



The following topics were discussed during the conference call held with law firms on August 15, 2018. The meeting covered important updates and reminders about the VCF.

- **General Announcements:** We recently posted a [special message](#), noting Rupa Bhattacharyya's second anniversary as Special Master, and including statistics through June 30, 2018. We have since published the first of our new [Monthly Statistics Reports](#), with data through July 31, 2018. This new report will be posted the first full week of each month as part of our continuing effort to improve VCF transparency, and includes cumulative totals to date as well as a column showing the progress made in the prior month.

As of July 31, 2018, the VCF has awarded over \$4.1 billion dollars, with over half of that (\$2.26 billion) since Rupa's appointment in July 2016. In those two years, we have rendered over 14,000 compensation decisions (including initial awards on new claims and revised awards on claims with amendments or appeals), which is a substantial increase over the 9,407 decisions that had been rendered when we closed Group A in 2016, for a total of 23,480 decisions. Since July of 2016, we have also determined that over 5,600 additional claimants are eligible for compensation, for a total of just over 20,300 eligible claimants, and the number of claims denied has steadily decreased, which we see as a clear sign that our process is working to help people provide the information needed to decide their claims favorably.

We have practically eliminated the backlog of claims that existed when Rupa assumed the role of Special Master. Whereas, in January 2017, we had more than 3,000 claims that had been pending for more than two years, today there remain fewer than 475 claims that were filed before January 1, 2017, and many of those are claims that have only recently re-activated as claimants have responded to requests for missing information and helped us to move their claims forward. The VCF Sixth Annual [Status Report](#), published in February 2018, indicated that we were on track to decide claims within 18 months of the day they were filed (assuming we had all information needed to decide a claim). We continue to shorten that timeframe; claims filed in early 2017 are now receiving award decisions, while claims filed in mid-2017 are under review, and claims filed in late 2017 will come under review soon. We are hopeful that, at our current rate of progress, we will soon meet the goal of deciding claims within one year of when they are submitted.

- **New Policy and Procedure Updates:** Last month, we posted an updated version of the [Policies and Procedures](#) document. Listed below are new updates since the document was last published:
 - **Processing of Deceased Claims:**
 - **Converting deceased claims to Personal Injury ("PI") claims:** In the past, if you filed a wrongful death claim and we determined it was not timely registered (i.e., because it was registered more than two years from the date of death), or that the victim's cause of death was not clearly related to his/her eligible condition, we would automatically convert the claim to a PI claim and process it as such. We recently decided that we will, instead, continue to treat and process these claims as wrongful death claims and issue an eligibility denial on the wrongful death claim because it is untimely or because the cause of death does not appear related to an eligible condition. This will allow you an opportunity to appeal that decision. Only if we determine, post-appeal, that it cannot properly proceed as a wrongful death claim will we convert the claim to a PI claim. Alternatively, as the denial letter will explain, if the claimant does not want to appeal or continue to pursue the deceased claim, he/she can request that the VCF evaluate the claim for compensation of personal injury losses only (i.e., losses that were suffered by the victim prior to death) by submitting an amendment that includes a written statement that he/she does not intend to pursue compensation for losses



associated with the victim's death. We are making this change because we realized that it is much more efficient to determine at the eligibility stage whether or not the claim will proceed as a wrongful death claim, rather than processing it as a PI claim only to then re-process it as a wrongful death claim once additional information is received during compensation review, as part of an amendment, or during a post-award appeal.

- Appendix A Replacing Exhibit F for PR Amendments: After the new claim form was rolled out in August 2016, our policy was that any personal injury claim for which a PR amendment is filed because the victim has passed away would require an Exhibit F if the claim was submitted prior to July 2016, or a Claim Form Appendix A if the claim was submitted after July 2016. This is no longer necessary, so we have removed the Exhibit F from our website and any future PR amendments – regardless of when the claim form was submitted – will require only a completed Appendix A.
- Timeliness: In wrongful death and PI cases, we will consider equitable exceptions to timeliness requirements on a case-by-case basis, usually on appeal. If you believe a client or potential client has a credible reason why he/she did not timely register, we suggest that you register and file the claim. We likely will deny the claim in the first instance, but you will have an opportunity to present the facts and circumstances that could support an exception on equitable grounds on appeal. We are hearing about more and more situations – especially among the survivor community – where an individual did not know either that the VCF exists, or that he/she is eligible to file a claim on his/her own behalf or as the personal representative of a deceased victim. We want to be sure these individuals have the opportunity to present their case for missing the deadline.
- Private Physician Form updates: We have updated the Private Physician forms to help reduce the number of missing information requests sent on these packets. The updated forms will be posted before the end of the month and will include changes such as updates to the tables where information is entered about exposure and modifications to some of the questions so that they are more clearly applicable to all claimants, not just responders.

