



Policies and Procedures

This document outlines the policies and procedures of the September 11th Victim Compensation Fund (“VCF”). The document 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 for their claim.

The 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. The document is written for a personal injury victim who is filing his or her own claim, so references to “you” or “your” should be read as “the victim” in those cases where a Personal Representative, parent, or guardian may be filing the claim on the victim’s behalf.

The document includes references to specific forms and additional resources. All forms and resources referenced in the document are available under “[Forms and Resources](#)” on the www.vcf.gov website. Hyperlinks are also included in the document for those who are using the document in an electronic format.

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Section 1. Eligibility Criteria and Deadlines

1.1 Eligibility Criteria

To be eligible for an award from the September 11th Victim Compensation Fund (“VCF”), you must meet the following criteria:

- Register your claim by the appropriate deadline and submit your complete claim no later than December 18, 2020.
- Dismiss, withdraw, and/or settle any 9/11-related lawsuits by the appropriate deadline.
- Show that you have a 9/11-related physical injury or condition that is certified by the World Trade Center (“WTC”) Health Program or that was diagnosed by your private physician and is verified through the Private Physician process.
- Show that you were present at one of the attack sites, within the New York City Exposure Zone, or along the routes of debris removal at some point during the period beginning September 11, 2001 through May 30, 2002.
- If you received an award from the original September 11th Victim Compensation Fund that operated from 2001-2004 (“VCF1”), you must show that the condition has worsened, that you have been diagnosed with a new condition, or that you have a new loss associated with a previously eligible condition.
- If you are filing a claim on the victim’s behalf, you must show that you have the legal authority to do so.

1.2 Registration and Claim Filing Deadlines

You must register with the VCF by the deadline that applies to your individual circumstances. By timely registering your claim with the VCF, you preserve your right to file a claim with the VCF in the future, but no later than December 18, 2020.

In general, claimants are considered to have registered on time if their registration is submitted within two years of the date on which the claimant knew or reasonably should have known: (1) that the victim suffered a physical harm as a result of the terrorist-related aircraft crashes of September 11, 2001, or debris removal in the immediate aftermath, **and** (2) that the claimant was eligible to file a claim with the VCF. See Section 405(c)(3)(A)(i) of the Zadroga Act. This means that a claimant must know (or reasonably should know) both of the physical injury or condition and that there is a causal connection between the injury or condition and 9/11-related exposure. For most claimants, the VCF will use the date on which a federal, state, or local government entity determined that a physical injury or condition was 9/11-related as the date on which a claimant reasonably should have known that he or she was eligible to file a personal injury claim. This includes, but is not limited to, a determination by the WTC Health Program, a state Workers’ Compensation Board, or by a government employer such as the FDNY, NYPD, or NYCERS for purposes of awarding a disability pension. Please note that a determination of this sort, which is sufficient to establish that the claimant reasonably should have known that he or she was eligible to file a personal injury claim, is not necessarily sufficient to establish that a claimant suffers from an “eligible condition” or that the claimant has a disability that warrants an economic loss award.

Thus, for individuals who are being treated through the WTC Health Program, the starting date of the two-year registration period, i.e., the “Registration Start Date,” is based on the earlier of two dates: (1) the date of the letter from the WTC Health Program indicating that the individual’s 9/11-related physical injury or condition has been certified for treatment, or (2) the date on which another government entity determined that the physical injury or condition was 9/11-related. For individuals not being treated through the WTC Health Program, the Registration Start Date is the earlier of: (1)



the date on which a government entity determined that the physical injury or condition was 9/11-related, or (2) the date on which the individual's physical injury or condition is verified through the VCF's Private Physician process. For deceased claimants, a properly appointed Personal Representative may continue a personal injury claim already timely filed, or may register and file a new personal injury claim *seeking compensation for losses suffered prior to the victim's death* if done within two years of the victim's Registration Start Date. 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 physical injury or condition.

A government determination of 9/11-relatedness as to any specific physical condition or injury triggers a new two-year registration period. Per VCF policy, if registration is timely for any condition or injury, all eligible conditions no matter when determined to be 9/11-related (and regardless of whether there had been a prior timely registration) may be considered for an award, subject to the other requirements of the VCF claims process.

Please note that the WTC Health Program and the VCF are different programs. The WTC Health Program provides medical monitoring and treatment for physical injuries and conditions resulting from 9/11 exposure. The VCF provides compensation for losses resulting from physical injuries and conditions related to 9/11 exposure. You must register for each of these programs separately. Enrollment in the Health program does not automatically register you with the VCF and if you are being treated by, or monitored through, the WTC Health Program, you are not automatically eligible for compensation from the VCF.

The chart on the next page summarizes the specific deadlines for registering a claim with the VCF. These deadlines are the dates by which registration must be submitted. Please note: December 18, 2020 is the deadline for all claims and supporting documents to be filed.

