



The following topics were discussed at the meeting with law firms held on September 26, 2016. The meeting covered important updates and reminders on the VCF.

- **Group B Update:**

- We continue to move forward with the processing of Group B claims that were submitted before August 1, 2016. We are processing these claims in priority order, with decisions being rendered on the oldest claims before claims that have been pending for less time. As of earlier this month, there were nearly 1,300 of these claims (approximately 800 of which were submitted more than one year ago). We anticipate that compensation claims that include all information required for review and that were submitted more than two years ago should be completed by year end, and we hope to also make substantial progress on similarly situated claims submitted over one year ago.

In terms of our overall progress, in the last ten weeks since Rupa Bhattacharyya transitioned into the role of Special Master, the VCF has issued determinations on nearly 900 compensation claims and amendments and just under 1,200 eligibility claims and amendments. This reflects the hard work done by the VCF team overall in the last several months and continues to demonstrate our progress and commitment to processing claims.

- **Amendments:** There are approximately 1,300 claimants who received awards as part of Group A but have amendments pending because they have new conditions or new losses. We are prioritizing new claims for claimants who have not yet received any award, but we will also continue to address amendments. We have put in place a system to review the oldest of these amendments and begin issuing amended awards. We plan to use the same priority order of rendering decisions on older amendments before reviewing newer ones.
- **Appeals:** We are also aware that a large number of appeals have been pending a decision following the hearing. This is an immediate priority and we will get decisions issued on these claims in the next several weeks.
- **New Claims:** Since August 1 when the new claim form became available, we have received just over 750 new claims. We are addressing claims in the order in which they are submitted. As a result, it will be at least six months before we anticipate beginning the review of these claims. We ask that you set realistic expectations with your clients. We will, as always, continue to consider requests for expedition in cases of extraordinary financial hardship or where there is urgent medical need, but please exercise judgment in making such requests. The best way to request that a claim be considered for expedited processing is to call the Helpline, but you may also reach out directly to Colleen King or Jordy Feldman in the New York Office.
- **What can you do to help?**
 - Make sure claims are as complete as you can make them when you file.
 - Respond promptly to Missing Information (MI) requests. Our general practice is to issue MI requests when we identify that something is missing in order to fully evaluate the claim. This means we may send more than one MI request over the lifecycle of the claim. After each request, we wait 30 days for a response. If you do not respond, we will decide the claim based on what is available to us at that time. If you have no more documents that you can provide, you can pursue an appeal once you receive the decision letter.



If you need more than 30 days to gather the requested information, call our Helpline so we can note in the file that you are working to submit the requested information. If we know you are working on responding to the request, we will wait before issuing a decision on the claim.

- Consider the types of losses you are claiming – if, for example, the claim is one where you know there is a high offset that might result in a negative economic loss, consider claiming non-economic loss only. This saves the VCF from working on complicated calculations only to lead to a negative award.

The new claim form specifically allows you to affirmatively select non-economic loss only. If you choose to check that box, please be aware that we will not calculate future loss/economic loss of any type – no future lost income and no future replacement services. This is a change from our previous practice where we automatically assumed future income loss in any deceased claim. We will no longer do so as it saves us a great deal of work if the claimant has made a conscious decision to seek non-economic loss only.

- When needed, please provide documentation that helps show the relationship between the claimant's disability and their eligible condition. In order to calculate lost wages and benefits, the VCF must be able to verify that the disability is based on an eligible 9/11-related physical injury. If you know that the claimant's disability determination does not clearly indicate that the eligible condition (as listed in the eligibility decision letter from the VCF) is the basis of his or her disability determination, please provide additional documentation that explains the relationship between the disability and the eligible condition(s).

