



The following topics were discussed during the conference call held with law firms on December 8, 2017. The meeting covered important updates and reminders about the VCF.

- **NIOSH Update:** (From NIOSH Representatives)

Two representatives from NIOSH joined the call to share a brief NIOSH update: The VCF works very closely with NIOSH, and is grateful for the many ways they collaborate with us on an almost-daily basis and support our ability to process claims. NIOSH appreciates the outreach being done by the law firms and broader community as it supports our own efforts to reach all eligible individuals. These efforts are resulting in a large increase in interest in the program and we are glad everyone is helping to make sure people know about the benefits that may be available to them. We want to be a resource to help individuals understand WTC Health Program policies and procedures, and to avoid misunderstanding and confusion about the program and what it takes to enroll. We understand that the program is complex, and hope to avoid individuals being frustrated by the process. We are available to answer questions and serve as a resource.

We are also aware that there are scheduling delays for initial evaluations, particularly for survivors. We are working on various ways to increase capacity, and expect to see progress soon.

- **General Updates on Claim Processing:**

Since our last meeting in August, we have rendered over 2,000 determinations, encompassing both eligibility and compensation, new claims and amendments.

Our focus on clearing the 2015 backlog has produced significant results. In all, only about 200 claims that were submitted before January 1, 2016, and that are ready for compensation review, remain to be decided; although more than half of these are on hold waiting for a response to a missing information request or for a third-party feed response. There are about 150 claims from 2015 or earlier that need an eligibility determination before they are ready for compensation review, and about 250 claims from 2015 or earlier with submitted compensation amendments. While we still have a bit to do on 2015 or earlier claims, and we continue to give them our highest priority, we are now fully immersed in deciding 2016 claims. We have approximately 2,000 of these that are ready for a compensation determination, either on an original claim or on a compensation amendment, while another 1,200 need some form of an eligibility determination. Most 2016 claims were filed after August 1, 2016, when the claimant portal reopened following the shut-down necessitated by the Reauthorization of the Zadroga Act. As a result, we will enter 2018 having significantly cut the lifecycle of submission-to-award; on average, we expect we will be able to issue an award determination within 18 months of the claim being submitted with all required information. There can, however, be significant variation given the type and complexity of the claim. A year ago, the VCF was still reviewing 2013-2014 claims, so we are making definite progress. That said, we also realize that 18 months is long. Our goal remains to reduce the average to 12 months and we are actively working toward that goal.

The policy and process updates we have discussed during the calls and meetings with you over the past year, which are now in place, have contributed significantly to our ability to process claims more quickly. We continue to fine tune our internal processes to decrease the time it takes to review a claim, and in light of our common goal of serving the best interests of the 9/11 community, several of the items on today's agenda address ways that you can help us help claimants by processing claims more expeditiously.



- **Policy and Procedures Updates**

Amending Non-Economic Loss Claims to add Economic Loss: This topic was discussed during our meeting in August, and we want to thank those of you who have amended previously-filed non-economic loss only claims to add economic loss when applicable. It helps us process claims more quickly – and enables us to better predict and plan our resources – when you file one complete claim, including both non-economic loss and economic loss components. Or, at the very least, if you amend the claim for the economic loss component before we pick up the claim for review. The large numbers of non-economic loss only claims that we continue to see (nearly 5,000 of them have been filed in 2017 to date) is very concerning because it implies we may then have a large number of economic loss amendments submitted at some point in the future. As a reminder for those who may not yet have adopted a practice around this issue, we want to reiterate why this is so important.

Economic loss claims take a different skillset and require significantly longer training for reviewers than non-economic loss claims. They also take more reviewer time to process. We cannot plan resources appropriately if we have a skewed perspective of how many economic loss versus non-economic loss claims are coming in. In addition, it hurts our processing capacity for all claims when we have to look at any individual's claim multiple times – which means not just multiple reviews to calculate the award, but repeat activities all the way through to quality review, correspondence generation, and payment processing. It essentially creates double work at every stage in the process, which could be avoided if the claim is initially filed for all known losses.

