

not the death is a result of the illness specified in subsection (b) of this section, a survivor of that employee may, on behalf of that survivor and any other survivors of that employee, receive the compensation provided for under this section.

“(2) The right to receive compensation under this section shall be afforded to survivors in the same order of precedence as that set forth in section 8109 of title 5.”

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 2001 AMENDMENT

Amendment by Pub. L. 107-107 effective July 1, 2001, see section 3151(a)(4)(D) of Pub. L. 107-107, set out as a note under section 7384f of this title.

§ 7384v. Assistance for claimants and potential claimants

(a) Assistance for claimants

The President shall, upon the receipt of a request for assistance from a claimant under the compensation program, provide assistance to the claimant in connection with the claim, including—

- (1) assistance in securing medical testing and diagnostic services necessary to establish the existence of a covered beryllium illness, chronic silicosis, or cancer; and
- (2) such other assistance as may be required to develop facts pertinent to the claim.

(b) Assistance for potential claimants

The President shall take appropriate actions to inform and assist covered employees who are potential claimants under the compensation program, and other potential claimants under the compensation program, of the availability of compensation under the compensation program, including actions to—

- (1) ensure the ready availability, in paper and electronic format, of forms necessary for making claims;
- (2) provide such covered employees and other potential claimants with information and other support necessary for making claims, including—
 - (A) medical protocols for medical testing and diagnosis to establish the existence of a covered beryllium illness, chronic silicosis, or cancer; and
 - (B) lists of vendors approved for providing laboratory services related to such medical testing and diagnosis; and
- (3) provide such additional assistance to such covered employees and other potential claimants as may be required for the development of facts pertinent to a claim.

(c) Information from beryllium vendors and other contractors

As part of the assistance program provided under subsections (a) and (b), and as permitted by law, the Secretary of Energy shall, upon the request of the President, require a beryllium vendor or other Department of Energy contractor or subcontractor to provide information relevant to a claim or potential claim under the compensation program to the President.

(Pub. L. 106-398, §1 [div. C, title XXXVI, §3631], Oct. 30, 2000, 114 Stat. 1654, 1654A-508.)

Executive Documents

DELEGATION OF FUNCTIONS

For delegation of certain functions of the President under this section, see Ex. Ord. No. 13179, Dec. 7, 2000, 65 F.R. 77487, set out as a note under section 7384 of this title.

§ 7384w. Subpoenas; oaths; examination of witnesses

The Secretary of Labor, with respect to any matter under this part, may—

- (1) issue subpoenas for and compel the attendance of witnesses;
- (2) administer oaths;
- (3) examine witnesses; and
- (4) require the production of books, papers, documents, and other evidence.

(Pub. L. 106-398, §1 [div. C, title XXXVI, §3632], as added Pub. L. 108-375, div. C, title XXXI, §3163(a), Oct. 28, 2004, 118 Stat. 2186.)

§ 7384w-1. Completion of site profiles

(a) In general

To the extent that the Secretary of Labor determines it useful and practicable, the Secretary of Labor shall direct the Director of the National Institute for Occupational Safety and Health to prepare site profiles for a Department of Energy facility based on the records, files, and other data provided by the Secretary of Energy and such other information as is available, including information available from the former worker medical screening programs of the Department of Energy.

(b) Information

The Secretary of Energy shall furnish to the Secretary of Labor any information that the Secretary of Labor finds necessary or useful for the production of such site profiles, including records from the Department of Energy former worker medical screening program.

(c) Definition

In this section, the term “site profile” means an exposure assessment of a facility that identifies the toxic substances or processes that were commonly used in each building or process of the facility, and the time frame during which the potential for exposure to toxic substances existed.

(d) Time frames

The Secretary of Health and Human Services shall establish time frames for completing site profiles for those Department of Energy facilities for which a site profile has not been completed. Not later than March 1, 2005, the Secretary of Health and Human Services shall submit to Congress a report setting forth those time frames.

(Pub. L. 106-398, §1 [div. C, title XXXVI, §3633], as added Pub. L. 108-375, div. C, title XXXI, §3166(c), Oct. 28, 2004, 118 Stat. 2189.)

PART C—TREATMENT, COORDINATION, AND FORFEITURE OF COMPENSATION AND BENEFITS

§ 7385. Offset for certain payments

A payment of compensation to an individual, or to a survivor of that individual, under this

subchapter shall be offset by the amount of any payment made pursuant to a final award or settlement on a claim (other than a claim for worker's compensation), against any person, that is based on injuries incurred by that individual on account of the exposure for which compensation is payable under this subchapter.