- **Policy Updates**

- **Group B Award Values:** The Reauthorization Act caps non-economic loss awards and includes a mandate that the VCF prioritize claims with the most debilitating physical conditions. We interpret this to mean that non-economic loss awards will be lower for certain conditions – those that are less debilitating or have a limited effect on activities of daily living -- than they were under Group A. Many non-economic loss awards remain the same or similar to Group A values. For milder conditions that have a limited effect on daily life, however, the non-economic loss award could be 50% lower. The Act also removes the minimum award, so you should prepare your clients for the possibility of \$0.00 awards or awards less than \$10,000.

- **Non-economic Loss for Sleep Apnea:** As discussed on the [May 24](#) conference call, a claimant must submit medical records or a treating physician statement demonstrating CPAP use in order to be considered for a non-economic award in the higher range. The higher award range for sleep apnea sufferers with CPAP is based on the demonstration that the use of a CPAP has a substantial effect on the quality of life. Impact statements from claimants alone are generally not enough.

The most efficient way to ensure that the information regarding CPAP use is considered is to include complete documentation when you file. If you have already filed a claim and can obtain supporting documents to support an award for the higher amount, please proactively amend that claim now. If there is some indication of CPAP use but insufficient documentation of use in the claim, we will try to notify you through either a call or Missing Information letter if practicable.



- **Non-economic Loss for New-onset COPD:** We have received some questions asking if claimants should file an amendment to seek an increased award now that this condition has been added to the WTC Health Program list. In general, if the claimant has already received an award of \$90,000 or more for a similar/pulmonary condition, adding COPD as a certified condition is unlikely to add to the award. However, if the claimant received less than \$90,000, adding COPD may warrant an increased award.

If you have a claimant who has been denied for lack of any certified or verified condition, and he/she claimed COPD on the original claim submission, you should advise them to get certified and then amend the claim.

- **Traumatic injuries:** Traumatic injuries are newly certifiable by the WTC Health Program. The VCF, however, has always compensated for traumatic injuries. Now that the WTC Health Program will certify traumatic injuries, in limited cases, where it is not clear that the traumatic injury falls clearly within WTC Health Program guidelines, we may ask claimants to go back to the WTC Health Program for certification.

The VCF's recognition of traumatic injuries as a basis for award has not changed. Because of this, registration timelines have not changed either. Claimants with traumatic injuries suffered during our time period need to have been registered by October 3, 2013.

- **Timeliness Policy:** The updated [policy on registration deadlines](#) was posted to the VCF website and emailed to you on September 9. This update includes significant changes as to when the relevant 2-year period to submit timely registration is triggered. It is intended to provide a bright line rule, reduce confusion, and address concerns you have raised about claimants who potentially missed the deadline because they did not realize their physical injury or condition was 9/11-related. The most critical change is that we are no longer relying on the diagnosis date but are instead looking for the date a government entity determined that the individual's physical injury or condition was 9/11-related.
 - **If a Claim was Denied Solely for Timeliness Issues:** We are in the process of identifying these claims but if you know you have a client in this position, please file an amendment to expedite the processing of the claim. If you have a claim that has an active appeal raising this issue, we are canceling hearings and addressing eligibility questions on the papers in an effort to resolve these as quickly as possible.
 - **Application of Timeliness Policy for Deceased Individuals:**
 - **Personal Injury (PI) claims:** For deceased victims, a properly appointed Personal Representative may continue a PI claim already timely filed, or may register and file a new PI claim if it is done within two years of the victim's Registration Start Date. This would allow the Personal Representative to seek losses incurred prior to the decedent's death. A Personal Representative may not resuscitate a PI claim that would have been untimely if filed by the victim.
 - **Deceased claims:** A Personal Representative may also file a claim seeking compensation for losses suffered as a result of the death of the victim within two years of the date of the victim's death if the death was as a result of a 9/11-related injury or condition. This is a hard deadline and is not one that is based on specific findings that the death was related to 9/11. If there are extraordinary circumstances that might support a waiver of this deadline, we can consider those on a case-by-case basis on appeal.