To register with the VCF you must do one of the following:

- Use the [online system](#) to submit your Registration Form.
- Call the VCF Helpline at 1-855-885-1555 to register by phone.



Victim's Condition	Registration Start Date: Earlier of Date of Certification Letter, Verification, or other Government Determination that Physical Injury or Condition was 9/11-Related	Registration Deadline
Non-Cancer Conditions (including traumatic injury) ¹	On or before October 3, 2011	October 3, 2013
	On or after October 4, 2011	Two years after Registration Start Date but no later than December 18, 2020
Cancer (excluding Prostate Cancer and Rare Cancers)	On or before October 12, 2012	October 14, 2014
	On or after October 13, 2012	Two years after Registration Start Date, but no later than December 18, 2020
Prostate Cancer	On or before October 21, 2013	October 21, 2015
	On or after October 22, 2013	Two years after Registration Start Date, but no later than December 18, 2020
Rare Cancers added to WTC Health Program list on February 18, 2014	On or before February 18, 2014	February 18, 2016
	On or after February 19, 2014	Two years after Registration Start Date, but no later than December 18, 2020
New-Onset Chronic Obstructive Pulmonary Disease	On or before August 4, 2016	August 4, 2018
	On or after August 5, 2016	Two years after Registration Start Date, but no later than December 18, 2020
Victim is Deceased and Died of:	Date of Victim's Death	Registration Deadline
Non-Cancer Conditions	On or before October 3, 2011	October 3, 2013
	On or after October 4, 2011	Two years after the date of death
Cancer (Excluding Rare Cancers and Prostate Cancer)	On or before October 12, 2012	October 14, 2014
	On or after October 13, 2012	Two years after the date of death
Prostate Cancer	On or before October 21, 2013	October 21, 2015
	On or after October 22, 2013	Two years after the date of death
Rare Cancers added to WTC Health Program list on February 18, 2014	On or before February 18, 2014	February 18, 2016
	On or after February 19, 2014	Two years after the date or death
New-Onset Chronic Obstructive Pulmonary Disease	On or before August 4, 2016	August 4, 2018
	On or after August 5, 2016	Two years after the date of death

These deadlines are the dates by which the registration must be submitted in the VCF's online system or postmarked if sending by mail. If the date falls on a Sunday or a Federal Government holiday, the registration must be submitted or postmarked by the next business day.

Individuals who have been diagnosed with a 9/11-related illness that is not currently on the list of eligible conditions should periodically check the WTC Health Program website at

¹ Although the WTC Health Program did not add acute traumatic injury to its list of WTC-Related Health Conditions until August 4, 2016, the VCF will continue to observe the October 3, 2013 registration deadline for this condition as the VCF has included traumatic injuries since the VCF was re-opened on October 3, 2011.



<http://www.cdc.gov/wtc/conditions.html> to see if the condition is added to the list. If the condition is added to the list of eligible conditions in the future, claimants must register the claim within two years after the date on which the condition was added to the list or the Registration Start Date (whichever is later), but no later than December 18, 2020.

1.3 9/11-Related Lawsuits

The statute that created the VCF provides that you may either seek compensation from the VCF or you may file a lawsuit, but you cannot do both except under certain circumstances as explained below.

a. **Waiver of right to file future lawsuits:**

When you submit a VCF claim, you waive your right to file a civil action (or to be a party to an action) in any federal or state court for damages sustained as a result of the terrorist-related aircraft crashes of 9/11, or for damages arising from or related to debris removal. This means that you waive your right to be party to a future lawsuit even before the VCF determines whether or not you are entitled to compensation. For deceased individuals, the Personal Representative will waive his/her rights to file any future action seeking compensation for the decedent's death. The statute may be interpreted to mean that the submission of a claim for a deceased individual will waive the rights of others who may claim the right to file a wrongful death action.

There are two exceptions to this general "waiver" rule – that is, there are two types of permissible lawsuits that you can pursue and still file a claim with the VCF:

- a civil action to recover collateral source obligations
- a civil action against any person who is a "knowing participant in any conspiracy to hijack any aircraft or commit any terrorist act." This includes lawsuits based on theories of aiding and abetting or assisting an attempt to commit a terrorist act.

b. **Permissible lawsuits:**

As noted above, there are two types of 9/11-related lawsuits that you can pursue and still file a claim with the VCF. First, you may pursue a civil action to recover collateral source obligations. Collateral sources are defined by the statute to mean all sources, including life insurance, pension funds, death benefit programs, settlement payments from September 11th-related lawsuits, and payments by federal, state, or local governments related to the terrorist-related aircraft crashes of September 11, 2001 or debris removal. Second, you may pursue a civil action against any person who is a "knowing participant in any conspiracy to hijack any aircraft or commit any terrorist act." This includes lawsuits based on theories of aiding and abetting or assisting an attempt to commit a terrorist act. Examples of lawsuits that fall into this category include (but are not limited to) the following lawsuits filed in the United States District Court for the Southern District of New York:

- *Gallop v. Riggs National Corp., et al.* (Docket No. 1:04-cv-07281-GBD-FM)
- *Burnett, et al v. Al Baraka Investment* (Docket No. 1:03-cv-05738-GBD)
- *Ashton, et al v. Al Qaeda Islamic, et al.* (Docket No. 1:02-cv-06977-GBD-FM)

c. **Withdrawal or dismissal of pending 9/11-related lawsuits:**

If you had filed a 9/11-related lawsuit prior to making a VCF claim, there are specific dates by which you must have withdrawn or dismissed that lawsuit in order to file a claim with the VCF.

