



The following topics were discussed in the March 24, 2016 meeting with law firms representing VCF claimants.

- **Group A Payment Issues:** We continue to focus on paying Group A claims in full and are meeting the schedule shown in our timeline. However, we continue to identify claims we cannot pay due to outstanding issues. Listed below are the most common issues and the steps we are taking to resolve them:
  - **Missing Information-Loss Calculation letters (“MILC”) - deficiency resolutions:** One of the biggest hurdles to finishing Group A payments has been that there are outstanding missing items on claims that are otherwise ready to be paid. In our review of these claims, we have determined that some can be paid without the missing item. If we determine we can resolve the issue internally (meaning we no longer need the document listed in the MILC), we will resolve it in our system and send a loss calculation letter that states the issue has been resolved. This only applies to select Group A claims and this policy will not apply to any Group B claims. You should continue to respond to all missing information requests immediately to avoid Group A claims potentially being marked as abandoned.
  - **Outstanding appeals:** We are working to hold all Group A hearings and render post-appeal determinations as quickly as possible. If you appealed a Group A claim, you should have been notified of the hearing date by now. If you submitted a timely appeal and have not been notified of a scheduled hearing date, please let Colleen know.
  - **Deceased claims:** Group A claimants who have passed away since their Personal Injury claim was decided are another concern as we try to finish Group A payments. If a Group A Personal Injury claimant has passed away, we need the death certificate, court order, and Exhibit F in order to verify a Personal Representative to receive payment. We know the law firms have been working to provide this information and we need to institute a cutoff date in order to allow us time to review and verify the Personal Representative, and process the payment so we can complete the Group A claims. **The cutoff date to submit these documents for Group A claims is April 30, 2016.**

We also cannot pay these claims if the letters of administration contain limitations. We have prepared a document you can provide to Surrogates or other probate courts with additional information regarding the need for LOAs without such limitations (especially monetary limitations) in order to pay these claims as soon as possible. The document has been posted to our website and is available on the [“Information for Law Firms”](#) page.

If there is a claim where the restrictions are not lifted by April 30, 2015, we will know the amount to be paid on the claim and can place the funds into an account for future distribution. This will allow us to consider all Group A payments to be complete so we do not hold up Group B claims.

- **Captive correction letters:** As discussed on our call in January, around the time of the reauthorization, we became aware of a supplemental Captive settlement payment that had been made to many claimants. You may recall that our plan for Group A payments noted that claims with any lawsuit settlements would be paid later than other claims, as we need to go through each claim to confirm there was no additional payment that needs to be treated as an offset. Claimants should understand that if they received one of these payments, their awards will be lowered to account for the additional offset. We have been working through this process and have been either moving claims to payment once we confirm the claimant did not receive a supplemental payment or updating loss calculations and then issuing revised loss calculation letters. You should see updated loss calculation letters reflecting these changes in the coming weeks.



- **Group B Claim Processing:** Our second priority is the review of Group B claims submitted *prior* to the reauthorization. Claims filed between December 18, 2015 and January 29, 2016 (when the online system became “read only”) will not be reviewed until we are able to begin accepting new claims again. Listed below are several updates and reminders:
  - **Timeline to process existing Group B claims:** We have set aggressive targets to process the majority of Group B claims that were submitted prior to reauthorization. These claims are being processed in “first in, first out” order, meaning that once we are able to begin issuing loss determinations again, you should see loss calculation letters for your oldest claims first. Please respond to missing information letters promptly to help us in our efforts. When the time comes that we can pay Group B claims, they will be paid in full in one payment.
  - **“Group B Complete”:** Even though we are currently evaluating and making loss determinations on Group B claims, we cannot finalize these determinations until the regulations are final and the Group B funding becomes available. For this reason, we are marking these claims internally as “Group B Complete” when we are done with them – this means we have completed review of the claim, and calculated the loss amount. You will receive a letter when a claim reaches this point, but the status of the claim will not change in the online system.