○ **Lawsuit Dismissals, Settlements and New Conditions:**

- If you filed a lawsuit for a condition that was not covered by the WTC Health Program or the VCF as of January 2, 2012 (i.e., “newly covered conditions”), then the VCF will accept the claims for that condition(s) **if** you provide proof that your lawsuit has been **withdrawn or dismissed** before you submit the claim. Note, however, that if the lawsuit also included conditions that *were* covered by the WTC Health Program or the VCF as of January 2, 2012, those conditions will not be eligible for compensation from the VCF.
- **Settlements**, however, are treated differently in the statute. Several of you have raised the question of how settlements will be treated for conditions not covered by the WTC Health Program or VCF as of January 2, 2012 (i.e., newly covered conditions). We are reviewing that issue and expect to issue guidance soon.

○ **Amend vs. Appeal:** We have received some questions about when a claim should be amended and when it should be appealed. Below are some guidelines for each process and when each should be used.

- **When to File an Amendment:** You should file an amendment if: (1) you have new information that was not previously submitted with your claim, or (2) if your circumstances have changed since receiving your decision letter. If, for example, the claimant was denied due to insufficient presence and you were able to obtain new affidavits or other documentation, you should amend the claim. Likewise, if the claimant has a new condition or a new loss, you should amend the claim. You should not appeal in these situations.

It is important to remember to submit the actual amendment – do not simply upload or mail a letter and supporting documents. Full details on how to submit an amendment can be found on our website under “[Forms and Resources](#).”

- **When to File an Appeal:** You should appeal if you think the facts and information you presented in the claim were not properly considered. If, for example, you believe that the VCF used an incorrect income amount to calculate lost earnings, an appeal is the appropriate option.
 - **For presence appeals:** Please do a thorough investigation before appealing and/or holding the hearing. For example, if your client worked for the NYPD, ask them if they have and can provide their memo book from the relevant time period. If your client was in the litigation, look into what documents were submitted in connection with the litigation that may support presence for VCF purposes. Please do not submit new documents a few days before the hearing and expect that we will be able to review them and make a determination. We ask that you keep in mind that there is a lot of work that goes into scheduling the hearings – coordinating the hearing officers, court reporters and other factors. If you obtain and submit new documents after the hearing has been scheduled, please call our NY office at 212-619-3215 so we can cancel the hearing. Please do not just upload the documents without proactively notifying us.
 - You will notice that the new Appeal Request Form no longer includes an option for an “appeal on the papers.” In very limited situations – for example, where the only issue on appeal is the clarification of some information – we may “convert” a live appeal to an appeal on the papers with your permission.



- **Timeline for Appeals:** Once we receive a written request to appeal a determination, we aim to schedule the hearing date within 10-14 business days. Given the current hearing schedule, typically, your hearing will be *held* approximately 8-12 weeks from when it was filed. We then aim to send a final decision within 45 days from the date of your hearing.
- **Reducing Awards:** The VCF always reserves the right to correct awards if we discover an error or if there is information that was not previously submitted or considered - whether as a result of an amendment, an appeal, or additional VCF review.
- **Collateral Offset Form:** You must inform the VCF of any new collateral source payments a claimant receives, or has become entitled to receive, at any point after the claim has been filed. This includes once it has been paid. We have a form on the website for you to use to report the new offset.

You should use the "[Collateral Offset Update Form](#)" to notify the VCF of:

- Any new collateral source payments that the claimant has received or become entitled to receive since filing the claim
- Any increase in a previously reported collateral source payment since filing the claim

If an award determination has already been issued on the claim, the award will not be adjusted to reflect the new payment if the claimant notifies the VCF within 90 days of the date he/she learned of the new or revised collateral source payment. If the claimant notifies the VCF of the new or revised collateral source payment more than 90 days after learning of the new payment, the VCF may adjust the award to reflect the new payment as an offset, which may result in a lower award.

Do not use this form if the claimant has had a decrease in a collateral source payment and you would like to request the VCF review the award. To request a review, you must file an amendment.

