



The following topics were discussed in the April 8, 2015 conference call with law firms representing VCF claimants.

- **Update on WTC Health Program disability evaluation process:** As mentioned on last month's call, we completed the disability evaluation process pilot and received positive feedback from NIOSH and the WTC Health Program clinics. We have been working with the clinics over the past month to finalize the process and the clinics and NIOSH are ready to implement the program for WTC Health Program members, except the National Program centers outside the New York area (we will follow up with information specific to these claimants in the future). Listed below are key points about the process. We provide an overview of the process at the bottom of page 3 of these notes.
  1. **Participant criteria:** This program is not for everyone. It is intended for claimants who have partial or full disability *due to an eligible condition* but do not have (or cannot get) a disability determination from one of the standard third party entities. Claimants who have a disability decision based on an ineligible condition may be candidates for the program if their eligible condition has become disabling.
  2. **Identifying candidates for the program:** Claimants will be identified as prospective participants in the program during VCF review of the claim. If you believe a claimant is a suitable candidate and meets the criteria above, please notify the VCF. Please follow the guidance below for submitting claimants for consideration:
    - **If the claimant has already received a loss determination:** You will need to amend the claim through the claimant portal. In the text field, enter a note requesting that the VCF evaluate the claimant as a candidate for the disability evaluation program. You may also upload a letter or other document in support of the request.
    - **If you are submitting a new claim:** When submitting the claim, upload a cover letter or similar note requesting that the VCF evaluate the claimant as a candidate for the disability evaluation program.
  3. **Timing:** This is not expected to be a lengthy process once the appointment with the WTC Health Program physician is held. However, the clinics are solely responsible for the appointment schedule. The clinics are ready to do the evaluations and the only expected time constraints will be around scheduling the appointment. If the claimant schedules an appointment and is a "no show", the clinic will notify the VCF and we will render a decision on the claim without the disability evaluation.
- **Claims with pending disability applications:** If a claimant is requesting economic loss and has a disability application pending with a government entity, such as the Social Security Administration (SSA), a state workers' compensation board, an employer (like the FDNY) or a private insurer or institution, we will generally move forward with the claim and issue a non-economic loss amount only. You can then amend the claim if a disability determination is issued at a later date. If you do not think the disability determination will be issued in the foreseeable future, the claimant may be a candidate for the NIOSH disability evaluation process. Please assess the status of your claimants' pending disability applications and if you are concerned about a timely decision being made, please let us know so we can process the claim appropriately. **Please see new [FAQ #6.17.1](#) for additional details on the processing of these claims.**
- **Claimants with potential pension loss and disability pensions:** We have posted a lot of information on our website regarding specific employers and unions who have provided us with details on the documents needed to support claims with pension benefits. We have also included generic guidance in [FAQ #6.41](#) for claimants whose employer/union is not listed. Please refer to the information on the website when compiling pension information to submit with your claims.

There are two kinds of pensions and it is important to keep them distinct for purposes of VCF claims:

1. **Lost pension:** This occurs when the claimant was not able to work to the point of maximum pension benefits and therefore lost some of the value of his/her pension. The lost value is considered as part of the economic loss calculation.
2. **Disability pension:** These are payments the claimant receives due to his/her disability due to an eligible condition. These payments are considered an offset to the claimant's



economic loss. If we request missing information specific to a disability pension, we must receive it before we can calculate the loss amount. If there is a delay in receiving the information, we may render a non-economic-only loss decision while waiting for the documents to be submitted. You will then need to amend the claim once the information is available.

When calculating pension loss, the VCF uses the standard/most common pension inputs in our models. If you have a claimant whose situation you believe deviates from the standard, you will need to notify us proactively as the VCF will not request this information as part of our review. If we are missing a needed document as outlined by the union, employer, or in the generic list, we will request that information. If we do not receive that information promptly, we will calculate the loss amount using default values for retirement benefits (i.e. a defined contribution plan benefit without the pension loss calculation). Our goal is to render decisions and issue payments in a timely manner. If you gather information after the decision is rendered, you may amend the claim.

