### § 937. Contracts and grants

#### (a) Construction, purchase, and operation of fixed-site and mobile clinical facilities

The Secretary of Health and Human Services is authorized to enter into contracts with, and make grants to, public and private agencies and organizations and individuals for the construction, purchase, and operation of fixed-site and mobile clinical facilities for the analysis, examination, and treatment of respiratory and pulmonary impairments in active and inactive coal miners. The Secretary shall coordinate the making of such contracts and grants with the Appalachian Regional Commission.

#### (b) Research activities

The Secretary of Health and Human Services shall initiate research within the National Institute for Occupational Safety and Health, and is authorized to make research grants to public and private agencies and organizations and individuals for the purpose of devising simple and effective tests to measure, detect, and treat respiratory and pulmonary impairments in active and inactive coal miners. Any grant made pursuant to this subsection shall be conditioned upon all information, uses, products, processes, patents, and other developments resulting from such research being available to the general public, except to the extent of such exceptions and limitations as the Secretary of Health and Human Services may deem necessary in the public interest.

#### (c) Authorization of appropriations

There is hereby authorized to be appropriated for the purpose of subsection (a) of this section $10,000,000 for each fiscal year. There are hereby authorized to be appropriated for the purposes of subsection (b) of this section such sums as are necessary.

(Pub. L. 91–173, title IV, § 427, as added Pub. L. 92–303, § 5(6), May 19, 1972, 86 Stat. 155; amended Pub. L. 95–239, § 9, Mar. 1, 1978, 92 Stat. 100; Pub. L. 96–88, title V, § 509(b), Oct. 17, 1979, 93 Stat. 695.)

AMENDMENTS

1978—Subsec. (c). Pub. L. 95–239 substituted ''$10,000,000 for each fiscal year'' for ''$10,000,000 for each of the fiscal years ending June 30, 1973, June 30, 1974, and June 30, 1975''.

CHANGE OF NAME

''Secretary of Health and Human Services'' substituted for ''Secretary of Health, Education, and Welfare'' in subsecs. (a) and (b) pursuant to section 509(b) of Pub. L. 96–88 which is classified to section 3508(b) of Title 20, Education.

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95–239 effective Mar. 1, 1978, see section 20(a) of Pub. L. 95–239, set out as a note under section 901 of this title.

### § 938. Miners suffering from pneumoconiosis; discrimination prohibited

#### (a) Mine operators

No operator shall discharge or in any other way discriminate against any miner employed by him by reason of the fact that such miner is suffering from pneumoconiosis. No person shall cause or attempt to cause an operator to violate this section. For the purposes of this subsection the term ''miner'' shall not include any person who has been found to be totally disabled.

#### (b) Determination by Secretary; procedure

Any miner who believes that he has been discharged or otherwise discriminated against by any person in violation of subsection (a) of this section, or any representative of such miner may, within ninety days after such violation occurs, apply to the Secretary for a review of such alleged discharge or discrimination. A copy of the application shall be sent to such person who shall be the respondent. Upon receipt of such application, the Secretary shall cause such investigation to be made as he deems appropriate. Such investigation shall provide an opportunity for a public hearing at the request of any party to enable the parties to present information relating to such violation. The parties shall be given written notice of the time and place of the hearing at least five days prior to the hearing. Any such hearing shall be of record and shall be subject to section 554 of title 5. Each administrative law judge presiding under this section and under the provisions of subchapters I, II and III of this chapter shall receive compensation at a rate determined under section 5372 of title 5. Upon receiving the report of such investigation, the Secretary shall make findings of fact. If he finds that such violation did occur, he shall issue a decision, incorporating an order therein, requiring the person committing such violation to take such affirmative action as the Secretary deems appropriate, including, but not limited to, the rehiring or reinstatement of the miner to his former position with back pay. If he finds that there was no such violation, he shall issue an order denying the application. Such order shall incorporate the Secretary's findings therein.

#### (c) Costs and penalties

Whenever an order is issued under this subsection granting relief to a miner at the request of such miner, a sum equal to the aggregate amount of all costs and expenses (including the attorney's fees) as determined by the Secretary to have been reasonably incurred by such miner for, or in connection with, the institution and prosecution of such proceedings, shall be assessed against the person committing the violation.

(Pub. L. 91–173, title IV, § 428, as added Pub. L. 92–303, § 5(7), May 19, 1972, 86 Stat. 155; amended Pub. L. 95–251, § 2(a)(9), Mar. 27, 1978, 92 Stat. 183; Pub. L. 101–509, title V, § 529 [title I, § 104(d)(3)], Nov. 5, 1990, 104 Stat. 1427, 1447.)

AMENDMENTS

1990—Subsec. (b). Pub. L. 101–509 amended seventh sentence generally, substituting ''determined under section 5372 of title 5'' for ''not less than that prescribed for GS–16 under section 5332 of title 5''.

1978—Subsec. (b). Pub. L. 95–251 substituted ''administrative law judge'' for ''hearing examiner''.

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101–509 effective on such date as the President shall determine, but not earlier than

90 days, and not later than 180 days, after Nov. 5, 1990, see section 529 [title III, § 305] of Pub. L. 101–509, set out as a note under section 5301 of Title 5, Government Organization and Employees.