- **Update on Communications and the Claims Management System:**

- **New Policy Document:** In order to continue to simplify and streamline our communications and information, we have made changes to our previous FAQs. We have consolidated our policies and procedures into a new comprehensive document and are using the FAQs to address those questions that are, in fact, frequently asked. You can find these resources on both the "FAQ" page and the "Forms and Resources" page on the website.

The new policy document is intended to be used as a reference by individuals who are filing a claim, or by those who are interested in how the VCF operates. It includes information on eligibility criteria, the methodology used to calculate economic and non-economic loss, payment procedures, appeals and hearings, claims for deceased individuals, and information for claimants who are represented by an attorney – and for the attorneys who represent them.

We will be making updates when appropriate and will continue to notify you by email when they are posted. We hope that providing you and your clients with a single source of reference on the VCF will be useful. As always, your feedback is welcome and appreciated so we can make sure the document is useful to you and your clients.

FAQs will continue to change based on the questions we receive. We are getting ready to post a few new ones shortly, including several that were recently posed by many of you.



- **Correspondence:**
 - **Award letters:** We have heard your feedback requesting more information on how the VCF made the determination and calculated the award. For example, why only non-economic loss was awarded, what documents or information we were missing in order to calculate economic loss, etc. As a result, we are looking for ways to make the letters more informative and to add more details and explanation to the letters so it's clear why we did what we did. We will also make efforts to call you during our review to clarify any questions we have or discuss additional information we may need.
 - **Compensation Appeal Request Form:** This is a new document type and replaces the former Loss Calculation Response Form. This form only needs to be submitted if the claimant is appealing. You no longer have the option to affirmatively “agree” with the award. In fact, if you send in a document “accepting” the award, it slows down our process, so we ask that you only use this form when the claimant is appealing.
 - **Claimant contact information:** A reminder that we need the claimant's details in “Claim Details” – not the attorney's information. In particular, we need the claimant's phone number. Your phone number should be entered in the “Attorney” section.
 - **Online Claims Management System:** The next update to the system will include many small improvements that we hope will continue to make the submission process easier. Thanks to those who participated in calls to provide feedback on the online system. We have provided the list of suggested enhancements to the developers and will evaluate the feasibility of making the changes. The next release (tentatively scheduled for the weekend of October 8) includes the following:
 - Ability to sort documents and correspondence by date, type, and other criteria.
 - Updated Physical Injury tab to allow you to “edit” a previously-entered injury.
 - Ability to preview all answers before clicking “Submit” by leveraging the updated “Print Form” functionality. By clicking this button, which is viewable at any point within the claim, you will see all the answers entered to date. You can complete the claim, “print form,” and review all answers before submitting the claim. Once you submit the claim, it will be locked for editing and any changes will need to be handled via an amendment.

We will send an email when we confirm the date for the release and will include a listing of the changes being made.

Correspondence Alerts: We have heard from several of you that it would be helpful if the email you receive when correspondence is uploaded to a claim could distinguish between a decision letter as opposed to other types of letters. We are planning in a future update to change the email for decision letters so the subject line reads: “A decision has been made on your claim.” We hope this will help you identify when decision letters have been generated and uploaded.

New document type “Amendment – Other Document to support Amendment”: This new document type was added to the system on September 27 and should be used when you are submitting an amendment and are uploading documents specifically in support of that amendment. Please **do not** use this to file the actual amendment!

In addition, please do not use “Appeal – Other Document to support Appeal” for



documents related to amendments. We use the document type to help identify where things should be routed so it does have an impact on processing. Use the new Amendment document type ONLY when uploading documents in support of an amendment that you have actually submitted.

- **System Security – blocking of multiple, simultaneous logins:** We appreciate everyone's efforts to comply with the DOJ security and use policy. If you have asked for assistance in delegating/changing ownership of claims and we are still processing the request, it will be done shortly. Please contact us if you need help getting your firm's accounts/ ownership/delegation aligned with the new policy.

