

42 USC 300aa-13: Determination of eligibility and compensation

Text contains those laws in effect on December 23, 2018

From Title 42-THE PUBLIC HEALTH AND WELFARE

CHAPTER 6A-PUBLIC HEALTH SERVICE

SUBCHAPTER XIX-VACCINES

Part 2-National Vaccine Injury Compensation Program

subpart a-program requirements

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§300aa–13. Determination of eligibility and compensation**(a) General rule**

(1) Compensation shall be awarded under the Program to a petitioner if the special master or court finds on the record as a whole-

(A) that the petitioner has demonstrated by a preponderance of the evidence the matters required in the petition by section 300aa–11(c)(1) of this title, and

(B) that there is not a preponderance of the evidence that the illness, disability, injury, condition, or death described in the petition is due to factors unrelated to the administration of the vaccine described in the petition.

The special master or court may not make such a finding based on the claims of a petitioner alone, unsubstantiated by medical records or by medical opinion.

(2) For purposes of paragraph (1), the term "factors unrelated to the administration of the vaccine"-

(A) does not include any idiopathic, unexplained, unknown, hypothetical, or undocumentable cause, factor, injury, illness, or condition, and

(B) may, as documented by the petitioner's evidence or other material in the record, include infection, toxins, trauma (including birth trauma and related anoxia), or metabolic disturbances which have no known relation to the vaccine involved, but which in the particular case are shown to have been the agent or agents principally responsible for causing the petitioner's illness, disability, injury, condition, or death.

(b) Matters to be considered

(1) In determining whether to award compensation to a petitioner under the Program, the special master or court shall consider, in addition to all other relevant medical and scientific evidence contained in the record-

(A) any diagnosis, conclusion, medical judgment, or autopsy or coroner's report which is contained in the record regarding the nature, causation, and aggravation of the petitioner's illness, disability, injury, condition, or death, and

(B) the results of any diagnostic or evaluative test which are contained in the record and the summaries and conclusions.

Any such diagnosis, conclusion, judgment, test result, report, or summary shall not be binding on the special master or court. In evaluating the weight to be afforded to any such diagnosis, conclusion, judgment, test result, report, or summary, the special master or court shall consider the entire record and the course of the injury, disability, illness, or condition until the date of the judgment of the special master or court.

(2) The special master or court may find the first symptom or manifestation of onset or significant aggravation of an injury, disability, illness, condition, or death described in a petition occurred within the time period described in the Vaccine Injury Table even though the occurrence of such symptom or manifestation was not recorded or was incorrectly recorded as having occurred outside such period. Such a finding may be made only upon demonstration by a preponderance of the evidence that the onset or significant aggravation of the injury, disability, illness, condition, or death described in the petition did in fact occur within the time period described in the Vaccine Injury Table.

(c) "Record" defined

For purposes of this section, the term "record" means the record established by the special masters of the United States Court of Federal Claims in a proceeding on a petition filed under section 300aa–11 of this title.

(July 1, 1944, ch. 373, title XXI, §2113, as added Pub. L. 99–660, title III, §311(a), Nov. 14, 1986, 100 Stat. 3763 ; amended Pub. L. 100–203, title IV, §4307(4), Dec. 22, 1987, 101 Stat. 1330–224 ; Pub. L. 101–239, title VI, §6601(j), Dec. 19, 1989, 103 Stat. 2290 ; Pub. L. 101–502, §5(c), Nov. 3, 1990, 104 Stat. 1287 ; Pub. L. 102–572, title IX, §902(b)(1), Oct. 29, 1992, 106 Stat. 4516 .)

PRIOR PROVISIONS

A prior section 300aa–13, act July 1, 1944, §2114, was successively renumbered by subsequent acts and transferred, see section 238k of this title.

A prior section 2113 of act July 1, 1944, was successively renumbered by subsequent acts and transferred, see section 238j of this title.

AMENDMENTS

1992-Subsec. (c). Pub. L. 102–572 substituted "United States Court of Federal Claims" for "United States Claims Court".

1990-Subsec. (c). Pub. L. 101–502 inserted "the" after "special masters of".

1989-Subsecs. (a)(1), (b). Pub. L. 101–239, §6601(j)(1), substituted "special master or court" for "court" wherever appearing.

Subsec. (c). Pub. L. 101–239, §6601(j)(2), inserted "special masters of" after "established by the".

1987-Subsec. (c). Pub. L. 100–203 substituted "the United States Claims Court" for "a district court of the United States".

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102–572 effective Oct. 29, 1992, see section 911 of Pub. L. 102–572, set out as a note under section 171 of Title 28, Judiciary and Judicial Procedure.

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101–502 effective Sept. 30, 1990, see section 5(h) of Pub. L. 101–502, set out as a note under section 300aa–11 of this title.

EFFECTIVE DATE OF 1989 AMENDMENT

For applicability of amendments by Pub. L. 101–239 to petitions filed after Dec. 19, 1989, petitions currently pending in which the evidentiary record is closed, and petitions currently pending in which the evidentiary record is not closed, with provision for an immediate suspension for 30 days of all pending cases, see section 6601(s)(1) of Pub. L. 101–239, set out as a note under section 300aa–10 of this title.