### § 939. Authorization of appropriations

There is authorized to be appropriated to the Secretary of Labor such sums as may be necessary to carry out his responsibilities under this subchapter. Such sums shall remain available until expended.

(Pub. L. 91–173, title IV, § 429, as added Pub. L. 92–303, § 5(8), May 19, 1972, 86 Stat. 156.)

### § 940. Applicability of amendments to part B of this subchapter to this part

The amendments made by the Black Lung Benefits Act of 1972, the Black Lung Benefits Reform Act of 1977 and the Black Lung Benefits Amendments of 1981 to part B of this subchapter shall, to the extent appropriate, also apply to this part.

(Pub. L. 91–173, title IV, § 430, as added Pub. L. 92–303, § 5(10), May 19, 1972, 86 Stat. 156; amended Pub. L. 95–239, § 10, Mar. 1, 1978, 92 Stat. 100; Pub. L. 97–119, title II, § 202(d), Dec. 29, 1981, 95 Stat. 1643.)

REFERENCES IN TEXT

The Black Lung Benefits Act of 1972, referred to in text, is Pub. L. 92–303, May 19, 1972, 86 Stat. 150, as amended, which is classified generally to sections 901, 902, 921 to 925, 931 to 934, and 936 to 941 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 901 of this title and Tables.

The Black Lung Benefits Reform Act of 1977, referred to in text, is Pub. L. 95–239, Mar. 1, 1978, 92 Stat. 95. For complete classification of this Act to the Code, see Short Title of 1978 Amendment note set out under section 801 of this title and Tables.

The Black Lung Benefits Amendments of 1981, referred to in text, is Pub. L. 97–119, title II, Dec. 29, 1981, 95 Stat. 1643, which amended this section and sections 901, 902, 921, 922, 923, and 932 of this title and enacted provisions set out as notes under section 901 of this title. For complete classification of this Act to the Code, see Short Title of 1981 Amendment note set out under section 801 of this title and Tables.

AMENDMENTS

1981—Pub. L. 97–119 inserted ", and the Black Lung Benefits Amendments of 1981".

1978—Pub. L. 95–239 inserted reference to amendments made by the Black Lung Benefits Reform Act of 1977 and struck out provision that, for the purpose of determining the applicability of the presumption established by 921(c)(4) of this title to claims filed under this part, no period of employment after June 30, 1971, could be considered in determining whether a miner was employed at least fifteen years in one or more underground mines.

EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by Pub. L. 97–119 effective Jan. 1, 1982, except as otherwise provided, see section 206(a) of Pub. L. 97–119, set out as a note under section 901 of this title.

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95–239 effective Mar. 1, 1978, see section 20(a) of Pub. L. 95–239, set out as a note under section 901 of this title.

### § 941. Penalty for false statements or representations

Any person who willfully makes any false or misleading statement or representation for the purpose of obtaining any benefit or payment under this subchapter shall be guilty of a misdemeanor and on conviction thereof shall be punished by a fine of not more than $1,000, or by imprisonment for not more than one year, or both.

(Pub. L. 91–173, title IV, § 431, as added Pub. L. 92–303, § 6, May 19, 1972, 86 Stat. 156; amended Pub. L. 95–239, § 12(a), Mar. 1, 1978, 92 Stat. 101.)

AMENDMENTS

1978—Pub. L. 95–239 substituted provisions setting the penalty for making false or misleading statements or representations for the purpose of obtaining benefits or payments for provisions relating to the Secretary's duty to disseminate to all persons who filed claims under this subchapter prior to May 19, 1972, information on the review provisions under the Black Lung Benefits Act of 1972.

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95–239 effective Mar. 1, 1978, see section 20(a) of Pub. L. 95–239, set out as a note under section 901 of this title.

### § 942. Miner benefit entitlement reports; penalty for failure or refusal to file

(a) The Secretary may by regulation require employers to file reports concerning miners who may be or are entitled to benefits under this part, including the date of commencement and cessation of benefits and the amount of such benefits. Any such report shall not be evidence of any fact stated therein in any proceeding relating to death or total disability due to pneumoconiosis of any miner to which such report relates.

(b) Any employer who fails or refuses to file any report required of such employer under this section shall be subject to a civil penalty of not more than $500 for each such failure or refusal.

(Pub. L. 91–173, title IV, § 432, as added Pub. L. 95–239, § 12(b), Mar. 1, 1978, 92 Stat. 101.)

EFFECTIVE DATE

Section effective Mar. 1, 1978, see section 20(a) of Pub. L. 95–239, set out as an Effective Date of 1978 Amendment note under section 901 of this title.

### § 943. Black lung insurance program

#### (a) Authorization to establish and carry out

The Secretary is authorized to establish and carry out a black lung insurance program which will enable operators of coal mines to purchase insurance covering their obligations under section 932 of this title.

#### (b) Non-availability of other insurance coverage

The Secretary may exercise his or her authority under this section only if, and to the extent that, insurance coverage is not otherwise available, at reasonable cost, to operators of coal mines.

#### (c) Agreements with coal mine operators; reinsurance agreements

(1) The Secretary may enter into agreements with operators of coal mines who may be liable