In order to remain in compliance with DOJ standards, we will be continuing to make some updates in the near future. One of these updates will include making changes so that the system will not allow simultaneous logins for the same user ID. This item is still in progress and we will give you advance notice before it is deployed.

These security changes are for everyone's benefit given the sensitivity of the type of information being stored and accessed. Below are a few details regarding this change:

- The login feature will be based on the unique account (user ID). If you try to login with a user ID that is already logged in and active, you will get a message stating that the user is already logged in and it will not let you complete the login. You will need to log out from the active session in order to log in with the same ID on a different computer.
- The system timeout for inactivity is set to 30 minutes so if, for example, you have a session running, you lock your computer and go to a meeting, and then try to login elsewhere within the 30 minutes (before the session "times out"), it won't allow it. The system needs to know that you have left/ended the session. Once the 30 minutes expire, you will once again be able to login to the system from anywhere.
- We encourage you to start getting used to these changes now. Best practice is to logout when you know you won't be working in the system within the next 30 minutes. You should officially "close" your session (logout and close your browser) when you are done working so the system recognizes your session is "done."

As a reminder, you are not allowed to log in and let others use your session as this is prohibited by DOJ policy.

The "use policy" posted on the website will be updated accordingly once the changes noted above are in place. It is also likely in the future that DOJ will require you to accept and agree to the policy each time you login. We will keep you posted as we know more about the timing for these changes to take effect.

- **Questions:** The following questions and answers were discussed:
 - **How should we let you know if we have a claim that we believe should be considered for expedited processing?** The best way to request a claim be considered for expedited processing is to call the Helpline. You can also call Colleen King or Jordy Feldman. Please do not just upload a letter requesting consideration as we will not know the contents of the letter until we have a chance to review it, which could take time. Please use your judgment in requesting that we expedite a claim.



- **How far in advance of the hearing does the VCF need the documents in support of the appeal? Does the VCF also need a hard copy of appeal-related documents that are uploaded to the claim?** Documents in support of an appeal should be provided to the VCF no later than one month prior to the hearing date. You do not need to provide a hard copy of any document you upload to the system. Any documents you upload to the claim are printed and provided to the Hearing Officer as part of our pre-hearing preparation.
- **We have seen claims where the VCF has calculated a disability percentage that is less than 100% where the claimant was determined to be 100% disabled by some entity (e.g., Workers' Compensation). Why would that be? And if we disagree with the disability percentage applied to the claim, should we amend or appeal?** The VCF may award economic loss using a disability percentage of less than 100% even though another entity has determined that the claimant is 100% disabled if the disability determination is based on a number of conditions, only some of which are eligible for compensation from the VCF. If you have submitted everything you can in support of the claim and you have nothing new to submit, you should appeal. If you have additional documentation (other than Workers' Compensation documents) that would aid in evaluating the percentage of disability attributed to the eligible condition, you should amend. Where the documents are from the Workers' Compensation file, we have independent access to those documents, and they would have been considered in our decision on the claim, so you should appeal.
- **We used to receive missing information requests for insufficient presence documentation but recently had a claim denied for presence without receiving a request for more information. We do have presence documents – should we appeal or amend?** It is our practice to issue at least one Missing Information letter for each claim. We cannot speak to the specific circumstances in this case without digging into the claim. If you have new presence documents, you should amend to add the new presence documentation to the claim. We will review it and notify you of the outcome of our review.
- **We represent many claimants who do not speak English and many of their affiants also do not speak English. Is it possible for the VCF to notify us before calling the affiants so we can alert them to the call? Otherwise, they do not understand why they are being contacted and have been hesitant to answer the phone or the questions being asked.** Yes. We will try to notify you before the calls are made. For your awareness, we do use trained interpreters for any calls that are conducted in English or Spanish.
- **Can you provide statistics on Group B claims filed before the reauthorization vs. after?** As of earlier this month, there were nearly 1,300 compensation claims that need to be reviewed, approximately 800 of which were submitted more than one year ago. We anticipate that compensation claims submitted more than two years ago should be completed by year end, and we hope to also make substantial progress on claims submitted over one year ago. We are committed to reviewing claims in "first in first out" order so the oldest claims are being prioritized for review.
- **When will Group B payments start?** Group B payments will be processed beginning on October 1. We have authorized approximately 500 payments and will begin by paying the expedited claims first.
- **Must the claimant have a disability determination by a government entity?** No. We will consider disability determinations by private insurers or treating physicians. Please see section 2.2.d of the [VCF Policy Document](#) for more information on the types of disability documentation you can submit for a claim.