Under 28 C.F.R. § 104.61, any person who has filed or is a party to a lawsuit seeking damages for injuries "sustained as a result of the terrorist-related aircraft crashes of September 11, 2001, or for damages arising from or related to debris removal" may not "file



a claim with the Special Master unless they withdraw from such action not later than January 2, 2012.”

Required documentation for withdrawn 9/11-related lawsuits: You must submit proof of timely withdrawal of your lawsuit with your claim. You may submit either a court order establishing that the action has been discontinued and/or dismissed, dated on or before January 2, 2012, or a notice/letter of withdrawal filed on the Electronic Case Files (“ECF”) system in the relevant docket on or before January 2, 2012. You must also submit the final order of the court confirming the withdrawal or dismissal of all claims. That order may be dated after January 2, 2012, only if you have provided proof that you filed a notice of withdrawal on the ECF system in the relevant docket on or before January 2, 2012.

d. If you settled your lawsuit:

If you had filed a 9/11-related lawsuit prior to making a VCF claim and settled any of the claims, there are specific dates by which you must have tendered a release of the settled claims and dismissed any remaining unsettled claims.

The VCF will accept claims with settled 9/11-related lawsuits if you meet the following conditions:

- (1) the lawsuit was commenced after December 22, 2003, and a release of claims in such lawsuit was tendered by the individual, or by the individual's attorney (provided the attorney has authority to tender the release) prior to January 2, 2011; **and**
- (2) you dismissed any claims that were not settled on or before January 2, 2012.

You may have settled all your claims and, in that case, as long as the release was tendered by January 2, 2011, and the lawsuit was commenced after December 22, 2003, then you can submit a claim to the VCF. The Zadroga Act states that if an individual tendered a release after the Zadroga Act was enacted on January 2, 2011, the individual is not eligible for the VCF. The VCF will address the question of eligibility in connection with lawsuit settlement or dismissal issues on a case-by-case basis.

Note: The VCF cannot provide information about private settlements. The VCF is a Federal Government program and is separate from the lawsuits between individuals and the Port Authority, the Captive Insurer, and others. Individuals with questions about those settlements should contact their lawyers.

The Zadroga Act provides that the award from settlements in civil suits regarding injuries related to 9/11 will be counted as a collateral source offset. Therefore, settlement payments from lawsuits will be deducted from VCF awards.

Required documentation for settled lawsuits:

You must certify on your claim form that you have satisfied the requirements for settling your lawsuit. In many cases, the VCF can obtain additional information from third parties.

If you were represented by Douglas & London or Napoli, Bern, Ripka, Shkolnik (“Napoli Bern”) in your lawsuit, you generally do not need to submit any documents related to your settlement because the VCF may be able to get all of the necessary information from Douglas & London or Napoli Bern. If you were represented by Sullivan Papain Block McGrath and Cannavo (“Sullivan Papain”) in **both** your lawsuit and your VCF claim, the VCF may be able to get the necessary information from Sullivan Papain. The VCF will notify you if you need to submit any additional documents.

For all other individuals, the VCF generally needs proof documenting the amount of your settlement and the dates of commencement and release of all claims in the lawsuit. If an



attorney signed and submitted the release on behalf of the individual or the individual's dependent, spouse, or beneficiary, a copy of the retainer agreement with the attorney in the settled lawsuit must be submitted as proof that the attorney was authorized to sign the release. If you do not have any of these documents, you may still submit your claim form because the VCF may be able to obtain them from third parties. The VCF will notify you if additional information is needed.

1.4 Eligible Conditions (WTC-Related Physical Health Conditions)

To be eligible for compensation from the VCF, you must have a physical injury or condition caused by the terrorist-related aircraft crashes of September 11, 2001, or the rescue and recovery efforts during the immediate aftermath of such crashes or the debris removal efforts that took place in the immediate aftermath of those crashes. The statute requires that, to be eligible, you must have at least one [WTC-Related Physical Health Condition](#). The VCF determines whether a condition is a WTC-Related Physical Health Condition based on the evidence presented with your claim, and with assistance from the Administrator of the WTC Health Program as needed.

a. Presumptively covered conditions eligible for compensation:

To be eligible for compensation, the Zadroga Act requires an individual to have suffered “physical harm or death as a result of” one of the terrorist-related aircraft crashes of September 11, 2001 or debris removal. Generally, the VCF provides compensation for the physical injuries and conditions that the WTC Health Program has found to be related to 9/11 and therefore are on the [list of conditions](#) established by the WTC Health Program. Thus, as a general matter, the VCF will rely on certification by the WTC Health Program that the individual is eligible for treatment for a particular physical injury or condition under the WTC Health Program, or on verification by the WTC Program Administrator that the individual suffers from a WTC-related physical health condition.