In order to make sure this process goes smoothly, it is extremely important that you **not** submit additional documents on any claims that reach the “Group B Complete” stage. **You should not be submitting ANY documents on ANY claims unless you receive a missing information request; however, this direction is particularly important for “Group B Complete” claims.** If you upload additional documents to a “Group B Complete” claim, the information will not be reviewed and you may need to resubmit it as an amendment once the loss calculation letter is issued.
  - **Economic loss denials:** Our current practice for compensation claims is that when we lack the documentation we need to approve economic loss, we will deny economic loss but issue a non-economic award. This generally happens either when there is no indication of a disability, or if there is an offset we know was received and we may be required to deduct if it is related to an eligible condition – in which case, we need to clarify the nature/basis of the offset before economic loss can be issued.

As part give of our Group B processing plan, we are continuing this practice and will render decisions on claims based on the information in the file at the time the decision is made. If a claim for economic loss is denied and only a non-economic loss is issued, you can always amend the claim in the future once you receive the Group B loss calculation letter on the claim.
  - **Changes to non-economic grid and economic loss calculations:** The reauthorization statute requires a number of changes to how we make compensation determinations. Most notably, the law does the following:
    - Caps aggregate gross income (“AGI”) at \$200,000 per year – note this is based on the IRS definition of what is included in AGI
    - Caps non-economic loss for a cancer at \$250,000
    - Caps non-economic loss for a non-cancer condition at \$90,000
    - Instructs us to prioritize the most debilitating conditions – this is interpreted to mean that claimants with the most debilitating conditions will receive larger awards than those with less severe conditions and the non-economic awards will be adjusted to reflect this (i.e. the less serious injuries will receive lower awards than in the past)
    - Removes the \$10,000 minimum award – we expect a number of Group B claims to result in \$0.00 loss calculations where they previously may have received the \$10,000 loss
  - **New Exhibit C guidance:** Going forward, we will require one Exhibit C per law firm, rather than per claim. This document is signed only by the law firm, not the individual claimant. If you have already submitted at least one sufficient Exhibit C, we will be able to use that for all of your claims.



- **Eligibility appeals:** Eligibility determinations are being issued on Group B claims. If you receive an eligibility denial and you wish to appeal, you must file your appeal before the 30 day deadline. We are currently prioritizing Group A compensation hearings, so once we receive your Group B eligibility appeal, we will schedule the hearing, but it will likely be several months away. We will schedule eligibility hearings sooner if we are able to, but you should be aware that most will be held later. The fact that we are holding these hearings later does not change the 30 day deadline to appeal the decision once you receive the denial letter.
- **Expedite claims:** Our expedite process is proceeding as we previously discussed during our call in January. As a reminder, we cannot issue Group B payments, even to expedites, at this time. We will issue expedited eligibility decisions when possible. Please see the [notes](#) from the January call for specific details on Group B expedited claims.
- **Group B Claim Submissions and Processing after June:** Below are several updates related to future new claim submissions:
  - **Regulation process and timeline:** There is a statutory mandate that we update the regulations no later than June 15, 2016 (180 days after enactment). The draft regulations are currently under review within DOJ and will then be sent to OMB for review. Once OMB approves the regulations, they will be published in the Federal Register. Following publication, there will be a public comment period. After the public comment period, the VCF will consider and evaluate any comments, and publish the Final Rule with clarifications or changes to address the issues raised, as appropriate.

Nearly all of the changes we have made to the previous regulations are mandated by the statute. There are few discretionary changes and they all benefit the claimant and/or minimize the burden of filing certain documents in support of a claim.
  - **CMS changes:** We are currently updating the claims management system to receive the new claim form. We are also exploring options for enhancements to the system and will keep you updated as we have additional information.
  - **New claim form:** We are working on a new claim form that will become available once the regulations are finalized and the new form is approved. The new form combines the existing eligibility and compensation forms into one comprehensive form. It also includes addendums for claimants submitting a private physician packet, personal representatives filing on behalf of a deceased claimant, and other common circumstances. Our goal has been to streamline our process and include everything we need in one form. We have also made significant changes to our Attestations, Certifications, and Exhibits to make them easier to understand and to complete properly.

