

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 provide guidance and assistance to claimants.
- (3) 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.
- (4) 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.

(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; Pub. L. 116-92, div. C, title XXXI, §3134(a), Dec. 20, 2019, 133 Stat. 1958; Pub. L. 116-283, div. C, title XXXI, §3145, Jan. 1, 2021, 134 Stat. 4387.)

**Editorial Notes**

AMENDMENTS

2021—Subsec. (h). Pub. L. 116-283 struck out subsec. (h) which read as follows: “Effective October 28, 2020, this section shall have no further force or effect.”

2019—Subsec. (c)(2) to (4). Pub. L. 116-92, §3134(a)(1), added par. (2) and redesignated former pars. (2) and (3) as (3) and (4), respectively.

Subsec. (h). Pub. L. 116-92, §3134(a)(2), substituted “2020” for “2019”.

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”.

#### Statutory Notes and Related Subsidiaries

##### 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;

(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;

(E) the claims adjudication process generally, including review of procedure manual changes prior to incorporation into the manual and claims for medical benefits; and

(F) such other matters as the Secretary considers appropriate; 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 during the service of the member, employee, or contractor under this section, goods or services related to medical benefits under this subchapter.

##### (e) Expenses

Members of the Board, other than full-time employees of the United States, while attending meetings of the Board or while otherwise serving at the request of the President, and while serving away from their homes or regular places of business, shall be allowed travel and meal expenses, including per diem in lieu of subsistence (as authorized by section 5703 of title 5) for individuals in the Federal Government serving without pay.

##### (f) Security clearances

(1) The Secretary of Energy shall ensure that the members and staff of the Board, and the contractors performing work in support of the Board, are afforded the opportunity to apply for a security clearance for any matter for which such a clearance is appropriate.

(2) The Secretary of Energy should, not later than 180 days after receiving a completed application for a security clearance for an individual under this subsection, make a determination of whether or not the individual is eligible for the clearance.

(3) For fiscal year 2016 and each fiscal year thereafter, the Secretary of Energy shall include in the budget justification materials submitted to Congress in support of the Department of Energy budget for that fiscal year (as submitted with the budget of the President under section 1105(a) of title 31) a report specifying the number of applications for security clearances under this subsection, the number of such applications granted, and the number of such applications denied.

##### (g) Information

The Secretary of Energy and the Secretary of Labor shall each, in accordance with law, provide to the Board and the contractors of the Board, access to any information that the Board considers relevant to carry out its responsibilities under this section, including information such as Restricted Data (as defined in section 2014(y) of this title) and information covered by section 552a of title 5 (commonly known as the “Privacy Act”). The Secretary of Labor shall make available to the Board the program’s medical director, toxicologist, industrial hygienist and program’s support contractors as requested by the Board.