

filed with the Secretary of Energy pursuant to part D shall be considered to have been filed with the Secretary as a claim for benefits pursuant to this part.

(Pub. L. 106-398, §1 [div. C, title XXXVI, §3681], as added Pub. L. 108-375, div. C, title XXXI, §3161, Oct. 28, 2004, 118 Stat. 2183.)

#### REFERENCES IN TEXT

Part D, referred to in subsecs. (f)(2), (3) and (g), was repealed by Pub. L. 108-375, div. C, title XXXI, §3162(i), Oct. 28, 2004, 118 Stat. 2186.

### § 7385s-11. Coordination of benefits with respect to State workers compensation

#### (a) In general

An individual who has been awarded compensation under this part, and who has also received benefits from a State workers compensation system by reason of the same covered illness, shall receive compensation specified in this part reduced by the amount of any workers compensation benefits, other than medical benefits and benefits for vocational rehabilitation, that the individual has received under the State workers compensation system by reason of the covered illness, after deducting the reasonable costs, as determined by the Secretary, of obtaining those benefits under the State workers compensation system.

#### (b) Waiver

The Secretary may waive the provisions of subsection (a) if the Secretary determines that the administrative costs and burdens of implementing subsection (a) with respect to a particular case or class of cases justifies such a waiver.

#### (c) Information

Notwithstanding any other provision of law, each State workers compensation authority shall, upon request of the Secretary, provide to the Secretary on a quarterly basis information concerning workers compensation benefits received by any covered DOE contractor employee entitled to compensation or benefits under this part, which shall include the name, Social Security number, and nature and amount of workers compensation benefits for each such employee for which the request was made.

(Pub. L. 106-398, §1 [div. C, title XXXVI, §3682], as added Pub. L. 108-375, div. C, title XXXI, §3161, Oct. 28, 2004, 118 Stat. 2184.)

### § 7385s-12. Maximum aggregate compensation

For each individual whose illness or death serves as the basis for compensation or benefits under this part, the total amount of compensation (other than medical benefits) paid under this part, to all persons, in the aggregate, on the basis of that illness or death shall not exceed \$250,000.

(Pub. L. 106-398, §1 [div. C, title XXXVI, §3683], as added Pub. L. 108-375, div. C, title XXXI, §3161, Oct. 28, 2004, 118 Stat. 2184.)

### § 7385s-13. Funding of administrative costs

There is authorized and hereby appropriated to the Secretary for fiscal year 2005 and there-

after such sums as may be necessary to carry out this part.

(Pub. L. 106-398, §1 [div. C, title XXXVI, §3684], as added Pub. L. 108-375, div. C, title XXXI, §3161, Oct. 28, 2004, 118 Stat. 2184.)

### § 7385s-14. Payment of compensation and benefits from compensation fund

The compensation and benefits provided under this subchapter, when authorized or approved by the President, shall be paid from the compensation fund established under section 7384e of this title.

(Pub. L. 106-398, §1 [div. C, title XXXVI, §3685], as added Pub. L. 108-375, div. C, title XXXI, §3161, Oct. 28, 2004, 118 Stat. 2185.)

### § 7385s-15. Office of Ombudsman

#### (a) Establishment

There is established in the Department of Labor an office to be known as the "Office of the Ombudsman" (in this section referred to as the "Office").

#### (b) Head

The head of the Office shall be the Ombudsman. The individual serving as Ombudsman shall be either of the following:

(1) An officer or employee of the Department of Labor designated by the Secretary for purposes of this section from among officers and employees of the Department who have experience and expertise necessary to carry out the duties of the Office specified in subsection (c).

(2) An individual employed by the Secretary from the private sector from among individuals in the private sector who have experience and expertise necessary to carry out the duties of the Office specified in subsection (c).

#### (c) Duties

The duties of the Office shall be as follows:

(1) To provide information on the benefits available under this part and part B and on the requirements and procedures applicable to the provision of such benefits.

(2) To make recommendations to the Secretary regarding the location of centers (to be known as "resource centers") for the acceptance and development of claims for benefits under this part and part B.

(3) To carry out such other duties with respect to this part and part B as the Secretary shall specify for purposes of this section.

#### (d) Independent Office

The Secretary shall take appropriate actions to ensure the independence of the Office within the Department of Labor, including independence from other officers and employees of the Department engaged in activities relating to the administration of the provisions of this part and part B.

#### (e) Annual report

(1) Not later than July 30 each year, the Ombudsman shall submit to Congress a report on activities under this part and part B.

(2) Each report under paragraph (1) shall set forth the following:

(A) The number and types of complaints, grievances, and requests for assistance received by the Ombudsman under this part and part B during the preceding year.

(B) An assessment of the most common difficulties encountered by claimants and potential claimants under this part and part B during the preceding year.

(3) The first report under paragraph (1) shall be the report submitted in 2006.

