



The following topics were discussed in the March 4, 2015 conference call with law firms representing VCF claimants.

- **Appeals process changes:** We continue to have a large number of appeal forms that appear to have been filed as placeholders while you and your clients evaluate the loss calculation. It takes significant resources for the VCF to track these “unresolved” appeals and makes it difficult for us to properly plan for hearing officer schedules, court reporters, and facility needs. The current process allows 30 days from the date of a decision letter to notify the VCF of the claimant’s intent to appeal, and then 6 months to schedule the actual hearing. If the appeal is not scheduled within 6 months from the date of the letter, the appeal will be considered abandoned. Going forward, we are changing the 6 month timeframe to 60 days. This means you will have 30 days from the date of the decision letter to file the appeal request form and then 60 additional days to submit the Pre-Hearing Questionnaire (“PHQ”) and call to schedule the hearing. (The hearing may be held after the 60 day period.) We will be updating our letters and materials to reflect this change. If the appeal is not scheduled within the 60 days, it will be considered abandoned. An updated version of the [PHQ](#) was posted to our website in February so please be sure to use this version for any future hearings.
- **Cancelling hearings:** When you schedule a hearing, we reserve space, schedule Hearing Officer time, contract with a court reporter, and have staff and SMO attorneys prepare pre-hearing packages and bench memos. A scheduled hearing is also a time slot that becomes unavailable for other claimants. If you cancel or change the hearing date, there is a direct cost to the program. We understand emergencies happen, but we will be limiting the number of allowed rescheduled hearings for any reason other than an emergency. If you need to cancel a hearing, you will need to provide the reason for the cancellation. We have also had several situations where a claim reaches the point of a hearing and the documents that had been requested in the past finally get submitted and the hearing is cancelled. If you think you can obtain a requested document, please wait to schedule your hearing and submit the document once you have it available. Cancelling at the last minute because a document was finally located is as costly to the program as cancelling for any other reason.
- **NIOSH/WTC Health Program-related Updates:**
 - **Update on WTC Health Program disability evaluation process:** As mentioned on last month’s call, we have been working with NIOSH to implement a pilot program to test their disability evaluation process using a small number of claims. We completed the pilot and received positive feedback from NIOSH and the WTC Health Program physicians. The process worked well and they appreciated our identification of proper candidates for the pilot, many of whom were identified by attorneys on this call. For those claimants who were evaluated as part of the pilot, the write up from the physician should come to the claimant or the attorney and then you should upload it to the claim. If you already received the loss calculation letter for the claim, please amend the claim to add economic loss and then upload the document as a disability document. Our next steps are to finalize the steps we will use to identify claimants for the program, identify specific claims for the next phase, and then fine-tune the process and confirm with NIOSH that we are set for full implementation. As a reminder, this is only an option for claimants already enrolled in the WTC Health Program who do not have a sufficient disability evaluation from some other source and they need to be evaluated for purposes of their VCF claim. We will notify you of the final process once everything is confirmed with NIOSH.
 - **NIOSH Offset update:** On a past call, we mentioned we were evaluating whether or not the VCF is required to offset NIOSH costs from a claimant’s loss calculation. DOJ and the Special Master have examined the statute and concluded we do not need to offset these costs.
 - **WTC Health Program Certification letters:** When the VCF opened, NIOSH was not yet sending certification letters for all individuals enrolled in their program. As a result, we did not ask for the letters and we established a process to request information directly from NIOSH regarding a claimant’s certified conditions. NIOSH is now sending letters for all patients and if you provide the letter to us as part of the claim, we will accept it as proof of a certified condition. We believe using the letters may reduce confusion with our eligibility decision letters, which sometimes use different terms for the same condition. Please begin uploading the certification letters as part of



the claim. You still must send the original Exhibit A in case we need to contact NIOSH for more information about a claimant's condition.

