



The following topics were discussed in the meeting with law firms held on May 24, 2016. The meeting covered important updates related to the reauthorization of the VCF.

- **Announcements:** Fran Gottfried, the Director of the New York Office, will be leaving the VCF after 4-1/2 years. We thank her for all her dedication and hard work over the years – she will be greatly missed! With her departure, Jordy Feldman will be taking over as Director of the New York Office to include responsibility for the appeals and hearings process in NY.

Stefanie Langsam, who was part of the VCF1 leadership team and has been part of the VCF2 leadership since 2011, has been tentatively offered a position as a second Deputy Special Master pending completion of the required background investigation. She will be transitioning into this role over the next month. More information will follow once she is officially in the position.

- **Group A Update:**

- We have paid over \$1 billion dollars to claimants since the VCF reopened in 2011. This includes all payments made to date – either partial or in full – on Group A claims. As of the end of the day on May 22, we have authorized the final payment on 8,717 Group A claims. This means we have authorized full payment on all Group A claims *except* those where we encountered issues preventing payment. Our team is focused on these remaining claims and we are working to resolve the open issues so payment can be made as quickly as possible. These issues include PI claims where the claimant has since passed away and we do not have a verified Personal Representative, claims with missing documents that are required in order to make the payment, and a small number of claims that are still in the appeals process.
- Because all Group A payments must be completed before Group B funding becomes available, it is very important that we finish the Group A payments within our original timeline. If at the end of June we still have claims with unresolved issues that prevent us from making the actual payment, we will authorize the payment amount on the claim and the DOJ accounting office will place the funds into an account from which the future payment can be made. This allows us to authorize all Group A payments and reconcile the accounting of Group A funding, and confirm the availability of Group B funds. We will continue to work closely with you and your clients to resolve the open issues until the actual payment is made on their claim.

- **Group B Claims:**

- **Timing of Group B determinations:** We originally had an aggressive schedule for processing Group claims and as we have previously announced, we had to move most of our team members to support the Group A payments. As a result, we are behind on our original schedule. The team is returning their focus to claim review and you should start to see more Group B Complete letters coming as we get into June. We expect to begin rendering Group B decisions at the end of June and will issue them on a rolling basis. As a reminder, we cannot begin rendering these decisions until we have completed all Group A payments and confirmed availability of Group B funding.

If we are able to issue the first decisions at the end of June, we expect to begin authorizing the first Group B payments in mid-August. This is actually earlier than originally anticipated. The Group B loss calculation letters will include only the appeal option and claimants will no longer need to “accept” their award. If no appeal is received after 30 days, the claim will automatically move to payment.

- **Update on loss models and methodology:** The reauthorization statute caps non-economic loss and includes a prioritization mandate. This means the non-economic awards will be lower for certain conditions than they were under Group A, though many non-economic awards will remain the same or similar to Group A values. In some cases, typically involving milder conditions that have a limited effect on daily life, the non-economic award could be 50% lower. The statute also removes the minimum awards and you should prepare your clients for the possibility of \$0.00 awards or awards less than \$10,000. We are adding language to



the Group B Complete letter to clarify that our review of the claim does not mean the claimant will receive payment from the VCF.

Specific to economic loss, the statute caps AGI at \$200,000 and sets forth the definition of what is included as income. We are updating our models and will post a description of the revised methodology on our website once it is finalized.

- **Reminder regarding uploading documents to the online claims system:** You should only upload a document to a Group B claim if it is requested by the VCF either via a phone call with a VCF team member or through an MI letter. If we request a document, we appreciate your quick response so we can continue with our review of the claim.
- **Pension Loss Calculations:** In response to a question that was raised at our last in-person meeting, we will update the language in the loss calculation letters to indicate when default values are used instead of a calculated pension loss. These details will only be in the letter and not the addendum as this is the simplest way for us to add the information.
- **Update on regulations:** We are in the final stages of Government review of the draft updated regulations and expect to issue an Interim Final Rule effective on the required deadline of June 15, 2016. Because most of the revisions being made to the regulations are intended to implement the changes made by the law reauthorizing the VCF, we have determined that pre-publication notice and comment is not required. Instead, the regulation will be issued as an Interim Final Rule subject to a 30-day post-publication notice and comment period that will begin on June 15 and end on July 15. This allows us to begin issuing Group B compensation determinations once Group B funding becomes available, while still allowing us to consider any comments received post-publication and make any necessary changes before issuing a Final Rule.
- **Update on new claim form:** Thank you to the paralegals who met with us a few months ago and provided excellent suggestions and feedback as we developed our updated claim form. The draft updated claim form was submitted to the Office of Management and Budget (“OMB”) and we are awaiting their review and approval. The public comment period ended on May 9 and we understand no comments were received. In anticipation of the form being approved, we have started design and development of the online claim form and are finalizing the format of the hard copy version.

We plan to post a sample of the claim form to our website on June 15 so you can become familiar with the form and start working with your clients to gather the information and documents that will be needed once we begin accepting new claims.