(4) Not later than 180 days after the submission to Congress of the annual report under paragraph (1), the Secretary shall submit to Congress in writing, and post on the public Internet website of the Department of Labor, a response to the report that—

(A) includes a statement of whether the Secretary agrees or disagrees with the specific issues raised by the Ombudsman in the report;

(B) if the Secretary agrees with the Ombudsman on those issues, describes the actions to be taken to correct those issues; and

(C) if the Secretary does not agree with the Ombudsman on those issues, describes the reasons the Secretary does not agree.

**(f) Outreach**

The Secretary of Labor and the Secretary of Health and Human Services shall each undertake outreach to advise the public of the existence and duties of the Office.

**(g) National Institute for Occupational Safety and Health Ombudsman**

In carrying out the duties of the Ombudsman under this section, the Ombudsman shall work with the individual employed by the National Institute for Occupational Safety and Health to serve as an ombudsman to individuals making claims under part B.

**(h) Sunset**

Effective October 28, 2019, this section shall have no further force or effect.

(Pub. L. 106–398, §1 [div. C, title XXXVI, §3686], as added Pub. L. 108–375, div. C, title XXXI, §3161, Oct. 28, 2004, 118 Stat. 2185; amended Pub. L. 110–181, div. C, title XXXI, §3116, Jan. 28, 2008, 122 Stat. 578; Pub. L. 111–84, div. C, title XXXI, §3142(a), Oct. 28, 2009, 123 Stat. 2715; Pub. L. 113–291, div. C, title XXXI, §3141(b), Dec. 19, 2014, 128 Stat. 3899.)

AMENDMENTS

2014—Subsec. (e)(1). Pub. L. 113–291, §3141(b)(1)(A), substituted “July 30” for “February 15”.

Subsec. (e)(4). Pub. L. 113–291, §3141(b)(1)(B), added par. (4).

Subsec. (h). Pub. L. 113–291, §3141(b)(2), substituted “2019” for “2012”.

2009—Subsecs. (c) to (e). Pub. L. 111–84, §3142(a)(1)–(3), inserted “and part B” after “this part” wherever appearing.

Subsecs. (g), (h). Pub. L. 111–84, §3142(a)(4), (5), added subsec. (g) and redesignated former subsec. (g) as (h).

2008—Subsec. (g). Pub. L. 110–181 substituted “October 28, 2012” for “on the date that is 3 years after October 28, 2004”.

CONSTRUCTION

Pub. L. 111–84, div. C, title XXXI, §3142(b), Oct. 28, 2009, 123 Stat. 2716, provided that: “Except as specifically provided in subsection (g) of section 3686 of the

Energy Employees Occupational Illness Compensation Program Act of 2000 [42 U.S.C. 7385s–15(g)], as amended by subsection (a) of this section, nothing in the amendments made by such subsection (a) shall be construed to alter or affect the duties and functions of the individual employed by the National Institute for Occupational Safety and Health to serve as an ombudsman to individuals making claims under subtitle B of the Energy Employees Occupational Illness Compensation Program Act of 2000 (42 U.S.C. 7384f et seq.).”

**§ 7385s–16. Advisory Board on Toxic Substances and Worker Health**

**(a) Establishment**

(1) Not later than 120 days after December 19, 2014, the President shall establish and appoint an Advisory Board on Toxic Substances and Worker Health (in this section referred to as the “Board”).

(2) The President shall make appointments to the Board in consultation with organizations with expertise on worker health issues in order to ensure that the membership of the Board reflects a proper balance of perspectives from the scientific, medical, and claimant communities.

(3) The President shall designate a Chair of the Board from among its members.

**(b) Duties**

The Board shall—

(1) advise the Secretary of Labor with respect to—

(A) the site exposure matrices of the Department of Labor;

(B) medical guidance for claims examiners for claims under this part with respect to the weighing of the medical evidence of claimants;

(C) evidentiary requirements for claims under part B related to lung disease; and

(D) the work of industrial hygienists and staff physicians and consulting physicians of the Department and reports of such hygienists and physicians to ensure quality, objectivity, and consistency; and

(2) coordinate exchanges of data and findings with the Advisory Board on Radiation and Worker Health established under section 7384o of this title to the extent necessary.

**(c) Staff and powers**

(1) The President shall appoint a staff to facilitate the work of the Board. The staff of the Board shall be headed by a Director, who shall be appointed under subchapter VIII of chapter 33 of title 5.

(2) The President may authorize the detail of employees of Federal agencies to the Board as necessary to enable the Board to carry out its duties under this section. The detail of such personnel may be on a nonreimbursable basis.

(3) The Secretary may employ outside contractors and specialists to support the work of the Board.

**(d) Conflicts of interest**

No member, employee, or contractor of the Board shall have any financial interest, employment, or contractual relationship (other than a routine consumer transaction) with any person that has provided, or sought to provide during the two years preceding the appointment or dur-