When a claimant qualifies for the Private Physician process we need the following information to support a causal relationship between a physical health condition and a claimant's 9/11 exposure:

- For all aerodigestive and cancer conditions, the hours of exposure duration and the tier levels of dust/smoke/fumes experienced from the first to the last dates of exposure.
- For Acute Traumatic Injuries and Musculoskeletal Disorders, the 9/11 activity that caused the injury and documentation of medical treatment of the injury on or before September 11, 2003.

We also need the following necessary medical documentation:

- For aerodigestive conditions, the symptom onset date and description/diagnosis to determine whether the Maximum Time Interval has been met for each condition.
- For cancer conditions, the initial diagnostic biopsy pathology report to determine whether the Latency period has been met and the type of cancer found.

We will send you an email once the new forms are available. Please note that the Private Physician pages of the online claim form have not yet been updated to reflect these changes.



- **Partner Agency Updates:**

- **Reclassification changes:** Over the last year, we have had a series of discussions with NYCERS leadership in an effort to learn more about their policies and processes, and to educate them about the impact that their disability retirement determinations have on VCF claims. We recently learned that NYCERS and the FDNY have changed their WTC reclassification policies such that members who have retired from a WTC-related condition are now able to seek reclassification of that disability retirement for a different WTC-related condition, recognizing that, if the original retirement was for an ineligible mental health condition but the member is approved for reclassification for an eligible physical health condition, he/she may be eligible for a VCF economic loss award. This places NYCERS's and FDNY's reclassification policies in line with the NYC Police Pension Fund's long-standing reclassification policy for NYPD members. We are very pleased that our discussions resulted in such a meaningful change for these members.

As a result of these changes, we are further narrowing the criteria for the WTC Health Program Disability Evaluation process. This process was designed to provide a mechanism to obtain a disability evaluation through the WTC Health Program in order to support an economic loss claim from the VCF for a limited subset of claimants who did not already have – and did not have the ability to obtain – an occupational disability determination for an eligible condition from a third-party entity. Because FDNY, NYPD, and NYCERS members who had already been determined to be disabled for ineligible conditions through their respective NYC pension fund (FDNY, NYPD, NYCERS) now have the opportunity to reclassify their disability retirement for an eligible condition, there is no need for an alternative mechanism for these members to seek a disability evaluation of their eligible conditions, and they will no longer be eligible for the Disability Evaluation process.

The WTC Health Program Disability Evaluation process is intended to be available on a very limited basis, only in cases where there is no other avenue for the claimant to seek an occupational disability determination.

- **FDNY and NYPD Wrongful Death Claims:** If you are submitting a wrongful death claim for a FDNY or NYPD claimant, please consider whether the FDNY or NYPD death benefits will cancel out the award. Often times, these claims turn out to be non-economic loss only claims – but if they are filed as economic loss claims, it creates a lot of work to arrive at that conclusion.
- **FDNY/Fire Pension Fund Relocation:** The FDNY/Fire Pension Fund is in the process of moving from Brooklyn to Manhattan and they have undertaken an effort to scan paper files into an electronic database. This undertaking has impacted the speed with which they respond to our requests for pension information. We are confident, based on conversations with our counterparts there, that this is short-term and should be resolved in the next few months. In the meantime, please do **not** contact the FDNY/FPF to request pension information as this will only further delay the process.
- **Information received from SSA:** We provide you with access to the information we receive directly from SSA, which you can view in the “View Documents” section of the claim. We will calculate the award using that information, so please make sure to notify us of any updated SSA information *while* a claim is under review. If you wait until after you see an award letter to realize that we based a decision on old data, it creates a great deal of additional work for you and for us – as you will have to file an amendment, and we will have to reopen the claim, send the claim back to SSA, wait for SSA to send us the updated information, and then



consider how, if it all, that new information changes the award. If you file a Collateral Offset Update Form after an award has been determined to report a change in SSA disability benefits, and we discover that the updated information was available before we issued our decision, we may adjust the award to reflect that updated information.