We have set an aggressive schedule for developing the online claim form and our current plan is for the online form to be available the last week of July. In connection with the development of the online form, we are also updating the technology and security of the claimant portal – actions that are necessary to remain in compliance. These updates account for a significant amount of the time required to make the online form available. Once the new form is released, the claims system will return to full functionality.

We have decided to wait to release the hard copy claim form at the same time as the online claim form for several reasons, including: (1) we need time to finish the changes that are needed to the system used to process the hard copy forms; and (2) by rolling the forms out at the same time, it minimizes the potential for confusion in our communications.

- **Website updates:** We are working on several updates to our website, including re-posting FAQs and arranging content so it is more easily accessible. On June 15, we will post new information, and will make available once again some of the information that was removed immediately after the reauthorization. We will then follow up with a second round of updates in late July when the new claim forms are released.

We welcome your feedback on what you liked/didn't like about the website so we can consider that in our updates. Please contact Colleen to provide any feedback you have. We are willing to draft or create documents to help you so if you find you are having difficulty with a certain issue or lack of



information on a certain topic, let Colleen know as we may be able to post something or make other changes to address the issue.

Colleen will be contacting you to schedule a training session for your attorneys and paralegals to walk you through the website updates and the new claim form. This will happen right around the June 15 date for the sample form and website updates to be released. We will then hold a second training in late July once the online claim form is available.

- **General Reminders:**

- **Tips to improve claim submissions, eliminate the need for a hearing, and maximize awards:**

- **Claims for economic loss that received only non-economic loss award:** The main reason an economic loss claim ends up with a non-economic only award is that the claim does not have any indication that the claimant is disabled, or the disability is not related to an eligible condition. We encourage you to do more research on the disability determination and ensure that the language is sufficiently clear and identifies the link between the disability and an eligible 9/11-related condition or injury. We have also found that some disability statements from doctors (in the absence of a determination from SSA or another third party entity) are extremely abbreviated or internally inconsistent. It would be helpful if you read the statement before submitting it and have the doctor clarify any inconsistencies you think may raise questions during our review. It is also important that the doctor making the determination be qualified to do so.

Another reason for a non-economic-only award is lack of clarity about offsets. If we know there is an offset that needs to be considered in the economic loss calculation, and we do not have the information necessary to know whether or not the collateral source payment is due to the VCF eligible condition or the amount of the offset, we will render a decision for non-economic loss only until the additional information is received. You can amend the claim at a later date once the additional details are available.

- **Non-economic award amounts and severity of condition:** On the non-economic awards, there is some information that doesn't come to bear until the hearing that would be extremely useful upfront and could prevent the need for an appeal. For example, if the victim has obstructive sleep apnea, it is much easier if we know when you submit the claim that they claimant uses a CPAP machine. Clearly noting this and providing the medical evidence to support it aids our review and provides the basis for us to consider an increased award. For victim's suffering from asthma, we have a wide range of awards depending on the severity of the condition. The awards will be at the lower end of the range unless we have medical evidence substantiating severity.
- **Musculoskeletal and traumatic injuries:** Often when we evaluate compensation for musculoskeletal injuries, we will see inconsistency in the information provided to support eligibility compared to the information provided to support exposure in the Private Physician packet. If we identify inconsistencies, we will deny the condition. Please do a review of the entire claim and its contents before submitting to be sure any inconsistencies are addressed. In addition, we need contemporaneous support for MSK and traumatic injuries and are looking for documentation that these injuries are a direct result of 9/11.
- **Timeliness of Registration:** Claimants must be registered by the applicable deadline in order to be deemed timely and eligible for compensation. We have found that in more than 50% of claims that have raised timeliness issues, the listed conditions and diagnosis dates do not match the certification information. Again, it is helpful if you go through the information and confirm it is logical and will clearly support our review for timeliness.



- **Claimants who remove or change their attorney:** We have a very small number of claimants who removed or changed attorneys before the policy was publicized in September 2015 regarding payment on the claim. As a result, these claimants will be paid directly. We are dealing with these on a case-by-case basis. In these situations, we will send a letter to let you know the claimant is being paid directly, and will send a letter to the claimant reminding them of their obligation to abide by whatever agreement they signed with the law firm.
- **Reminder regarding Affidavits:** We have been getting feedback from reviewers that affidavits submitted in the last quarter of 2015 are less specific than what we are used to seeing and it seems the templates being used do not include as much additional detail as in the past. As a result, we have been calling the affiants to provide more information. In many cases, the affiants are providing significant and specific information about the claimant's whereabouts and activities; that information is just not captured in the affidavit submitted with the claim. In order to avoid any delays in processing of the claim, please ensure all affidavits provide the necessary details to confirm the basis for the affiants verification of the claimant's presence.
- **WTC Volunteer Fund:** We have not been offsetting future payments from the WTC Volunteer Fund because of the funding cap on that fund. However, the State of New York has recently appropriated funds to maintain the volunteer fund and it appears that there may be a process for ongoing funding. We are evaluating this development and, we may be adjusting the way in which we treat these payments. Further details will be made available as they are determined.
- **New York Office Hours:** Office hours continue to be held at our 290 Broadway office every Wednesday afternoon. Contact Colleen King to schedule.