Please do the following:

- (1) If you know you will be filing a claim for economic loss, submit the claim only when you have all the information needed to support the claim.
- (2) If you know that you have filed a high number of non-economic loss only claims recently, please provide feedback to Catherine or Peter, the VCF law firm liaisons, about the percentage of these claims for which you plan to file an amendment for economic loss at a later date.
- (3) If you filed non-economic loss claims in 2016 that you know will be amended, submit the economic loss amendments now, as those claims are currently being picked up for review. We also need the amendments now for any claims filed at the beginning of 2017, as these are now in queue for pre-screen.

Please note that if you wait to submit an economic loss amendment until after the claim has already been assigned and picked up for review by our non-economic loss team, we will award non-economic loss only, and the amendment will be prioritized for review based on the date the amendment is submitted, which effectively sends the claim back to the end of the line for consideration. This means further delay for the claimant to receive their complete award.

How and When to Withdraw an Economic Loss Claim: As you know, we have made changes to display the SSA data within applicable claims. If you filed economic loss and now realize based on the SSA data that the disability is not due to an eligible condition, and so, intend to withdraw the economic loss claim, please submit a compensation amendment on the claim. In the amendment, select the “non-economic loss” check box, and in the text field, explain that you are withdrawing the prior claim for economic loss. Taking this step will help us move all claims along faster as these claims can be reassigned from economic loss review teams to non-economic loss review teams.

Using VCF Worksheets: At the August meeting, we introduced several new worksheets for submitting



three specific types of claims: claims with NYCERS/NYSLRS pension information, claims with union and defined benefit plan information, and claims seeking temporary past lost earnings. These worksheets were created in direct response to your many inquiries about how you can help us process claims more efficiently. They are very helpful to us, and to the process.

Your use of these worksheets is of great benefit to us in getting claims processed faster. **If a claim you filed prior to the August implementation of these worksheets is going to require a worksheet, please be proactive and complete the appropriate worksheet as quickly as possible and upload it to the claim.** If you wait until the VCF has to request the information – which we are doing if the claim warrants a worksheet – you will delay the process. If we have begun to review the claim and need to request additional information, we will place the claim on hold while we await your response. These worksheets are straightforward and contain only information that is critical to our decision making process.

While the worksheets are intended to serve as a tool to capture specific data points we need to consider and compute past lost earnings, these data points, without context or explanation, may not be sufficient to allow us to award the losses. For example, in the Temporary Past Lost Earnings Worksheet, we ask for the period of time for which past lost earnings are claimed and the total amount of the loss claimed. Both are critical data points, but it is also incredibly useful when we evaluate these claims to have some narrative explanation for *how* you arrived at the claimed past lost earnings amount – i.e., how is that amount derived, what evidence or documents are you relying on? We are making some minor adjustments to the Temporary Past Lost Earnings Worksheet to try to ask for this information more explicitly, but please do not wait for that updated worksheet to be published to start incorporating this information with your claim.

Until this point, our direction was to upload the worksheets as “Other Compensation Document.” **We have put unique document types in place for each worksheet so please select the specific worksheet name as the document type when uploading them to the claim. Please also follow the file naming convention instructions that are provided with each worksheet.**

Update on NYCERS: We met with NYCERS to discuss how to help facilitate the processing of VCF claims for NYCERS members. We agreed to resume a direct data exchange to obtain pension information and documentation directly from them. We are working out the logistics to implement the exchange and will provide an update when we finalize the details and the data exchange is up and running. Once that happens, we will ask that you please refrain from contacting NYCERS directly to obtain these documents, as that will result in a duplication of effort and may delay claims processing by tying up limited resources at NYCERS. That is similar to the process we have with the Fire and Police Pension Funds, which has worked very well. Until then, please continue to complete the NYCERS/NYSLRS worksheet when submitting your claims. **Please note:** for wrongful death claims, in order to obtain information about spouse or dependent benefits, NYCERS will need a notarized Exhibit B1 for the spouse and any beneficiaries.

