1988, see section 323 of Pub. L. 99-660, as amended, set out as a note under section 300aa-1 of this title.

§ 300aa-11. Petitions for compensation

(a) General rule

(1) A proceeding for compensation under the Program for a vaccine-related injury or death shall be initiated by service upon the Secretary and the filing of a petition containing the matter prescribed by subsection (c) with the United States Court of Federal Claims. The clerk of the United States Court of Federal Claims shall immediately forward the filed petition to the chief special master for assignment to a special master under section 300aa-12(d)(1) of this title.

(2)(A) No person may bring a civil action for damages in an amount greater than \$1,000 or in an unspecified amount against a vaccine administrator or manufacturer in a State or Federal court for damages arising from a vaccine-related injury or death associated with the administration of a vaccine after October 1, 1988, and no such court may award damages in an amount greater than \$1,000 in a civil action for damages for such a vaccine-related injury or death, unless a petition has been filed, in accordance with section 300aa-16 of this title, for compensation under the Program for such injury or death and—

(i)(I) the United States Court of Federal Claims has issued a judgment under section 300aa-12 of this title on such petition, and

(II) such person elects under section 300aa-21(a) of this title to file such an action, or

(ii) such person elects to withdraw such petition under section 300aa-21(b) of this title or such petition is considered withdrawn under such section.

(B) If a civil action which is barred under subparagraph (A) is filed in a State or Federal court, the court shall dismiss the action. If a petition is filed under this section with respect to the injury or death for which such civil action was brought, the date such dismissed action was filed shall, for purposes of the limitations of actions prescribed by section 300aa-16 of this title, be considered the date the petition was filed if the petition was filed within one year of the date of the dismissal of the civil action.

(3) No vaccine administrator or manufacturer may be made a party to a civil action (other than a civil action which may be brought under

paragraph (2)) for damages for a vaccine-related injury or death associated with the administration of a vaccine after October 1, 1988.

(4) If in a civil action brought against a vaccine administrator or manufacturer before October 1, 1988, damages were denied for a vaccine-related injury or death or if such civil action was dismissed with prejudice, the person who brought such action may file a petition under subsection (b) for such injury or death.

(5)(A) A plaintiff who on October 1, 1988, has pending a civil action for damages for a vaccine-related injury or death may, at any time within 2 years after October 1, 1988, or before judgment, whichever occurs first, petition to have such action dismissed without prejudice or costs and file a petition under subsection (b) for such injury or death.

(B) If a plaintiff has pending a civil action for damages for a vaccine-related injury or death, such person may not file a petition under subsection (b) for such injury or death.

(6) If a person brings a civil action after November 15, 1988 for damages for a vaccine-related injury or death associated with the administration of a vaccine before November 15, 1988, such person may not file a petition under subsection (b) for such injury or death.

(7) If in a civil action brought against a vaccine administrator or manufacturer for a vaccine-related injury or death damages are awarded under a judgment of a court or a settlement of such action, the person who brought such action may not file a petition under subsection (b) for such injury or death.

(8) If on October 1, 1988, there was pending an appeal or rehearing with respect to a civil action brought against a vaccine administrator or manufacturer and if the outcome of the last appellate review of such action or the last rehearing of such action is the denial of damages for a vaccine-related injury or death, the person who brought such action may file a petition under subsection (b) for such injury or death.

(9) This subsection applies only to a person who has sustained a vaccine-related injury or death and who is qualified to file a petition for compensation under the Program.

(10) The Clerk of the United States Claims Court¹ is authorized to continue to receive, and forward, petitions for compensation for a vaccine-related injury or death associated with the administration of a vaccine on or after October 1, 1992.

(b) Petitioners

(1)(A) Except as provided in subparagraph (B), any person who has sustained a vaccine-related injury, the legal representative of such person if such person is a minor or is disabled, or the legal representative of any person who died as the result of the administration of a vaccine set forth in the Vaccine Injury Table may, if the person meets the requirements of subsection (c)(1), file a petition for compensation under the Program.

(B) No person may file a petition for a vaccine-related injury or death associated with a vaccine administered before October 1, 1988, if com-

¹ See Change of Name note below.