

eligible for death benefits. Such an amendment can be filed regardless of whether the Secretary made an eligibility determination or paid benefits with respect to the deceased person's Request Package. However, a survivor filing an amendment to a previously filed Request Package may only be entitled to benefits if the previously filed Request Package was filed within the governing filing deadline. All documentation that has already been submitted with respect to the deceased person will be considered part of the survivor requester's Request Package, and he or she is not required to resubmit such documentation. Survivor requesters must also file an amendment to a Request Package if there is a change in the order of priority of survivors, as described in § 102.11. Such an amendment may be filed at any time before the Program terminates.

(c) *Requests in which benefits are sought by the estate of a deceased smallpox vaccine recipient or vaccinia contact.* If a smallpox vaccine recipient or vaccinia contact submitted a Request Form within the filing deadline, but subsequently dies, a representative of his or her estate may amend his or her Request Package at any time before the Program terminates in order to be considered eligible for benefits. Such an amendment can be filed regardless of whether the Secretary made an eligibility determination or paid benefits with respect to the deceased person's Request Package. However, a representative of an estate filing an amendment to a previously filed Request Package may only be entitled to benefits if the previously filed Request Package was filed within the governing filing deadline. All required documentation that has already been submitted with respect to the deceased person will be considered part of the amended Request Package, and the representative of the estate is not required to resubmit such documentation.

#### **Subpart F—Required Documentation To Be Deemed Eligible**

##### **§ 102.50 Medical records necessary to establish that a covered injury was sustained.**

(a) In order to establish that a smallpox vaccine recipient or vaccinia contact sustained a covered injury, a requester must submit the following medical records:

(1) All physician, clinic, or hospital outpatient medical records documenting medical visits, consultations, and test results that occurred on or after the date

of the smallpox vaccination or exposure to vaccinia; and

(2) All inpatient hospital medical records, including the admission history and physical examination, the discharge summary, all physician subspecialty consultation reports, all progress notes, and all test results that occurred on or after the date of the smallpox vaccination or exposure to vaccinia.

(b) A requester may submit additional medical documentation that he or she believes will support the Request Package. Although generally not required if a Table injury was sustained, a requester may need to introduce additional medical documentation or scientific evidence in order to establish that an injury was caused by a covered countermeasure (including the smallpox vaccine) or vaccinia contracted through accidental vaccinia inoculation.

(c) If certain medical records listed in paragraph (a) of this section are unavailable to the requester after he or she has made reasonable efforts to obtain the records, the requester must submit a statement describing the reasons for the records' unavailability and the efforts he or she has taken to obtain the records. The Secretary has the discretion to accept such a statement in place of the unavailable medical records. In this circumstance, the Secretary may require an authorization from the requester (or his or her representative) to try to obtain the records on his or her behalf.

(d) In certain circumstances, the Secretary may require additional medical records to make a determination that a covered injury was sustained (e.g., medical records prior to the date of vaccination or accidental vaccinia exposure) or may determine that certain records described in paragraph (a) of this section are not necessary for an eligibility determination (e.g., records that are duplicative of other records submitted). If the Program requests additional medical records (or information) from a requester's health care practitioner, then the requester may use a release form in order to have the medical records sent directly to the Program.

##### **§ 102.51 Documentation a smallpox vaccine recipient must submit to be deemed eligible by the Secretary.**

(a) A smallpox vaccine recipient must submit the following documentation in order to be deemed eligible by the Secretary:

(1) A completed (to the fullest extent possible) and signed Request Form.

(2) Documentation demonstrating that the requester:

(A) Is a health care worker, law enforcement officer, firefighter, security personnel, emergency medical personnel, other public safety personnel, or support personnel for such occupational specialties who has volunteered and been selected to be a member of a smallpox emergency response plan prior to the time at which the Secretary publicly announces that an active case of smallpox has been identified within or outside of the United States and that the requester is or will be functioning in a role identified in a smallpox emergency response plan; and

(B) Was administered a smallpox vaccine pursuant to an approved smallpox emergency response plan during the effective period of the Declaration.

(3) If the requester's injury relates to the administration of cidofovir or its derivatives or Vaccinia Immune Globulin, and not the smallpox vaccine, documentation demonstrating that the requester was administered such a covered countermeasure during the effective period of the Declaration.

(4) Medical records sufficient to demonstrate that the requester sustained a covered injury, as described in § 102.3(g), in accordance with the requirements set forth in § 102.50.

(b) As an alternative to the documentation described in paragraphs (a)(2)(A)–(B) of this section (documentation concerning a vaccine recipient's participation in, and receipt of the smallpox vaccine under, an approved smallpox emergency response plan), a requester may submit a certification, by a Federal, State, or local government entity or private health care entity participating in the administration of covered countermeasures through a smallpox emergency response plan, that the requester is a person described in § 102.3(x)(1)–(3) (a person meeting the definition of a smallpox vaccine recipient, except for the requirement that the person sustained a covered injury). A certification form that may be used for this purpose is available from the Program.

##### **§ 102.52 Documentation a vaccinia contact must submit to be deemed eligible by the Secretary.**

A requester who is a vaccinia contact must submit the following documentation in order to be deemed eligible by the Secretary:

(a) A completed (to the fullest extent possible) and signed Request Form;

(b) Documentation identifying the individual who was the source of the accidental vaccinia inoculation. This