Compensation Form “Roadmaps”: Many law firms have a longstanding practice of submitting a claim with a compensation “roadmap” document or other summary guide to help us navigate the claim. These documents have proven very helpful as they provide a clear claim summary and easy cross-reference to the supporting documents. These are another very effective way that you can help us increase the rate at which we move through claims. Referencing specific page numbers and/or documents as they relate to the specifics of the claim cuts down on time and frustration for VCF reviewers. These types of



roadmaps – that direct us to information that is essential to the claim rather than presenting a puzzle whose pieces have to be fit together – greatly increase the accuracy and alacrity of our process.

We encourage you to adopt this practice. If you do not provide this type of summary with the claim, at a minimum, please be sure you are very clear in the claim form as to what is/is not being claimed. It is critically important to make clear up front what you are claiming. If it is not apparent what it is you are trying to claim, what evidence supports the claim, or where in the record we can find the supporting information, we reserve the right to make a decision that may be adverse to your client. Please help us help you by telling us a complete story, making a fulsome argument, pointing to the relevant parts of documents, and responding promptly to our requests or questions.

Wrongful Death claims without a response to request for Life Insurance Information: We will follow up on claims where we do not have demonstrated proof of life insurance or a definitive statement from the claimant affirming there was no life insurance for the victim. We are doing this because it has been our experience that the information provided in the claim form regarding life insurance is often wrong. Please provide accurate information about life insurance when you file the claim or correct it by uploading the required information as soon as you realize it is incorrect. If we are forced to send a Missing Information request specific to life insurance and we do not receive a response within 30 days, going forward, we will deactivate the claim. Life insurance is the one collateral offset on a wrongful death claim that not only applies to both economic and non-economic loss, but is data that is not available to us from a third-party source (such as PSOB). **We must get this information from the claimant, and we cannot issue an award until a response is received.** If we deactivate the claim, you will receive a letter explaining the deactivation. Once you submit the required information, the claim will be reactivated for review.

Cause of Death Documentation: Our practice historically has been to request documentation regarding the cause of death as early in the claim review as possible, but not hold the claim from moving through eligibility review unless other critical information is missing. We are seeing, however, more instances in which we pick up claims for compensation review and cannot move the claim forward without the cause of death information. Therefore, going forward we will require cause of death documentation at the eligibility review stage and will not render an eligibility decision until the information is submitted. The new process is most efficient for us – and better for the claimants – as it prevents a delay at the point when we are ready to calculate the award, and the need to put down and pick up the claim multiple times. Ideally, you should submit cause of death documentation when you submit the claim to avoid the missing information request entirely.

Personal Injury to Deceased Claims: Sadly, the number of individuals who have passed away since filing a personal injury claim is continuing to increase. When this happens, it is absolutely critical that you take the correct “next step” on the victim’s behalf in order for us to properly process the claim. The correct “next step” is based on the cause of death. If the victim died of causes unrelated to 9/11, you should file a Personal Representative amendment to the personal injury claim. If the victim died of a 9/11-related eligible condition, you should register a new wrongful death claim. **It is critical to the proper handling of the claim that you take one action or the other, but not both.** A detailed list of the steps to take when a personal injury claimant dies can be found on our website under “Forms and Resources” titled [Information and Instructions](#): steps to take if a Personal Injury claimant passes away after filing the claim.”



- **USVSST Update:** We are receiving an increasing number of inquiries about the impact of claims made to the U.S. Victims of State Sponsored Terrorism Fund (“USVSST”) on VCF claims, and vice versa. We encourage you to visit the USVSST [website](#) for more detailed information and we will also be updating the FAQ on our website with additional details. **It is very important that you make sure to notify the USVSST if the claimant has a VCF claim and vice versa.** Both funds require you to provide that notification and doing so makes it much easier for both funds to properly handle the claims.

Status of USVSST rules, policies, and procedures: The USVSST Fund has made clear that the terms of the Justice for U.S. Victims of State Sponsored Terrorism Act are controlling and well-settled. The USVSST Fund website has information regarding its implementation and interpretation of the USVSST Act.