Listed below are the categories of physical health injuries and conditions that may be certified by the WTC Health Program (“presumptively covered conditions”). This list includes the most recent additions to the list effective as of August 4, 2016. This list includes only major categories of conditions and is not meant to represent every type of eligible injury that falls within each category:

- Interstitial Lung Diseases
- Chronic Respiratory Disorder – Fumes/Vapors
- Asthma
- Reactive Airways Dysfunction Syndrome (“RADS”)
- WTC-exacerbated Chronic Obstructive Pulmonary Disease (“COPD”)
- New onset Chronic Obstructive Pulmonary Disease (“COPD”)
- Chronic Cough Syndrome
- Upper Airway Hyper Reactivity
- Chronic Rhino Sinusitis
- Chronic Nasopharyngitis
- Chronic Laryngitis
- Gastro-Esophageal Reflux Disorder (“GERD”)
- Sleep apnea exacerbated by, or related to, the above conditions
- Low back pain occurring in responders
- Carpal Tunnel Syndrome (“CTS”) occurring in responders
- Certain other musculoskeletal disorders (“MSK”) occurring in responders and defined as “a chronic or recurrent disorder of the musculoskeletal system caused by heavy lifting or repetitive strain on the joints or musculoskeletal system occurring



during” the period between September 11, 2001 and May 30, 2002, or as determined by the Special Master (Note: the VCF may compensate MSK in survivors if appropriate proof is provided)

- Acute traumatic injuries – the WTC Health Program defines acute traumatic injury as an injury “caused by and occurring immediately after a one-time exposure to energy such as heat, electricity or impact from a crash or fall, resulting from a specific event or incident” for which the claimant received medical treatment on or before September 11, 2003
- Certain types of cancer as specified in the chart on the following page



<p><u>Head & Neck</u></p> <ul style="list-style-type: none"> • Malignant neoplasm of lip • Malignant neoplasm of base of tongue • Malignant neoplasm of other and unspecified parts of tongue • Malignant neoplasm of parotid gland • Malignant neoplasm of other and unspecified major salivary glands • Malignant neoplasm of floor of mouth • Malignant neoplasm of gum • Malignant neoplasm of palate • Malignant neoplasm of other and unspecified parts of mouth • Malignant neoplasm of tonsil • Malignant neoplasm of oropharynx • Malignant neoplasm of nasopharynx • Malignant neoplasm of piriform sinus • Malignant neoplasm of the hypopharynx • Malignant neoplasm of other and ill-defined conditions in the lip, oral cavity and pharynx • Malignant neoplasms of nasal cavity • Malignant neoplasm of accessory sinuses • Malignant neoplasm of the larynx <p><u>Mesothelioma</u></p> <p><u>Prostate Cancer</u></p> <p><u>Soft Tissue</u></p> <ul style="list-style-type: none"> • Malignant neoplasm of peripheral nerves and autonomic nervous system • Malignant neoplasm of other connective and soft tissue <p><u>Skin (Non Melanoma)</u></p> <ul style="list-style-type: none"> • Other malignant neoplasms of skin • Scrotum <p><u>Melanoma</u></p> <ul style="list-style-type: none"> • Malignant melanoma of skin 	<p><u>Digestive System</u></p> <ul style="list-style-type: none"> • Malignant neoplasm of the esophagus • Malignant neoplasm of the stomach • Malignant neoplasm of the colon • Malignant neoplasm of rectosigmoid junction • Malignant neoplasm of the rectum • Malignant neoplasm of other and ill-defined digestive organs • Malignant neoplasm of the liver and intrahepatic bile ducts • Malignant neoplasms of retroperitoneum and peritoneum <p><u>Respiratory System</u></p> <ul style="list-style-type: none"> • Malignant neoplasms of the trachea • Malignant neoplasm of bronchus and lung • Malignant neoplasm of heart, mediastinum and pleura • Malignant neoplasm of other and ill-defined sites in the respiratory system and intrathoracic organs <p><u>Rare Cancers</u> – defined as “any type of cancer that occurs in less than 15 cases per 100,000 persons per year in the United States.” Some examples of cancer that meet the “rare cancer” definition include, but are not limited to, the following:</p> <ul style="list-style-type: none"> • Malignant neoplasm of the testis • Neuroendocrine malignancies • Malignant neoplasm of the male breast • Malignant neoplasm of the gallbladder/biliary tract • Malignant neoplasm of the small intestine • Malignant neoplasm of the thymus • Malignant neoplasm of the central nervous system • Malignant neoplasm of the adrenal gland • Gastrointestinal stromal malignancies • Malignant neoplasm of the penis 	<p><u>Female Reproductive Organs</u></p> <ul style="list-style-type: none"> • Malignant neoplasm of ovary <p><u>Urinary System</u></p> <ul style="list-style-type: none"> • Malignant neoplasm of bladder • Malignant neoplasm of the kidney except renal pelvis • Malignant neoplasm of renal pelvis • Malignant neoplasm of ureter • Malignant neoplasm of other and unspecified urinary organs <p><u>Eye & Orbit</u></p> <ul style="list-style-type: none"> • Malignant neoplasms of eye and adnexa <p><u>Thyroid</u></p> <ul style="list-style-type: none"> • Malignant neoplasm of thyroid gland <p><u>Blood & Lymphoid Tissue</u></p> <ul style="list-style-type: none"> • Hodgkin’s disease • Follicular (nodular) non-Hodgkin lymphoma • Diffuse non-Hodgkin lymphoma • Peripheral and cutaneous T-cell lymphomas • Other and unspecified types of non-Hodgkin lymphoma • Malignant immunoproliferative diseases • Multiple myeloma and malignant plasma cell neoplasms • Lymphoid leukemia • Myeloid leukemia • Monocytic leukemia • Other leukemias of specified cell type • Leukemia of unspecified cell type • Myeloid malignancies • Other and unspecified malignant neoplasms of lymphoid, hematopoietic and related tissue <p><u>Childhood Cancers</u> – defined as “any type of cancer diagnosed in a person less than 20 years of age.”</p> <p><u>Breast</u></p> <p>Malignant neoplasm of breast</p>
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b. Determining whether a condition is “related to” an individual’s 9/11 Exposure:

The fact that you have one of the conditions listed above does not necessarily mean that your condition is eligible for compensation from the VCF. You also need a determination by a qualified medical professional that your physical injury or condition is related to your 9/11 exposure. In addition, you must have been treated by a medical professional for your physical injury or condition within a reasonable time of discovering it and have contemporaneous medical records verifying the injury or condition in order to be eligible for compensation.

Minimum and Maximum Time Intervals:

The WTC Health Program has set specific minimum and maximum timeframes between an individual’s 9/11 exposure and the onset of symptoms related to an eligible physical injury or condition. These timeframes are different for each category of injuries and conditions. The WTC Health Program’s general guidelines are summarized below. We encourage you to visit the WTC Health Program website to understand the complete details for each specific injury and condition and the process used to evaluate each individual’s unique circumstances.

- **Cancers:** The WTC Program Administrator has determined minimum time periods for five types or categories of cancer eligible for coverage in the WTC Health Program. The Administrator has determined that a minimum time period – referred to as “latency” – must have elapsed between the initial date of an individual’s exposure and the date of initial diagnosis of the individual’s cancer. Details on the latency periods for cancer can be found at <http://www.cdc.gov/wtc/pdfs/wtchpminlatcancer2014-11-07.pdf>.
- **Aerodigestive Disorders:** The WTC Program Administrator has determined maximum time intervals for four of the five categories of eligible aerodigestive disorders - obstructive airways, upper respiratory diseases, gastroesophageal reflux disease (“GERD”) co-occurring with another WTC-related aerodigestive disorder, and isolated GERD. The time interval is measured based on the last day of an individual’s 9/11 exposure and the earliest date of an individual’s symptoms of the aerodigestive disorder. The fifth category, interstitial lung disease, has no associated maximum time interval. Details on the maximum time intervals for aerodigestive disorders can be found at https://www.cdc.gov/wtc/pdfs/WTCHP_Time_Intervals_New_Onset_AeroDig_Disorders.pdf.
- **Musculoskeletal Disorders and Acute Traumatic Injuries:** There is a statutory deadline of treatment on or before September 11, 2003, for musculoskeletal disorders and a similar deadline imposed by regulation for treatment of acute traumatic injuries. See 42 U.S.C. § 300mm-22(a)(4).

c. Additional Information about presumptively covered eligible conditions:

- The VCF considers modifications to the list of presumptively covered conditions based on the determinations of the WTC Health Program. The initial list of presumptively covered conditions has been modified four times since the VCF reopened on October 3, 2011 – first on October 12, 2012, when certain cancers were added, a second time on October 21, 2013, when Prostate Cancer was added, a third time on February 18, 2014, when the definition of Rare Cancers was revised, and a fourth time on August 4, 2016, when new-onset COPD and WTC-related acute traumatic injury were added.