- **Will the VCF accept a C-4 form submitted to the Workers' Compensation Board as proof of disability?** The Workers' Compensation Board (WCB) has several forms in the C-4 "family" that a health care provider can provide in support of a Workers' Compensation claim. This includes a Doctor's Initial Report to be filed within 48 hours of first treatment (Form C-4), a Doctor's Progress Report documenting continued treatment (Form C-4.2), and a Doctor's Report of MMI (Maximum Medical Improvement)/Permanent Impairment to report permanent impairment (Form C-4.3), among others. These forms may provide some evidence of disability, but are not in and of itself sufficient to establish disability for VCF purposes. The VCF will look to see what determination the WCB made on the claim, whether it accepted the doctor's reports, whether an independent medical examination was conducted and its results, and whether there are other third-party determinations of disability. Please see section 2.2.d of the [VCF Policy Document](#) for more information on the types of disability documentation you can submit for a claim.
- **If the VCF denied economic loss where we submitted a letter from the claimant's physician regarding the claimant's disability, but Workers' Compensation did not find the person disabled, should we amend or appeal?** If you already provided the available documentation in support of the disability and have nothing new to provide, you should appeal.
- **When will the VCF start issuing decisions on wrongful death claims?** We recognize there has been a delay in processing these claims and we are working to resolve issues on our end so we can continue issuing decisions.
- **When we respond to a Missing Information letter, does it move the claim back to the end of the line for review?** No. The way we have prioritized the claims is based on the date the claim was originally submitted (either Eligibility or Compensation submission, depending on which part of the claim is being evaluated). As a result, we are always working the oldest claims that can be worked based off this date, not the date you submitted the most recent document.
- **We have some clients who return the Appeal Request Form without our knowledge and we only find out about it when we receive the letter notifying us of the hearing date/time. Is it possible for the VCF to check with us before scheduling a hearing when the claimant is the one who returned the form? In these instances, once we explain the award, they agree there is no need for the hearing.** We will consider how we might accommodate this request and see if there is anything in our process that supports doing this in an easy way. As always, we encourage you to talk with your clients and explain that although they are copied on the correspondence, they should talk with you before submitting anything to the VCF.
- **Do expedited claims need to wait for the 30-day appeal period to end before payment will be issued if the claimant does not intend to appeal?** No. The VCF will continue to process payments on expedited claims as soon as the award letter is issued. This does not impact the appeal period as the claimant still has 30-days to appeal. If the claimant appeals and the award is increased as a result, we will issue a subsequent payment for the difference.
- **If we are submitting pension documents, does the VCF need us to also submit calculations?** No. There is no need for you to do the calculations. If it is a disability pension, we do need the documents showing basis of the disability.
- **What documents does the VCF need to support a claim of future economic loss?** The new [VCF Policy Document](#) has detailed information on what specific information the VCF needs to calculate past and future loss. Please review section 2.2 of the document. You do not need to submit tax returns with a claim unless specifically requested by the VCF.



- **If a claimant was denied for the WTC Health Program Disability Evaluation Process because there had been no reduction in earnings, and there is now a decrease in earnings, how can we request that the claimant be reconsidered for the evaluation process?** You should amend the claim, note the request, and upload any new relevant documentation.