Denial of USVSST awards if the claimant received a VCF award: The USVSST Act includes a specific provision that explicitly addresses the situation where a USVSST claimant, or the claimant’s immediate family members, have an eligible final judgment and also have received an award or award determination from the VCF. That provision requires the USVSST Fund Special Master to consider the VCF award or award determination as controlling, notwithstanding any compensatory damages awarded in the final judgment. Further, because VCF award amounts are paid in full, the claimant or the claimant’s immediate family member will not be able to receive any compensation from the USVSST Fund, even if his or her claim is eligible. Because of statutory language, the VCF award is “controlling.” So even if a claimant might be eligible under USVSST criteria because of a qualifying final judgment, the receipt of a VCF1 or VCF2 award or award determination would mean that he or she is not entitled to compensation from the USVSST Fund.

Definition of “received” specific to the VCF award: The USVSST Fund has determined that receipt of a VCF award means that the VCF has issued a loss calculation letter that has become final and payable. So, if the claimant receives a VCF award letter, he/she can withdraw the VCF claim with prejudice and in writing during the 30-day appeal period and then, assuming all other statutory requirements are met, be eligible for compensation from the USVSST Fund. If the claimant appeals his/her VCF award, he/she must withdraw the VCF claim with prejudice before the final award letter is issued post-hearing. Once the claim moves to the VCF payment process (either on day 31 if not appealed, or immediately upon the issuance of the post-appeal award letter), the USVSST Act dictates that the claimant will not be entitled to compensation from the USVSST Fund.

We have been asked if the VCF could stop issuing awards to claimants who are also USVSST claimants. The answer is “no.” The VCF will not hold these claims. A VCF claimant can, however, request the claim be made inactive while deciding how to proceed. If the VCF issues an award decision on the claim, the claimant still has the 30-day appeal period in which to decide whether or not to withdraw with prejudice or proceed with the VCF claim or an appeal.

The USVSST has stated, on the other hand, that they will **not** adjudicate a claim if they know a VCF claim is pending. This means that individuals who have claims with both funds need to take action to decide how to proceed on the VCF claim.

If you have a claimant who has decided to withdraw his or her VCF claim, please upload a letter to the claim requesting to withdraw it with prejudice, and contact Peter or Catherine to let them know the letter has been uploaded. The VCF will place the claim in “withdrawn” status and will send a letter confirming the claim has been withdrawn.



- **Surrogates' Courts Follow Up:** In October, we met with representatives from the New York State Surrogate's Courts from New York, Bronx, Queens, Suffolk, Richmond, Kings, Nassau, and Westchester and Albany Counties to discuss the VCF and the processing of claims for deceased victims. As we mentioned at our meeting in August, we understand that there have been questions about the process for obtaining or amending Letters of Administration. Our goal for the meeting was to educate the courts on what the VCF needs and why, and ask them to consider providing clear, uniform language in the Letters across the courts in order to minimize confusion and removing certain limitations that create obstacles to the expeditious processing of VCF claims, while also remaining mindful of the Courts' concerns about protecting the interests of potential beneficiaries of a VCF award. There are a number of action items that came out of the meeting that we are working on resolving with the Courts. Once they are finalized, we will provide written guidance about the type of information and specific language you should include in your petitions for Letters or Amended Letters, and other information that should help ensure the timely and effective processing of petitions. In the meantime, we were informed that if a petition is in good form, with all necessary information and documentation, it should take no more than two months for the Letters to be issued. If you have a petition that has been pending for longer than two months, it is most likely because it cannot be processed due to a deficiency. In that case, they recommended that you contact the Court to find out what is missing so that you can address any deficiency.
- **Payment Update:** Since the new financial system came online on October 12, over 720 VCF payments have been disbursed.

Payments erroneously offset by Treasury Offset Program: We have been reassured by the finance office that the issue leading to the offsets being taken has been resolved and this should not happen going forward. We have also been assured that the withheld amounts are being immediately re-processed and paid. If you have a payment that was impacted by an offset and you have not already notified us of the error (or we have not already notified you), please call the Helpline so we can confirm the status of the payment and take any necessary actions to correct it. The finance office is now receiving a weekly report from Treasury that demonstrates that no additional payments have been impacted and we are also receiving and reviewing this report to confirm the issue has been resolved.