- If you have at least one certified or verified 9/11-related physical injury or condition and meet all of the eligibility criteria to receive compensation, you may also be eligible for payment for other physical injuries or conditions that are not included on the list of presumptively covered conditions (and that are therefore not certified or verified) and that resulted from your 9/11 exposure if you have presented extraordinary circumstances. The Special Master exercises this discretion only in very limited circumstances.
- If you have an eligible 9/11-related physical condition, it does not mean that you are guaranteed to be compensated by the VCF. Having an eligible condition is only one of the necessary criteria for compensation. All of the eligibility criteria must be met to receive compensation.
- The Zadroga Act and the final rules limit compensation to individuals who were treated by a medical professional for the physical injury or condition within a reasonable time from the date of discovering the injury or condition. Treatment must be verified by contemporaneous medical records created by, or at the direction of, the medical professional who provided the medical care. A “reasonable time” is determined on a case-by-case basis.
- If you developed your 9/11-related physical injury or condition before September 11, 2001 (a “pre-existing” condition), you may still be eligible for compensation if your condition has become more severe since that time and the worsening of the condition is determined to be related to the events of September 11th or the debris removal efforts.
- The VCF considers “medically associated” conditions in determining the appropriate amount of compensation. The WTC Health Program defines a health condition [medically associated](#) with a WTC-related health condition as a condition that either: (1) “results from *treatment* of a WTC-related health condition,” or (2) “results from *progression* of a WTC-related health condition.” The VCF recognizes that, in some cases, those conditions that are medically associated with an eligible WTC-related condition may be more severe and/or have a greater impact on the victim’s life than the underlying condition.
- If at any point after you submit your original claim you are diagnosed with an additional eligible condition, you may file an amendment to claim additional conditions by following the instructions in [Appendix A: Instructions for Amending a Claim](#). The instructions are also available under “Forms and Resources” on the VCF website.

d. Certification and verification of conditions – WTC Health Program or Private Physician process:

If your physical injury or condition is certified for treatment by the WTC Health Program, the VCF will generally find the condition eligible subject to confirmation that other elements of eligibility, including presence at the site, are documented. If your condition is not being treated by the WTC Health Program, the VCF may evaluate the eligibility of the condition through the Private Physician process, subject to verification by the WTC Health Program. If you are certified by the WTC Health Program for some eligible conditions, but are being treated by your non-WTC Health Program doctor for other conditions, you may go through both processes.

Making an appointment with the WTC Health Program and seeking certification for your condition is the best way to get the necessary evidence that you have an eligible condition for purpose of obtaining compensation from the VCF. If you are interested in seeking treatment with the WTC Health Program, you can find an application on line at www.cdc.gov/wtc or by calling 1-888-982-4748. If you are enrolled and if the WTC Health



Program confirms that it has certified your condition for treatment, then it will be able to provide the VCF with information about your certified condition(s). For further details on the WTC Health Program process and guidelines, please visit the WTC Health Program [website](#).

Documents Required for Individuals Enrolled in the WTC Health Program

If your condition is certified for treatment by the WTC Health Program, then you do not need to submit any other records to support or demonstrate your condition. Once the VCF receives your Eligibility Form and the original, completed Exhibit A – “Authorization for Release of Medical Records,” the VCF will request information directly from the WTC Health Program to determine whether you have an eligible condition. If the WTC Health Program notifies us that you have been certified for an eligible physical condition, we accept that certification as proof of your eligible condition subject to the other requirements for eligibility. The VCF will also seek certification information from the WTC Health Program for deceased individuals who were treated by the WTC Health Program prior to death.

Private Physician Process

If you are not being treated by the WTC Health Program for a condition for which you are seeking compensation from the VCF, or if the victim is deceased and was not previously treated by the WTC Health Program for the condition that caused the death, then you must provide certain medical records and other information to the VCF. The VCF will gather information about your treatment by a non-WTC Health Program physician and, as appropriate, will submit the information to the WTC Health Program in order to verify that your condition meets the definition of a 9/11-related condition. The forms and instructions, as well as more detailed information on the Private Physician process, are available [here](#) and under “Forms and Resources” on the VCF website.

You should submit the completed forms with your claim if you know that the WTC Health Program will not have a record of you in their database or will not be able to provide information to confirm the specific condition that you are claiming.

The VCF encourages you to consider which physicians are in the best position to provide the requested information, and to consider providing information for any physician outside of the WTC Health Program who has treated, or is treating you, for a 9/11-related physical condition.

Note: The VCF is not able to pay any physician for providing this information or documentation. The VCF does not require any of the forms to be completed by your physician; you may complete the “Treating Physician Information Form.”

e. Mental illness:

If you did not experience any physical injury or condition as a result of September 11th, but you experienced emotional or mental harm, you are not eligible for compensation by the VCF. When Congress first created the VCF in 2001, it directed that only victims who have a “physical injury” can be eligible for the VCF, and then-Special Master Ken Feinberg interpreted that phrase to mean “a physical injury to the body,” thus excluding claims for psychological conditions. Congress has not directed otherwise, and the Reauthorized Zadroga Act explicitly prohibits the VCF from compensating for Mental Health Conditions. As a result, the VCF is not able to accept claims solely for psychological conditions. This means that claims for Post-Traumatic Stress Disorder are not eligible for compensation in the VCF.