- **NIOSH Update:** The William Street Clinic will open on Thursday, August 30th. Members waiting for their initial health evaluations should have recently received a letter informing them of the new clinic and that members will be assigned to either the existing Survivor Clinical Center of Excellence, New York City Health and Hospitals (H+H), or the William Street Clinic based on their date of enrollment. Once assigned, members will be contacted via phone or mail by NIOSH when it is time to schedule their appointment.
- **Policy Document Updates:** We recently posted an updated version of the Policies and Procedures document to our website. Listed below are highlights of the more significant updates included in this version of the document:

- In Section 1.3.d, we added new information about MetLife insurance payments. All claimants who received coverage for certain cancers under a Critical Injury Insurance policy through Metropolitan Life Insurance Company (“MetLife”) as part of their 9/11-related lawsuit settlement are required to provide the VCF with a copy of their policy document and the amount of any payment received under the policy. The settlement amounts included in the data we received directly from the Captive insurer do not include these separate MetLife payments as they were only paid after an individual developed a 9/11-related cancer. Submit these documents, when applicable, at the time the claim is filed, or include them when amending the claim at the point when MetLife issues a payment on the policy.
- In Section 2.a., we added guidance specific to documents submitted in response to Missing Information requests when the claim is in “Determination Made: Processing” status. The “Determination Made: Processing” status means the award determination on the claim has been entered into the system and we are doing a final quality check before sending the award letter.

It is longstanding VCF policy that when a Missing Information letter is sent on a claim, if we do not receive a response within the 30-day timeframe, we will render a decision on the claim based on what is in the file at that time. We are seeing an increase in the number of claims for which a response is not received in the 30-day period, but the response is received sometime after that, often after the award has been entered into our system and is undergoing the final checks before the award letter is issued. Any new documents you submit in support of the claim after the claim moves to “Determination Made: Processing” will not be reviewed as that would delay the issuance of the award determination. If you have documents to submit at this stage in the review process, you should wait to receive the award letter and then file an amendment and submit the new documents as part of the amendment. We will then review the amendment and documents based on the date the amendment is submitted. If you do submit documents at this stage of review, we will add text to the award letter explaining that the document(s) was not reviewed and you will need to file an amendment and resubmit the documents if you would like the VCF to review them.

Our goal is to get award determinations out to claimants as quickly and efficiently as possible. New documents submitted at this stage in the process – unless they are in response to a Missing Information-Loss Calculation letter – simply create extra work at the worst possible point for the claim. Please pay attention to the claim status and please do not submit



documents in response to a previous Missing Information request while the claim is in the “Determination Made: Processing” status.

- In Section 6.1, we updated the information specific to claims for victims who pass away after filing a personal injury claim. We also made significant revisions to Appendix D: “[Information and Instructions](#) – Steps to take if a Personal Injury Claimant passes away after filing a Claim” which is the same set of instructions posted under “Forms and Resources” on our website. We have also revised the “Claimant Passed Away” letters that are used in these situations. We encourage you to read the new letters carefully as they will be specific to the individual claim circumstances, taking into account the status of the claim at the point in time when the victim died and the manner by which the VCF was notified of the death. **If the letter includes an insert with instructions, you can also expect that the instructions are specific to the claim – meaning you should not consider it a “form” letter that would be applicable to all PI-to-Deceased claims.** You may want to review the [notes](#) on this topic from the April law firm call, and carefully review Section 6.1 and Appendix D of the Policies and Procedures document as the information has changed significantly. If you are uncertain, or do not know, whether the victim’s death was caused by an eligible 9/11-related condition, you should take action as though the death **is** believed to be related to an eligible condition.
- In Section 6.2.a – the section that explains economic loss for deceased claims – we added information about the loss of pension benefits at death. The loss of pension benefits, which terminated at death because benefits were maximized while the individual was alive and no survivor pension option was selected, is considered a choice made by the victim and is not a loss of future income compensable by the VCF. That said, we recognize the fairness disparity in a process whereby *former* first responders, who retired from a uniformed service and who responded to the WTC site in the wake of the attacks, do not qualify for Line of Duty death designations from their former employers because they were not officially deployed to the response effort. In those particular instances, and based on the circumstances of the specific claim, the Special Master will exercise her discretion and include a flat \$250,000 in economic loss (in addition to any other economic loss awarded on the claim). There were a very small number of claims (perhaps 2 or 3) that previously had awards issued in conflict with this guidance and those have since been corrected, with calls made to the law firm to explain the revised determination. If you intend to appeal an award based on this loss as the sole basis of the appeal, please notify the VCF’s law firm liaisons.