We are working on a daily basis with the finance office to smooth out the process, ensure payments on expedited claims are being processed in the agreed-upon timeframe, and coordinate very closely in our tracking of each payment through to confirmation from Treasury that the claim has been paid.

Please continue to contact the Helpline if a payment you receive on a claim does not match to the expected amount.

- **Website Updates:** The VCF website is our primary vehicle for providing the public with important information about who we are and what we do. In the past month, we added a document called "[Just the Facts](#)", which is designed to address common misperceptions and misinformation about the VCF. We have also added a PowerPoint slide deck that provides an [overview of the VCF](#) claim process. This document is intended to be used as a reference by individuals who are filing a claim with the VCF, or by those who are interested in how the VCF operates. It is not intended as a comprehensive tool for understanding the rules, regulations, policies and procedures that govern the VCF – that information is found in our Policies and Procedures document. You may have also noticed the recent addition of the



“resource” box to the home page, with links to information about upcoming events, outreach materials, and 9/11 resources.

- **Reminders:**

Expedited claims: We have seen a marked increase in the number of expedite requests we are receiving each month. We very much appreciate your continued sound judgement in making these requests and ensuring the process is reserved for those who need it most. With the increase in requests, we are also seeing an increase in the number of claims that are approved for expedited processing, but cannot be processed because of missing information. **Please do not request expedited status until you have filed a complete claim with all supporting documentation.** It is hard to expedite a claim if we don't have the claim form and the necessary information to render a decision on the claim, and it also creates an unnecessary burden on the many entities from which we seek information (e.g., SSA, FDNY, NIOSH), if we ask them to expedite their response only to have to hold the claim because all the information necessary to calculate an award was not filed.

If we have to hold a claim beyond 30 days because we do not have the information necessary to decide it, we may revoke its expedited status, so please only ask us to expedite the claim once all necessary information has been filed. Also, in a situation where a disability application is pending, we may approve bifurcating the claim and issuing an award and payment on the non-economic loss portion. If, however, complete information to support the economic loss portion is not submitted within 30 days of the expedite request being approved, we will rescind the expedite approval for that portion of the claim and reprioritize the claim for processing. In that case, you will need to submit – and justify - another expedite request for the economic loss portion.

If you request to expedite a claim and we contact you to ask for more information in support of the request, please call the Helpline again when you upload the documents in response to that request. This ensures that we know that you have provided the information and allows us to more quickly render a decision on the request to expedite the claim.

Finally, if you are requesting expedited processing based on financial hardship, it is very helpful if you consider the specific type of information we will need in order to evaluate the request based on the claimant's circumstances. For example, a foreclosure or eviction notice is very straightforward, as is a final notice that a utility is being cut off. If, however, the request is more generally about the claimant's debt, we not only need to see the evidence of overdue bills, but also need some indication or statement that explains the claimant's current income.

Medical Records: We frequently receive extremely large files full of medical records, with little or no guidance provided to help us identify the relevant information in those records. When you are submitting medical records, please include a cover page directing us to specific pages and explaining why the information on those pages is relevant, please highlight specific information within the records, and please organize the records in chronological order so that we can clearly see the progression of the condition over time. This is always important, but even more important if you are submitting the records as part of an appeal as we are working within a more limited timeframe.

Remember that there are circumstances where there is no need to submit medical records in support of a claim; for example, on an amended claim where the award is already at the non-economic loss cap and the new condition would not change that award.



- **Points of contact:** Peter and Catherine, our law firm liaisons, have the knowledge and experience to answer your claim-specific and policy questions. The Helpline should be your first call, since many questions can be resolved by them; but if you have a question or concern that is not handled by our Helpline, please reach out to Peter or Catherine. Our system works best when it is used properly; calls to other members of the VCF team can create confusion regarding documentation and follow-up of your requests, so please work directly with Peter and Catherine to ensure that you get the best and fastest answers to your questions.
- **Closing remarks from Rupa:** In closing, I want to thank all of you for your collaborative efforts and your commitment to the 9/11 community. I know you share our goal of continuous improvement to the process, leading to the most expeditious claim determinations possible. I'd like to circle back to a theme that has run through today's call, and make a final request.