The WTC Health Program provides options for treatment of psychological conditions. For information about whether you may be eligible for WTC Health Program treatment for emotional or mental harms, you may contact them by phone at 1-888-WTC-HP4U (1-888-982-4748), or on the web at www.cdc.gov/wtc/.



1.5 Presence at Site

In order to be eligible for compensation under the VCF, an individual must have been present at a 9/11 crash site or in locations of debris removal at the time of – or in the immediate aftermath of – the terrorist-related aircraft crashes. You do not have to be a responder to be eligible.

a. **Location:**

To be eligible for the VCF, you must have been at one of the following locations:

9/11 crash sites:

- The World Trade Center site, the Pentagon site, or the Shanksville, Pennsylvania site
- The buildings or portions of buildings that were destroyed as a result of the terrorist-related airplane crashes of September 11, 2001

The “NYC Exposure Zone” which consists of:

- The area in Manhattan south of the line that runs along Canal Street from the Hudson River to the intersection of Canal Street and East Broadway, north on East Broadway to Clinton Street, and east on Clinton Street to the East River; AND
- Any area related to, or along, routes of debris removal, such as barges and Fresh Kills

If you were an employee of the Office of the Chief Medical Examiner of New York City (“OCME”) involved in the examination and handling of human remains from the World Trade Center attacks, or were a morgue worker who performed similar functions for the OCME staff, during the period September 11, 2001, through May 30, 2002, and you submit sufficient proof of employment and presence at one of the morgue locations within the statutory timeframe, this will satisfy the presence requirement even if your actual work was performed outside of the NYC Exposure Zone.

If your work involved the repair, cleaning, or rehabilitation of vehicles or equipment, including emergency vehicle radio equipment owned by the City of New York, that was contaminated by WTC-related debris at or along one of the official routes for the transfer of debris, the work will be considered to be done in an area related to, or along, routes of debris removal, even if those services were performed outside of the area in Manhattan south of the line that runs along Canal Street. Because different routes of debris removal were in use at different time periods, you must submit proof not only that you performed those services during the statutory timeframe (at some point on or between September 11, 2001 and May 30, 2002), but also that you performed those services before the operations at the identified locations officially ended.

b. **Timeframe:**

To be eligible, individuals must have been present at one of the sites at the time or in the “immediate aftermath” of the September 11th air crashes. The Zadroga Act defines “immediate aftermath” as “any period beginning with the terrorist-related aircraft crashes of September 11, 2001 and ending on May 30, 2002.” The VCF must apply the time limitations that Congress established in the Zadroga Act.

1.6 Documentation of Presence

The documents listed below are examples of the most common types of documents used to demonstrate presence at a 9/11 site. This is not a comprehensive list. If you have a document that you believe can be used to prove your presence at a 9/11 site and it does not meet one of the categories below, you should still submit the document to the VCF to be reviewed. All documents



submitted for a claim are subject to verification and authentication procedures undertaken independently by the VCF.

Note: these documents are only considered if they include specific dates and locations.

- Sworn and notarized affidavit (or unsworn statements complying with 28 U.S.C. § 1746) – see section [1.6a](#) below for additional detail
- Letter from employer confirming work at the site
- Official personnel roster
- Pay stubs confirming employment and used in conjunction with other documents
- Orders, instructions, site credentials, confirmation of tasks performed
- Sworn [Employer Verification Form](#) (available under “Forms and Resources” on the VCF website)
- Rental agreement
- Proof of rent payment
- Mortgage receipts
- Utility bills
- School or day care records confirming enrollment or attendance
- Workers injury reports documenting treatment as a result of injury that occurred at the site
- Medical records documenting treatment as a result of injury that occurred at the site
- Personal statement including as much detail as possible

VCF1 Claims: If you were found eligible to receive compensation in VCF1, in most cases, you do not need to submit proof of presence in support of your claim. The VCF will contact you if any additional information is needed. See Section [1.7](#) for more information about VCF1 claims.

a. Affidavits in support of presence at site:

Primary and contemporaneous documents are the best evidence that an individual was present at a 9/11 crash site. The Special Master recognizes, however, that such documents may no longer exist or may be impossible to obtain. If you are unable to submit these types of documents, the Special Master will consider sworn affidavits from people who can attest to the victim’s presence at a 9/11 crash site. These affidavits will serve as acceptable proof only if the VCF determines that such affidavits are sufficiently reliable.