- **Claim Filing Reminders**

- Reminders on completeness and timing of claim submissions: We continue to pick up claims that cannot be decided because they are missing information – not “unique” information, but the general information and documents needed for all claims. The following is a list of issues that create delays or extra work for our team. These are all avoidable and you can help us help the claimant by taking steps to eliminate these issues.
 - Affidavits: Affidavits are often critical to the eligibility process, but if they are not complete, or don’t include the information we need, they can’t always do what they are meant to do in terms of helping to prove that the claimant was present and is therefore, eligible to file a claim. We try to make this process as easy as possible, and our reviewers work very hard to dig deeper into this information when necessary. The following reminders to affiants can be extremely helpful:



- Encourage affiants to take our calls. Let them know they might receive a call from the VCF and that it will only be to clarify information or perhaps request additional details.
- Remind affiants and claimants that there is a 7-day window to respond to a call after which the claim will move forward. If we don't hear back from an affiant, after one week, we will make a decision based on the information in the claim file.
- In cases where we can't reach the affiant or are not able to leave a message, we will call the claimant's attorney to try and help facilitate a call. We appreciate any assistance the attorney can provide on their client's behalf.
- When talking with affiants, please remind them to be as specific as possible in their affidavit: what was the claimant doing, where and when did you see the claimant, how do you know the claimant, etc. "Ground Zero" is not sufficiently specific as a location to establish presence.
- Remind affiants that their affidavits can't include false statements. We have had instances where a reviewer calls to follow up on an affidavit that states, "I saw him there," only to be told on a phone call, "Well, I didn't actually see him there, but he has told me about being there." Please review affidavits before they are submitted to confirm that they are true and accurate.
- Medical records: Though less frequent, we continue to see uploads of hundreds of pages of medical records with no roadmap or highlights directing our attention to what is relevant to the claim. Give us specific direction as to what documents you consider particularly relevant and thus worthy of review, or we will not review them.
- Documents required for deceased claims: We know you are aware of the increasing number of deceased claims, and we know you share our goal of being able to process these claims in a timely manner so we can bring some closure to the family. There are certain documents we must have for all deceased claims, yet we continue to have to place claims on hold, or make them inactive, because claims are not submitted with these basic documents. Please do not submit deceased claims without the following items:
 - Life insurance documentation or a statement confirming there was no life insurance.
 - Documentation of any death benefits received from the victim's employer or any other source, or a statement confirming there are none.
 - Documentation listing the amount and start date of any survivor pension benefits.
 - Proof of dependents, such as the victim's tax returns listing the dependents, or birth certificates or adoption records.
 - If minor children are listed as dependents, Exhibit 1s for dependents.
 - Confirmation of beneficiaries who received SSA survivor benefits, if any, and dates and benefit amounts, if available.
 - If claiming burial expenses, documentation to support the claim – or the burial expenses will be denied.
- Reminders on Appeals: We continue to see Compensation Appeal Request Forms that do not specifically identify the issue that is being challenged on appeal. Without a clear explanation of what you are challenging on appeal and why, we cannot adequately prepare for the hearing or determine if the issue is even ripe for appeal. In recent months, it has been our practice –



where the issues on appeal are unclear on the form – to reach out to counsel for clarification after the hearing date has been scheduled, while we are preparing for the hearing. That practice is administratively inefficient and places an unnecessary burden on our Appeals Team. We reserve the right to cancel the hearing if you do not identify and explain the issues you are raising on appeal. To help you, we are updating the Compensation Appeal Request Form to more clearly identify the types of issues we commonly see on appeal and allow you to set forth why you believe the award did not properly compensate your client. We hope to implement the new form shortly. In the meantime, you can provide this kind of specific information using the current form, and using additional pages if needed.