Every single one of my claim reviewers is exceptionally dedicated to the mission of the VCF and they recognize the great importance of the work that they do to your clients. They always want to go the extra mile to try to ensure that every claimant receives every last dollar of compensation they deserve, and that every element of their claim has been looked at and evaluated. But, in my year and a half as Special Master, I have come to realize that we have to be realistic about how much we can do to try to track down missing information, to scour the records provided, and to formulate arguments on behalf of individual claimants if we are to continue to make progress in reducing both the backlog of claims and the time it takes us to process them. We have to rely on you to be the advocates for your clients; we need you to connect the dots for us.

Most of you do a great job giving us what we need when we ask for it. Please keep it up. But, as mentioned earlier when we discussed roadmaps, it would really help us out if you could give us a bit more before we have to ask for it. Tell us the story, make the argument, give us a brief or a summary document that connects the dots, show us the context, provide an index that points us to the most helpful documents or data points in your submissions. We do, and we will continue to do, our jobs as best as we can, but it is not our job to do your research for you, to formulate arguments on behalf of your clients, or to parse through a voluminous record looking for something that wasn't pointed out to us. The more complete a submission and a story you can give us up front, the better for you and your clients, and the more progress we will continue to make on what remains my number one priority, getting claim decisions to the claimants faster.

- **Questions: The following questions and answers were discussed:**
 1. **We recently received a letter from the VCF notifying us that a claimant has requested to change attorneys and has removed us from the claim. We submitted his initial claim and handled the subsequent appeal. The claim was then amended when the claimant was certified for cancer and we have been awaiting a revised award based on that amendment. We are concerned that any payment on the amendment be made to the law firm that did the work in support of the award.**

In situations such as these, VCF policy is to issue payment on the claim to the law firm that completed the work in support of the award. In most cases where a claimant has changed attorneys, the distinction is very clear and there are few questions about which law firm should receive the payment. In a very small number of claims, the distinction is less clear,



and our payment team does an exceptional job at identifying and raising these “who to pay” questions. The Special Master then reviews the specifics of the claim to determine which firm will receive payment. If you have questions about a specific claim, please let Peter and Catherine know so they can follow up accordingly.

2. If a claim filed in 2013 or 2014 has a later amendment, what date is used to prioritize the claim for review?

If a determination has not yet been made on the initial claim, it retains the original prioritization based on the initial submission date. If the amendment is submitted while the claim is still under review, we try to review it as part of the initial review. Depending on the nature of the amendment, this may slow down the overall review (if, for example, we need to request missing information in support of the amendment), but will ensure all claimed losses are addressed when the award is determined. If you have an older claim that is still pending and you have questions about where it is in overall priority, please let Peter or Catherine know.

3. What team reviews and evaluates deceased non-economic loss only claims?

Deceased non-economic loss only claims go to the economic loss team for review because of the offsets associated with deceased claims.

4. One of our clients contacted the VCF Helpline and asked that he be given online access to his claim. Is there a way the VCF could notify the lawyer when this access is granted to claimants?

The VCF Helpline receives a large number of requests of this type each month. Given that we have no automated way to generate these notifications, it would be a lot of extra manual work to send a letter each time a represented claimant asks to be granted access to his or her own claim. We also have not heard this request before so are not certain it’s a widespread need.

We suggest that you discuss online access with your clients directly and request that they notify you if they call the VCF to request online access to their claim. This may also offer an opportunity for you to explain what they are seeing in the system and how to properly interpret the information.

In addition, you may recall that in March of this year, we added some new features to the online system, including the ability for you to see who has access to the claim. The “[tip sheet](#)” that was sent by email and posted to the website at that time includes information on how to view owners and delegates on each claim.