As a reminder, we will not accept the old claim forms for any new claim submissions. You can continue submitting the old forms in response to missing information requests that you are receiving now, but you should not have new clients prepare claims using the old forms. The burden of proof for presence, conditions, and loss remains the same. If you have claimants who are eager to work on claims that they intend to submit once the forms become available, you can instruct them to begin collecting proof of presence, medical records for a private physician packet (or certification from the WTC Health Program), and documentation of economic loss. Please note that the actual private physician form will change, but the diagnostic essentials (i.e. required medical records) remain the same.
- **Miscellaneous Items:**
  - **Private Physician Process:** As noted above, we are changing the PP forms and including them in the claim form so they can be more easily filed with the initial claim submission. You will still be able to complete and submit them as an amendment, as well. We have been finding that the exposure statement provided on the form often conflicts with data contained in the claim and we will therefore be asking for more support specific to exposure as part of the updated form.



- **Tax relief for disabled responders:** As a reminder, there is tax relief available for some disabled 9/11 responders, survivors and the families of those who have died from their 9/11 injuries. There is a link to information on this program on the home page of our website. We ask that if you have clients who may be eligible, you remind them that this program exists.
- **Pensions:** As a reminder, if a claimant is employed by an entity that offers a pension, we consider that when calculating loss and it generally increases the loss amount. We have standard default values we use or you can provide documentation of the pension plan. If you do not submit the pension documentation, we will not calculate a pension loss but we will incorporate our default values for defined contribution plans to reflect the fact that employers in many cases provide contributions to retirement accounts.
- **Workers Compensation Volunteer Fund:** It is widely expected this fund will run out of money. If a claimant received a payment from this fund, we treat it as an offset. We determine the amount of the offset based on what the claimant has already received from the Workers Compensation Volunteer Fund. There is no future component or calculation for this offset.
- **Amendments/supporting documents:** We have seen claims where it appears you are trying to file an amendment by uploading supporting documents to the claim now. Please do **not** do this. You cannot submit amendments until we begin accepting new claims and doing this causes delays as it pulls resources from Group A payments and Group B claim processing. At this point, you should only be submitting documents in response to missing information requests from the VCF.
- **Questions:** The following questions and answers were discussed:
  - **Does the VCF anticipate that all Group B claims submitted prior to December 18, 2015 – if complete claims – will be paid by the end of 2016?** Our timeline shows that we expect to begin paying Group B claims in September. When the regulations are published and we begin issuing Group B loss calculation letters, we need to stagger the mailing of those letters so as not to create a situation where we have thousands of claims all reaching appeal deadlines or payment processing deadlines at the same time. Our goal is to issue letters and pay claims as quickly as possible once we know the claimant does not intend to appeal the award.
  - **If a claimant receives a new offset after having received a loss calculation letter – and after the claim has been paid – what is the claimant required to do? Suggest you post this information on the website so our claimants can see it in print.** Every loss calculation letter includes the following language: *“In accordance with the requirements of the Zadroga Act, you must inform the VCF of any new collateral source payments you receive, such as an update to the amount of your 9/11-related lawsuit settlement or a change to your disability benefits, as this may change the amount of your loss calculation.”* We will work to get something posted to the website that clarifies this obligation. You can also refer your clients to these notes or their loss calculation letter.
  - **Will the VCF be expanding the list of eligible conditions or the deadlines for filing claims?** We follow the WTC Health Program’s list of conditions. If they change their list, we will adopt the change. Our [registration deadlines](#) remain the same and must be met for the claim to be considered timely.
  - **If a claimant passes away after receiving payment on a Personal Injury claim, is there a deadline for filing the amendment and new deceased claim?** The only deadline is the deadline to file a claim – which is December 18, 2020. However, you should notify us of the claimant’s death as soon as possible, even if you do not have information on the Personal Representative.
  - **If a claimant passes away from an eligible 9/11-related injury, does the loss calculation include pain and suffering and economic loss associated with the death?** Yes. The loss would include both economic and non-economic loss. There can also be a loss associated with the claimant’s illness before death.



- **The loss letters do not include in the details an explanation for the VCF's basis of disability and start date for loss of earnings. It is sometimes hard to determine what was used when trying to decide whether or not the claimant should appeal. At a minimum, could the letters indicate when the standard default is used vs. what has been claimed?** If you are trying to figure out how we decided specific component of the loss, please call us so we can talk through the details with you. There are a variety of ways in which these calculations are done and it would be difficult to try and incorporate these nuances into our letter templates. We will look at what it might take to add at least a reference in the letter or addendum when default values are used.