- Reminder on Eligibility condition amendments for claims that already have been issued an award: For claims that have already received an award, if you submit an eligibility amendment to add a new condition, but you don't submit a corresponding compensation amendment, we treat the condition amendment as a low priority. If the condition will affect the award, then please file a corresponding compensation amendment. Otherwise, there is no urgency for us to re-open the claim and go through the process to confirm the new condition is certified. And, if you know the new condition will not result in any additional compensation, please don't file the condition amendment. If the new condition later results in a new loss, you can file both amendments at that time.
- **Claimant Portal Updates:**
 - New functionality when the claimant is not the victim: Last month, we implemented changes in the online system specific to claims where the claimant is not the victim – such as claims filed on behalf of deceased individuals, minor children, or incapacitated adults. We refer to these as “Personal Representative (“PR”) changes” since the majority of claims impacted by the changes are claims for deceased individuals. You should have received an email with a [tip sheet](#) outlining the changes, and hopefully you have already started seeing some of the benefits. These changes allow us to move the validation steps required in these claims out of the Eligibility milestone and provide more clarity to you and the claimant about where the claim is in the PR validation process. Claims meeting the criteria will automatically be routed through the new process and the status will be reflected in the Registration milestone. We added several new corresponding claim statuses to the system, which are explained in the [Claim Status Definitions](#) document on our website. The other major update as part of these changes is for claims in “On Hold – Claimant Passed Away” or “PR Denied” status. These claims now require submission of a PR amendment before an eligibility or compensation amendment can be submitted. If you have not already done so, read the Tip Sheet and the updated Claim Status Definitions document to familiarize yourself with the full set of changes.
 - Accurate information in PR amendments: This is another repeat reminder – please do not use dummy Social Security Numbers – such as 000-00-0000 or 123-45-6789 – or inexact Date of Birth information when filing PR amendments. This causes serious problems for us and delays the processing of the claim. Please wait until you have all the information and double check your data entry to confirm it is accurate.
 - Online claim access for *potential* clients: If you have a *potential* client who already has a claim in the online system, please do not ask for online access to the claim simply for purposes of seeing what the claimant has/has not already submitted, and/or for determining whether to represent the claimant. This creates a number of problems for us, including cases where the law firm decides not to represent the client, but doesn't request to be removed from the claim. We will NOT provide online access for these situations. One solution might be to ask the



claimant to print the claim form information for you to review, or to ask the claimant to log into the claim while sitting with you so you can review the information online.

- Security and privacy: We are extremely focused on maintaining the security and privacy of claimant information, and we expect you to be equally vigilant. For that reason, we highly recommend that you upload, rather than email, any sensitive data. If you do choose to email such information, know that the risk is with you and your firm. **If sensitive information is included in an email, at a minimum, please password protect the file and send the password in a separate email.** Our team recently went through mandatory privacy training delivered by the DOJ Privacy office and we have instructed our team not to use email as a means of receiving information or documents specific to a claim. If email is truly the only option, our team will use the DOJ “secure send” feature to send the email.
- Stop creating Test Claims: Several firms have contacted us recently to remove “blank” claims from their listing of claims in the online system. In talking with firms about these requests, we learned that some firms are having new employees “try out” the claimant portal by creating blank registrations. Please do not do this! Every claim number that is created will need to be accounted for and reconciled when the program ends, and this simply creates a lot of downstream work. We can cancel these claims at your request, but we will not remove them from your ownership since they were created under an account owned by someone at your firm.

- **Miscellaneous:**

- DOJ financial system shut down: Every year, at the end of the government fiscal year, the DOJ financial management system used to process our payments is shut down for end-of-year reconciliation activities. This year the system will be shut down from September 24 through October 9. Our team has been working very hard to process as many payments as possible before the system shuts down, and we will continue that push until September 18, which is the last day a payment can be processed through to completion prior to the shutdown. This means the last payments prior to the shutdown will be for claims with award letters dated in mid-August (assuming the claimant does not appeal). We will once again post a notice on our website explaining the shutdown period and impact to VCF payments.