- **WTC Health Program Exposure Guidelines and VCF Private Physician Process:** The WTC Health Program posted [updated exposure guidelines](#) to their website earlier this week. The document explains the criteria used to establish a causal connection between exposure and a specific condition in order to certify the condition for treatment. Our Private Physician process follows the WTC Health Program guidelines and we encourage you to review their guidelines as they dictate our process for medical evaluation of a condition. You may have already noticed that our "Assessing Exposure" worksheet in the Private Physician package uses the WTC Health Program's assessment criteria for timeframe through July 2002, as well as the WTC Health Program's geographic zone for purposes of establishing exposure (as opposed to the time frame and zone used to establish presence for VCF purposes).
- **Law firm expenses:** [FAQ #11.11](#) on the VCF website has the list of types of expenses that are appropriate and eligible for reimbursement from a claimant's loss calculation. You are not required to submit a listing of expenses for reimbursement with your claims. The Special Master will not "approve" these expenses at the individual claim level because the approval is inherent in the FAQ. However, we are hearing complaints from some claimants that the expenses being charged are not within the guidelines of the FAQ. As a reminder, please double check your expenses against the list of what is allowed and be sure you are only charging claimants for authorized expenses. If the complaints continue, we may need to change the process to request that you submit detailed expense forms for approval.
- **Eligibility Denials:** On our last call, we mentioned we would begin denying claims in February. We sent denial warning letters last month and will begin sending denial letters at the end of this week. The letters will be sent in batches over the month of March. As a reminder, these denials include claims for which the VCF has requested information multiple times and the information necessary to complete our review has still not been received. The claims can be re-opened simply by amending the claim to provide the requested information. You can also amend the claim if the claimant's situation changes. The reason(s) for denial will be explained in the letter along with the options for re-opening the claim. [FAQ #4.19](#) on our website explains these denials and steps claimants can take to re-open the claim.
- **Post-Decision document uploads:** If you received a decision letter for a claim and you have new information to provide, you must amend the claim using the amendment functionality in the system rather than just uploading documents. We will not initiate an amendment based on the upload of a document. **If you are amending a claim for non-economic loss:** we are aware the option is not currently in the amendment screen and we are working to add it. In the meantime, please select "economic loss" and then clarify that you are seeking to amend non-economic loss in your explanatory notes.
- **Claimants changing or removing attorneys:** When a claimant notifies the VCF that he/she has discharged his/her attorney, we send you a letter notifying you of the change. The VCF will also continue to notify you in writing if we receive a request to change payment instructions on a claim where the claimant previously authorized payment to the law firm account. Once we are notified by the claimant of their change in representation, we are not authorized to communicate with you any longer about the claim and cannot work with you on the claim. We are also not authorized to share any information about the claimant's new attorney (if applicable). The VCF will continue to remind claimants that if they sign an agreement related to attorney fees and then discharge their attorney or change their payment instructions, they may still owe fees to the original attorney. The VCF cannot prohibit a claimant from changing or discontinuing his or her legal representation or the account he or she wishes to receive payment. In the near future, the Special Master will post guidance to our website offering an opinion regarding the percentage of fees that the VCF presumes to accrue during each stage of claim processing. The guidance is not binding or case-specific but could be used when discussing potential disputes. We will notify you when this guidance is posted.
- **Missing Information Letters:** Beginning this week, we started sending more descriptive Missing Information letters. Our intent is to make the letters more understandable in terms of the specific information needed. We hope you find these to be helpful and welcome your feedback.



- **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 March 17 and 18. We encourage you to take advantage of these meetings, especially if you have not scheduled one in the past. 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.
- **Update on our publication of documentation required for certain union claims:** We have information on our website about the different unions and employers for whom we have the information needed specific to their pension program. We will be adding a number of unions and employers to the list next week and will notify you when the updated list is published. Please review the updates once you are notified they have been posted. If you submitted claims for individuals employed by the unions and employers who are added to the list, we will identify the specific documents we need. If you already submitted those documents, we will move forward with the claim. If you have not yet submitted them, please submit the documents so the claim is complete and we can process it as quickly as possible.