

42 USC 300aa-16: Limitations of actions

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–16. Limitations of actions**(a) General rule**

In the case of-

(1) a vaccine set forth in the Vaccine Injury Table which is administered before October 1, 1988, if a vaccine-related injury or death occurred as a result of the administration of such vaccine, no petition may be filed for compensation under the Program for such injury or death after the expiration of 28 months after October 1, 1988, and no such petition may be filed if the first symptom or manifestation of onset or of the significant aggravation of such injury occurred more than 36 months after the date of administration of the vaccine,

(2) a vaccine set forth in the Vaccine Injury Table which is administered after October 1, 1988, if a vaccine-related injury occurred as a result of the administration of such vaccine, no petition may be filed for compensation under the Program for such injury after the expiration of 36 months after the date of the occurrence of the first symptom or manifestation of onset or of the significant aggravation of such injury, and

(3) a vaccine set forth in the Vaccine Injury Table which is administered after October 1, 1988, if a death occurred as a result of the administration of such vaccine, no petition may be filed for compensation under the Program for such death after the expiration of 24 months from the date of the death and no such petition may be filed more than 48 months after the date of the occurrence of the first symptom or manifestation of onset or of the significant aggravation of the injury from which the death resulted.

(b) Effect of revised table

If at any time the Vaccine Injury Table is revised and the effect of such revision is to permit an individual who was not, before such revision, eligible to seek compensation under the Program, or to significantly increase the likelihood of obtaining compensation, such person may, notwithstanding section 300aa–11(b)(2) of this title, file a petition for such compensation not later than 2 years after the effective date of the revision, except that no compensation may be provided under the Program with respect to a vaccine-related injury or death covered under the revision of the table if-

(1) the vaccine-related death occurred more than 8 years before the date of the revision of the table, or

(2) the vaccine-related injury occurred more than 8 years before the date of the revision of the table.

(c) State limitations of actions

If a petition is filed under section 300aa–11 of this title for a vaccine-related injury or death, limitations of actions under State law shall be stayed with respect to a civil action brought for such injury or death for the period beginning on the date the petition is filed and ending on the date (1) an election is made under section 300aa–21(a) of this title to file the civil action or (2) an election is made under section 300aa–21(b) of this title to withdraw the petition.

(July 1, 1944, ch. 373, title XXI, §2116, as added Pub. L. 99–660, title III, §311(a), Nov. 14, 1986, 100 Stat. 3769 ; amended Pub. L. 100–203, title IV, §4302(b)(2), Dec. 22, 1987, 101 Stat. 1330–221 ; Pub. L. 101–239, title VI, §6601(m)(1), Dec. 19, 1989, 103 Stat. 2291 ; Pub. L. 101–502, §5(e), Nov. 3, 1990, 104 Stat. 1287 ; Pub. L. 102–168, title II, §201(d)(2), Nov. 26, 1991, 105 Stat. 1103 ; Pub. L. 103–66, title XIII, §13632(a)(1), Aug. 10, 1993, 107 Stat. 645 .)

CODIFICATION

In subsec. (a)(1) to (3), "October 1, 1988" and "October 1, 1988," substituted for "the effective date of this subpart" on authority of section 323 of Pub. L. 99–660, as amended, set out as an Effective Date note under section 300aa–1 of this title.

PRIOR PROVISIONS

A prior section 2116 of act July 1, 1944, was successively renumbered by subsequent acts and transferred, see section 238m of this title.

AMENDMENTS

1993-Subsec. (b). Pub. L. 103–66 substituted "or to significantly increase the likelihood of obtaining compensation, such person may, notwithstanding section 300aa–11(b)(2) of this title, file" for "such person may file".

1991-Subsec. (c). Pub. L. 102–168 substituted "or (2)" for ", (2)" and struck out ", or (3) the petition is considered withdrawn under section 300aa–21(b) of this title."

1990-Subsec. (a)(1). Pub. L. 101–502, §5(e)(1), substituted "28 months" for "24 months" and inserted before comma at end "and no such petition may be filed if the first symptom or manifestation of onset or of the significant aggravation of such injury occurred more than 36 months after the date of administration of the vaccine".

Subsec. (c). Pub. L. 101–502, §5(e)(2), substituted "and ending on the date (1) an election is made under section 300aa–21(a) of this title to file the civil action, (2) an election is made under section 300aa–21(b) of this title to withdraw the petition, or (3) the petition is considered withdrawn under section 300aa–21(b) of this title" for "and ending on the date a final judgment is entered on the petition".

1989-Subsec. (c). Pub. L. 101–239 substituted "300aa–11 of this title" for "300aa–11(b) of this title".

1987-Subsec. (a). Pub. L. 100–203 substituted "effective date of this subpart" for "effective date of this subchapter" in pars. (1) to (3).

EFFECTIVE DATE OF 1991 AMENDMENT

Amendment by Pub. L. 102–168 effective as if in effect on and after Oct. 1, 1988, see section 201(i)(2) of Pub. L. 102–168, set out as a note under section 300aa–11 of this title.

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.