We have been in discussions with the Justice Management Division (“JMD”) about expedited claims and there will be a process in place to pay these claims during the shutdown. Other than expedites, however, we cannot process any payments during the shutdown period. We will continue to authorize payments and send them to the budget office during the shutdown, and they are planning for the increase in activity once the system is online on October 9, but we do expect a delay as they work through their backlog.

If you have a claim for which you are planning to request expedited processing, please submit the request now – or as soon as possible. If approved for expedited processing, we will do our best to review the claim and authorize the payment prior to the system shutdown. It is imperative that you confirm that Client Authorizations and Claim Form Signature Pages for approved expedited claims are on file as quickly as possible. We are not able to process payments without properly executed Client Authorizations and Signature Pages.

- Conflicting multiple claim number (“MCN”) resolution: When an MCN issue exists, if there is not clear communication from the law firm to the claimant, the claimant may select the incorrect claim number. The Helpline has modified its processes to ensure that the claimant



and the attorney are using the same claim number, but this is a reminder that you can help to avoid this situation by clearly communicating with claimants which claim number to use, and ensuring only one of you responds to the MCN request.

- VCF Scam. We have seen no further activity surrounding the scam phone calls that were happening in April. However, if your clients have any questions or ongoing concerns, please encourage them to call the VCF Helpline. This is the best way to ensure they are speaking with an authorized VCF representative.

- **Closing remarks from Rupa**

I know several of the topics covered have been discussed on these calls before – some several times. Please understand that the only reason we continue to mention them is that they continue to be a problem on some level. This is particularly true when we talk about missing information, or information that is not organized and/or well-identified. VCF claim reviewers work extremely hard on behalf of claimants. They are dedicated to this community, and determined to provide fair and accurate decisions as expeditiously as possible. But it is time-consuming and frustrating when we have to slow progress to track down information, put a claim on hold while waiting for a response, or sift through stacks of unrelated medical records to find what we need. Our job is to *review* what you *present*. The claim you make on your client's behalf should be thorough, targeted, well-documented, clearly supported and accurate – and should include all the information that is needed. As always, you are the expert on your client's claim. Help us make the fastest, most accurate and fair decision possible by setting the claim up well from the start. We hope that you have seen real progress in claim processing speed in the last two years, we know that you share our goal of moving claims as expeditiously as possible, and we value your responsiveness to issues we raise.

One final note: As you know, I am under a statutory obligation to continuously assess VCF policies and procedures to ensure that we are meeting the twin goals imposed upon the VCF by Congress – 1) to prioritize funding for the claimants with the most debilitating conditions, and; 2) to stay within our appropriated dollar limit. As of the first of August, the VCF has awarded over \$4.1 billion of the \$7.375 billion made available to us. As we are required to do, we are watching that funding limit very closely. As I noted in my message published to our website last month, as we come up to my annual reassessment of whether VCF policies and procedures are properly tailored to meet those twin goals, I plan to formally seek input from the 9/11 community on the best way to do so. Please stay tuned for further information on that effort.

As we approach the anniversary of the 9/11 attacks, I know that we are all reminded of the importance of the mission that we share. Ours is a unique collaboration, and, with your help, we are eager to continue our progress on behalf of the 9/11 community. Thank you for your ongoing support.

- **Questions: The following questions and answers were discussed:**

1. **When we look at claims that go into the Quality Review queue (“Determination Made: Processing” status), it does not appear they are being reviewed in “first in-first out” order. Why is that?**

As with all our processes, we review the claims with the oldest compensation submit date first. The same holds true in the quality review process. Thus, claims do not necessarily move out of the quality review queue in the order that they entered the queue. Keep in



mind, too, that some delays may be outside of our control – particularly those where Missing Information-Loss Calculation letters have been issued and we are awaiting information that is necessary in order to send the award letter and issue payment on the claim.

2. What goes in to the quality check, and why does it take so long?

Our quality review process is similar to any process in which large amounts of data are entered into a system. We double check numbers, dates, calculations, etc., - any element of the claim that impacts payment and may need to be substantiated at a later date. It is a meticulous process, and one that we take very seriously. The process takes longer when we need to wait for a response to a Missing Information-Loss Calculation letter. As a reminder, claims stay in the “Determination Made: Processing Status” after a Missing Information-Loss Calculation letter is issued, until the necessary information is received.