(Pub. L. 106-398, §1 [div. C, title XXXVI, §3641], Oct. 30, 2000, 114 Stat. 1654, 1654A-509; Pub. L. 108-375, div. C, title XXXI, §3162(a), Oct. 28, 2004, 118 Stat. 2186.)

Editorial Notes

AMENDMENTS

2004—Pub. L. 108-375 substituted “this subchapter” for “part B” and “on account of the exposure for which compensation is payable under this subchapter” for “on account of the exposure of a covered beryllium employee, covered employee with cancer, covered employee with chronic silicosis (as defined in section 7384r of this title), or covered uranium employee (as defined in section 7384u of this title), while so employed, to beryllium, radiation, silica, or radiation, respectively”.

§ 7385a. Subrogation of the United States

Upon payment of compensation under this subchapter, the United States is subrogated for the amount of the payment to a right or claim that the individual to whom the payment was made may have against any person on account of injuries referred to in section 7385 of this title.

(Pub. L. 106-398, §1 [div. C, title XXXVI, §3642], Oct. 30, 2000, 114 Stat. 1654, 1654A-509; Pub. L. 108-375, div. C, title XXXI, §3162(b), Oct. 28, 2004, 118 Stat. 2186.)

Editorial Notes

AMENDMENTS

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

§ 7385b. Payment in full settlement of claims

Except as provided in part E, the acceptance by an individual of payment of compensation under part B with respect to a covered employee shall be in full satisfaction of all claims of or on behalf of that individual against the United States, against a Department of Energy contractor or subcontractor, beryllium vendor, or atomic weapons employer, or against any person with respect to that person's performance of a contract with the United States, that arise out of an exposure referred to in section 7385 of this title.

(Pub. L. 106-398, §1 [div. C, title XXXVI, §3643], Oct. 30, 2000, 114 Stat. 1654, 1654A-509; Pub. L. 108-375, div. C, title XXXI, §3162(c), Oct. 28, 2004, 118 Stat. 2186.)

Editorial Notes

AMENDMENTS

2004—Pub. L. 108-375 substituted “Except as provided in part E, the acceptance” for “The acceptance”.

§ 7385c. Exclusivity of remedy against the United States and against contractors and subcontractors

(a) In general

The liability of the United States or an instrumentality of the United States under this subchapter with respect to a cancer (including a specified cancer), chronic silicosis, covered beryllium illness, or death related thereto of a covered employee is exclusive and instead of all other liability—

- (1) of—
 - (A) the United States;
 - (B) any instrumentality of the United States;
 - (C) a contractor that contracted with the Department of Energy to provide management and operation, management and integration, or environmental remediation of a Department of Energy facility (in its capacity as a contractor);
 - (D) a subcontractor that provided services, including construction, at a Department of Energy facility (in its capacity as a subcontractor); and
 - (E) an employee, agent, or assign of an entity specified in subparagraphs (A) through (D);

- (2) to—
 - (A) the covered employee;
 - (B) the covered employee's legal representative, spouse, dependents, survivors, and next of kin; and
 - (C) any other person, including any third party as to whom the covered employee, or the covered employee's legal representative, spouse, dependents, survivors, or next of kin, has a cause of action relating to the cancer (including a specified cancer), chronic silicosis, covered beryllium illness, or death, otherwise entitled to recover damages from the United States, the instrumentality, the contractor, the subcontractor, or the employee, agent, or assign of one of them,

because of the cancer (including a specified cancer), chronic silicosis, covered beryllium illness, or death in any proceeding or action including a direct judicial proceeding, a civil action, a proceeding in admiralty, or a proceeding under a tort liability statute or the common law.

(b) Applicability

This section applies to all cases filed on or after October 30, 2000.

(c) Workers' compensation

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

(d) Applicability to part E

This section applies with respect to part E to the covered medical condition or covered illness or death of a covered DOE contractor employee on the same basis as it applies with respect to part B to the cancer (including a specified cancer), chronic silicosis, covered beryllium illness, or death of a covered employee.

(Pub. L. 106-398, §1 [div. C, title XXXVI, §3644], Oct. 30, 2000, 114 Stat. 1654, 1654A-509; Pub. L.