

be payable under subparagraph (A) without regard to this subparagraph, benefits shall be available under paragraph (1) to the extent necessary to ensure that the survivor or survivors of such individual receives a total amount equal to the amount described in paragraph (2).

(b) Election in case of dependents

(1) In general

In the case of an eligible individual whose death is determined to have resulted from a covered injury or injuries, if the individual had one or more dependents under the age of 18, the legal guardian of the dependents may, in lieu of the death benefit under subsection (a) of this section, elect to receive on behalf of the aggregate of such dependents payments in accordance with this subsection. An election under the preceding sentence is effective in lieu of a request under subsection (a) of this section by an individual who is not the legal guardian of such dependents.

(2) Amount of payments

Payments under paragraph (1) with respect to an eligible individual described in such paragraph shall be made as if such individual were an eligible individual to whom compensation would be paid under subsection (a) of section 239d of this title, with the rate augmented in accordance with subsection (b)(2) of such section and with such individual considered to be an eligible individual described in subsection (c)(3)(B) of such section.

(3) Limitations

(A) Age of dependents

No payments may be made under paragraph (1) once the youngest of the dependents involved reaches the age of 18.

(B) Benefits secondary to other coverage

(i) In general

Any payment under paragraph (1) shall be secondary to the obligation of the United States or any third party (including any State or local governmental entity, private insurance carrier, or employer), under any other law or contractual agreement, to pay compensation for loss of employment income or to provide disability benefits, retirement benefits, life insurance benefits on behalf of dependents under the age of 18, or death benefits.

(ii) Relation to other obligations

Payments under paragraph (1) shall not be made to with respect to¹ an eligible individual to the extent that the total of amounts paid with respect to the individual under such paragraph and under the other obligations referred to in clause (i) is an amount that exceeds the rate of payment that applies under paragraph (2). If under any such other obligation a lump-sum payment is made, such payment shall, for purposes of this subparagraph, be deemed to be received over multiple years rather than received in a single year. The

Secretary may, in the discretion of the Secretary, determine how to apportion such payment over multiple years.

(c) Benefit in addition to medical benefits

A benefit under subsection (a) or (b) of this section shall be in addition to any amounts received by an eligible individual under section 239c of this title.

(July 1, 1944, ch. 373, title II, §266, as added Pub. L. 108-20, §2, Apr. 30, 2003, 117 Stat. 643.)

REFERENCES IN TEXT

The Omnibus Crime Control and Safe Streets Act of 1968, referred to in subsec. (a)(1), (2)(A), (3), is Pub. L. 90-351, June 19, 1968, 82 Stat. 197, as amended. Subpart 1 of part L of title I of the Act is classified generally to part A (§3796 et seq.) of subchapter XII of chapter 46 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 3711 of this title and Tables.

§ 239f. Administration

(a) Administration by agreement with other agency or agencies

The Secretary may administer any or all of the provisions of this part through Memorandum of Agreement with the head of any appropriate Federal agency.

(b) Regulations

The head of the agency administering this part or provisions thereof (including any agency head administering such Act¹ or provisions through a Memorandum of Agreement under subsection (a) of this section) may promulgate such implementing regulations as may be found necessary and appropriate. Initial implementing regulations may be interim final regulations.

(July 1, 1944, ch. 373, title II, §267, as added Pub. L. 108-20, §2, Apr. 30, 2003, 117 Stat. 645.)

§ 239g. Authorization of appropriations

For the purpose of carrying out this part, there are authorized to be appropriated such sums as may be necessary for each of the fiscal years 2003 through 2007, to remain available until expended, including administrative costs and costs of provision and payment of benefits. The Secretary's payment of any benefit under section 239c, 239d, or 239e of this title shall be subject to the availability of appropriations under this section.

(July 1, 1944, ch. 373, title II, §268, as added Pub. L. 108-20, §2, Apr. 30, 2003, 117 Stat. 645.)

§ 239h. Relationship to other laws

Except as explicitly provided herein, nothing in this part shall be construed to override or limit any rights an individual may have to seek compensation, benefits, or redress under any other provision of Federal or State law.

(July 1, 1944, ch. 373, title II, §269, as added Pub. L. 108-20, §2, Apr. 30, 2003, 117 Stat. 645.)

¹ So in original.

¹ So in original. Probably should be "part".