

requester must submit, at a minimum, a completed Request Form postmarked within the filing deadlines established by this regulation. If requesters choose to use a commercial carrier such as Federal Express, United Parcel Service, Emery, etc., or a private delivery service, in the absence of a postmark, the date that the Request Form or Request Package is marked as received by the delivery service will be considered the equivalent of a postmark. Requesters must send their Request Forms and Request Packages to the applicable address listed in § 102.41.

Representatives of Requesters (§ 102.44)

This program has been designed so that requesters do not need to retain the services of lawyers to pursue benefits under this program. However, as provided in § 102.44, requesters may have a legal or personal representative submit the Request Form and/or Request Package on their behalf. A legally competent requester must certify on the Request Form that he or she has authorized the representative to submit the Request Package on his or her behalf. Requesters who are minors or legally incompetent adults will require the assistance of a representative (who does not need to be a lawyer). Representatives of requesters who are minors or adults determined by a court to be legally incompetent are required to submit specific documentation, in addition to the documentation generally required of requesters, which is described in § 102.63. The representative of a requester is required to submit the documents that would ordinarily be required of the requester. For example, if this regulation requires a requester to submit his or her medical records, the requester's representative would be required to submit the same records on behalf of the requester.

The Secretary will direct all correspondence to, and communicate exclusively with, a requester's representative unless the Secretary is advised that the representation has stopped. As explained above, although legal representation is permitted, it is not needed for filing for program benefits. As described in § 102.44(d), the Secretary will not be responsible for the payment of any fees for the services of legal or personal representatives or for any associated costs.

Filing Deadlines (§ 102.42)

Smallpox vaccine recipients who have a covered injury have one year from the date of a smallpox vaccination administered during the effective period of the Declaration (between January 24, 2003, and January 23, 2004, unless the

Secretary extends the time period) to submit a Request Form. This deadline applies even if the requester's injury was the direct result of a covered countermeasure other than the smallpox vaccine (e.g., *cidofovir*) that was administered after the vaccine administration. Vaccinia contacts have two years to submit their Request Forms from the date of the onset of the covered injury, as documented in their medical records. Because the SEPPA, in its discussion of filing deadlines, refers to requests based on the administration of the smallpox vaccine and requests based on accidental vaccinia inoculation, the filing deadlines that apply to Request Forms filed by smallpox vaccine recipients or vaccinia contacts are the same filing deadlines that apply to Request Forms filed by the survivors or the representatives of the estates of deceased smallpox vaccine recipients and vaccinia contacts. However, as explained later in the preamble, if a smallpox vaccine recipient or vaccinia contact filed a timely Request Form and later died, his or her survivors (or the representative of his or her estate) could file an amendment to that Request Package outside of the filing deadline. Because the administration of smallpox covered countermeasures other than the smallpox vaccine (*cidofovir* and its derivatives or *Vaccinia Immune Globulin*), in the context of this program, generally relates back to complications arising from the administration of the smallpox vaccine or of accidental vaccinia inoculation, the filing deadlines set forth in § 102.42 extend to the administration of such other covered countermeasures.

In the event that the Secretary amends the Table of Injuries, requesters have an extended filing deadline, based on the effective date of the table amendment, which will be published in the **Federal Register**. However, the extended filing deadline only applies if the table amendment enables a person who could not establish a table injury before the amendment to establish such an injury.

To speed the review of eligibility, requesters should file all documentation required for eligibility determinations by the filing deadline. However, a requester will meet the filing deadline requirement by submitting only the completed and signed Request Form by that deadline, with documentation to follow. Request Forms not filed within the governing filing deadline will not be processed, and the requester will not be considered for any program benefits.

Amendments to Request Packages (§ 102.46)

The filing of amendments to previously filed Request Packages is discussed in § 102.46. As explained in that section, if a smallpox vaccine recipient or vaccinia contact filed a Request Package, but later dies, his or her survivors or the representative of his or her estate may amend the Request Package. However, a requester filing such an amended request will only be entitled to benefits under the program if the original Request Form (filed by the smallpox vaccine recipient, vaccinia contact, or representative) was filed within the applicable filing deadline. If such an amendment is filed, all of the documentation submitted with the original Request Package will be considered part of the amended Request Package and the survivor or estate representative need not resubmit such documentation. Requesters are responsible for notifying the program of any changes in circumstances that may have an impact on the Secretary's eligibility and benefits determinations.

Documentation Needed for the Secretary To Determine Eligibility (§ 102.50–§ 102.54)

Requesters or their representatives must submit appropriate documentation to allow the Secretary to determine if the requesters are eligible for program benefits. The documentation required will vary somewhat depending on whether the requester is filing as a smallpox vaccine recipient, vaccinia contact, survivor, or representative of an estate.

Medical Records Required of All Requesters To Establish a Covered Injury (§ 102.50)

Because all Request Packages filed with the program, including those filed by survivors or representatives of the estates of deceased persons, must relate back to a smallpox vaccine recipient or vaccinia contact who sustained a covered injury, all requesters must submit medical records sufficient to demonstrate to the Secretary that a covered injury was sustained by a smallpox vaccine recipient or a vaccinia contact. Section 102.50(a) describes the medical records that are generally required in order for a requester to establish that a covered injury was sustained. The Secretary will use the records submitted, as well as any other available evidence, to evaluate either whether an injury set out in the table and meeting the table's requirements was sustained or whether an injury was sustained as the direct result of