- **Economic loss claims that receive only a non-economic loss determination:** If you filed a claim for economic loss and received a determination for non-economic loss only, it means one of two things likely occurred during the review of the claim:
  1. The VCF was missing information regarding an offset or another critical component of economic loss.
  2. The VCF did not find information to support an eligible disability. If you believe the claimant had a disability decision and it was submitted with the claim, the non-economic loss only calculation is due to the VCF determination that the disability was unrelated to an eligible condition.
- **Hearings and Appeals:** A few reminders to help ensure our appeals process is as efficient as possible:
  1. **Please do not use hearings to present documents to the VCF for the first time.** If you have new documents or information that was not available at the time the decision was rendered on a claim, you should amend the claim rather than appeal. When you provide new information at the hearing, it requires the VCF to re-open the claim for review. By amending the claim instead, we are able to more quickly review and render a decision on the claim. Appeals should be reserved for instances where you have submitted all the appropriate documentation but believe that the decision is in error in some way.
  2. **Appealing all issues in one hearing.** It is much more efficient for all parties involved if we have one compensation hearing per claim that addresses all relevant issues. If you are planning to appeal a non-economic-only loss determination and you know you will be amending the claim to seek economic loss or additional non economic loss, please submit the amendment first and then appeal (if still applicable) once the revised loss determination is issued. For those who are concerned about waiving the right to an appeal if the appeal form is not submitted within the 30 day required timeframe, if you know you plan to amend the claim, you will have the opportunity to appeal once the revised loss determination is issued. During that appeal, you can raise any relevant issues from any prior loss determinations, as well.
- **Filing a deceased claim after a PI claim:** We have received questions about filing a deceased claim for a PI claimant who has since passed away from his/her eligible condition after receiving the loss determination on the PI claim. We are developing illustrations for different scenarios and will post them to our website in the near future. Our intent is to provide guidance and examples for you to use to decide appropriate next steps for your client.
- **Reminders and Requests:**
  - **Medical Expense Worksheet must be uploaded in Microsoft Excel format:** You must upload the worksheet in Excel format. If you upload it in a format other than Excel, we will send you a missing information request and will place the claim on hold pending receipt of the worksheet in Excel.
  - **Pre-Hearing Questionnaire (PHQ) updates:** A new version of the [PHQ](#) was posted to our website in February and an email was sent to all law firms on our email list alerting you to the change. Please be sure you use this version as it provides information that helps us prepare



for your hearing. A fillable version of the form was posted earlier this month to make it easier for you to complete.

- **Bookmarking claims:** Please do not access claims in the online portal using a saved bookmark as it may result in the claim being placed in “Incomplete” status rather than “Submitted” status. If this happens, the claim will not appear in our system for processing. Please use caution and always start at our login screen when accessing the claimant portal and use the “Claims Process” screen to access specific claims. We are working to fix the bookmark issue and also to identify any claims that may have been previously submitted and now show as “Incomplete.” If you notice one of your claims reverted to the Incomplete status, please re-submit it so we can begin our review.
- **“Mass mailings” to VCF:** If you are compiling a large number of hard copy documents to send to the VCF, please do not wait too long to send them and please call our Helpline to notify us of the shipment. When we receive large submissions (several hundred documents from a single firm in one shipment) without advance notice, it creates a bottleneck in our system. If you are not able to break shipments into smaller quantities spread out over time and need to do mass mailings to the VCF, please notify us so we can be prepared to process the higher volume of incoming mail.
- **Law Firm NY Office Hours:** Pat Houser and Colleen King continue to hold “office hours” in our NYC office 2 days each month. Meetings are now being scheduled for April 21-22. The meetings have proven to be very productive, particularly if you consolidate the list of claims and specific questions you want to discuss and provide it in advance of the meeting. The VCF sends an email each month to alert you to the scheduled meeting dates for the month along with information on how to schedule an appointment. Please call our Helpline if you are not receiving these emails and would like to be added to the list.

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### Overview of NIOSH Disability Evaluation Program Process

This overview reflects the discussion on the call and is not intended to portray the process in detail. The finalized process will be posted to the VCF website in the near future.

1. **Claimant identified as a candidate for evaluation.** Claimant may be identified by VCF during claim review or the claimant or his/her attorney can “self-identify” as a potential candidate for VCF to consider.
2. **VCF confirms claimant is appropriate candidate for the process** and notifies NIOSH for planning purposes.
3. **VCF sends letter to claimant explaining the process** and inviting the claimant to make an appointment for the evaluation.
4. **VCF places claim “On Hold”** pending outcome of the disability evaluation.
5. **Claimant decides whether or not to proceed with the evaluation.**
  - a. **If yes** - Claimant contacts center to make appointment. Clinic will follow up with claimant directly regarding procedures.
  - b. **If no** - Claimant notifies VCF of decision not to participate. VCF will remove the claim from “On Hold” status and continue processing to render decision.
6. **Appointment held.**
7. **Clinic produces report**, including physician’s evaluation summary.
8. **Clinic sends report to claimant.**
9. **Claimant uploads the report to the online claim** using the document type “WTCHP Disability Evaluation” (or mails the report to the VCF).
10. **Claim is removed from “On Hold” to continue review** once VCF system recognizes the evaluation has been uploaded/received.