

(2) award compensation previously refused or discontinued.

(b) The action of the Secretary or his designee in allowing or denying a payment under this subchapter is—

(1) final and conclusive for all purposes and with respect to all questions of law and fact; and

(2) not subject to review by another official of the United States or by a court by mandamus or otherwise.

Credit shall be allowed in the accounts of a certifying or disbursing official for payments in accordance with that action.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 545.)

#### HISTORICAL AND REVISION NOTES

<i>Derivation</i>	<i>U.S. Code</i>	<i>Revised Statutes and Statutes at Large</i>
(a) .....	5 U.S.C. 787.	Sept. 7, 1916, ch. 458, §37, 39 Stat. 749. June 5, 1924, ch. 261, §1, 43 Stat. 389.
(b) .....	5 U.S.C. 793 (penultimate sentence of 5th par.).	July 28, 1945, ch. 328, §4 (penultimate sentence), 59 Stat. 504.

In subsection (a), the words “If the original claim for compensation has been made within the time specified in section 770 of this title” are omitted as surplusage. The words “an award for or against payment of compensation” are coextensive with and, for clarity and consistency with section 8124, substituted for “the award”. The second sentence of former section 787 is omitted as included in the penultimate sentence of former section 793, which is carried into subsection (b). The last sentence of former section 787 is omitted as executed.

In subsection (b), the word “official” is substituted for “officer” because of the definition of “officer” in section 2104 which excludes a member of a uniformed service.

Administration of this subchapter was transferred to the Secretary of Labor by section 1 of 1950 Reorg. Plan No. 19, 64 Stat. 1271 (see section 8145).

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface of the report.

#### § 8129. Recovery of overpayments

(a) When an overpayment has been made to an individual under this subchapter because of an error of fact or law, adjustment shall be made under regulations prescribed by the Secretary of Labor by decreasing later payments to which the individual is entitled. If the individual dies before the adjustment is completed, adjustment shall be made by decreasing later benefits payable under this subchapter with respect to the individual's death.

(b) Adjustment or recovery by the United States may not be made when incorrect payment has been made to an individual who is without fault and when adjustment or recovery would defeat the purpose of this subchapter or would be against equity and good conscience.

(c) A certifying or disbursing official is not liable for an amount certified or paid by him when—

(1) adjustment or recovery of the amount is waived under subsection (b) of this section; or

(2) adjustment under subsection (a) of this section is not completed before the death of

all individuals against whose benefits deductions are authorized.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 546.)

#### HISTORICAL AND REVISION NOTES

<i>Derivation</i>	<i>U.S. Code</i>	<i>Revised Statutes and Statutes at Large</i>
.....	5 U.S.C. 788.	Sept. 7, 1916, ch. 458, §38, 39 Stat. 749. Oct. 14, 1949, ch. 691, §206, 63 Stat. 864.

In subsection (a), the words “Subject to the provisions of sections 786 and 787 of this title” and “if any” are omitted as surplusage.

In subsection (c), the word “official” is substituted for “officer” as the definition of “officer” in section 2104 excludes a member of a uniformed service.

Administration of this subchapter was transferred to the Secretary of Labor by section 1 of 1950 Reorg. Plan No. 19, 64 Stat. 1271 (see section 8145).

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

#### § 8130. Assignment of claim

An assignment of a claim for compensation under this subchapter is void. Compensation and claims for compensation are exempt from claims of creditors.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 546.)

#### HISTORICAL AND REVISION NOTES

<i>Derivation</i>	<i>U.S. Code</i>	<i>Revised Statutes and Statutes at Large</i>
.....	5 U.S.C. 775.	Sept. 7, 1916, ch. 458, §25, 39 Stat. 747.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

#### § 8131. Subrogation of the United States

(a) If an injury or death for which compensation is payable under this subchapter is caused under circumstances creating a legal liability on a person other than the United States to pay damages, the Secretary of Labor may require the beneficiary to—

(1) assign to the United States any right of action he may have to enforce the liability or any right he may have to share in money or other property received in satisfaction of that liability; or

(2) prosecute the action in his own name.

An employee required to appear as a party or witness in the prosecution of such an action is in an active duty status while so engaged.

(b) A beneficiary who refuses to assign or prosecute an action in his own name when required by the Secretary is not entitled to compensation under this subchapter.

(c) The Secretary may prosecute or compromise a cause of action assigned to the United States. When the Secretary realizes on the cause of action, he shall deduct therefrom and place to the credit of the Employees' Compensation Fund the amount of compensation already paid to the beneficiary and the expense of realization or collection. Any surplus shall be paid to the beneficiary and credited on future payments of com-