The person who signs an affidavit is known as an “affiant.” Affiants must have personal knowledge of the victim’s presence at a 9/11 crash site or along the routes of debris removal. In general, affiants must show that they directly observed the victim at the eligible location, or must have been a supervisor who ordered the victim to that location and has knowledge that the victim in fact reported to the location.

If you submit affidavits to demonstrate the victim’s presence on 9/11, you must submit affidavits from a minimum of two people and at least one **must** be from an individual who is not related to the victim or to the Personal Representative (when applicable).

As a general matter, affidavits should contain as much detail as possible about how the affiant knows that the individual was *physically present* at a 9/11 crash site and *when* the individual was present at the site. For example, affidavits should describe what the affiant and the individual were doing at the 9/11 crash site, why they were at the 9/11 crash site, how long and often they were there together, and how the affiant knows and remembers that the individual was present on the particular dates and at the particular locations. In general, the VCF expects that you may need several sentences to explain these details, although the length is not as important as the content.

All affidavits must contain the following information:



- A description of how the affiant knows that the victim was present. For example, an affiant may know that the individual was at the site because the affiant was the supervisor or co-worker of the individual and accompanied the individual to the site or personally saw the individual at the site.
- As much detail as possible about the precise times and locations that they know the victim was at a 9/11 crash site. This may include specific dates, times, addresses, or buildings.
- The reason why the victim was present (if known by the affiant).
- A description of how the affiant knows the victim and whether the affiant is related to the claimant or the victim. If the affiant and victim worked together, the affidavit should include the name of the organization they were working for and describe how long they worked together, their respective job titles and relationship during the time they worked together (including whether one person supervised the other), and whether the affiant is still employed by that entity.
- The affiant's contact information, including address, phone number, email address, or other contact information. In some cases, the VCF may request proof of the affiant's address and/or relationship to the victim or claimant or may contact the affiant.
- Affidavits must either be notarized or include the following language to comply with 28 U.S.C. § 1746:
 - If signed within the United States, its territories, possessions, or commonwealths, add this language: "I declare (or certify, verify, or state) under penalty of perjury that the foregoing is true and correct. Executed on [date affidavit is signed]. [Affiant's Signature]"
 - If signed outside the United States, add this language: "I declare (or certify, verify, or state) under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed on [date affidavit is signed]. [Affiant's Signature]"

When an individual's presence is based on residence in the NYC Exposure Zone, affiants should provide the information listed above *and* also provide:

- The victim's exact address during the time they were living in the exposure zone.
- The time period that the victim lived at that address (if known by the affiant).
- A statement describing whether the affiant knows if the victim actually resided at that address for some period between September 11, 2001, and May 30, 2002, and whether the affiant is aware of any time during that period that the victim was out of town or not living at that address.

Affidavits that do not comply with these requirements are not sufficient to establish a victim's presence. If the Special Master determines that an affidavit lacks the required level of detail, the claim may be denied on that basis.

If an affiant does not speak English, you may submit an affidavit in another language. You should submit the affidavit in the affiant's native language, along with a certified English translation. You must also include a certification signed by the translator that includes a statement that the translator is competent to translate the document, and that the translation is true and accurate to the best of the translator's abilities. The certification must also include the translator's address and phone number.



b. Presence Information for specific employers or entities:

Information specific to FDNY uniformed members

The VCF has an arrangement with the FDNY in which the FDNY will provide documents directly to the VCF regarding proof of a FDNY member's presence at the site. As a result, FDNY uniformed members (other than EMS personnel) do not need to submit any documents as proof of presence at the site unless the VCF specifically requests such documents. Contacting the FDNY directly will not expedite the processing of your claim and, in fact, may delay claims processing by tying up limited resources at the FDNY. If the VCF needs additional information from you after reviewing your claim form and documentation, the VCF will contact you.

Information specific to victims who worked for NYPD

NYPD members can establish presence in the same way as other claimants. In addition, the VCF will consider the following documents to be of assistance in establishing presence. You must submit at least two of the documents listed below if you intend to rely on these documents to establish presence.

The documents submitted must clearly pertain to the named victim and identify the date(s) and location(s) of the victim's WTC-related service. A complete copy of each document must be submitted, unless otherwise specified below. The VCF will review these submissions on a case-by-case basis and will notify you of any additional information required. All documents submitted for a claim are subject to verification and authentication procedures undertaken independently by the VCF. Please note that the NYPD will not be able to provide the VCF direct access to the below listed documents.

- Memo Book/Activity Log (must include cover page and excerpts of relevant portions with consecutive pages)
- Line of Duty Injury Report (must include an injury date within the relevant time period)
- Line of Duty Control Log
- Firearms Discharge/Assault Report
- Aided Report Worksheet
- Overtime Report
- Unscheduled Overtime Report
- Roll Call
- Detail Roster Assignment Sheet
- NYPD Consultation Referral – Medical Division/NYPD Surgeon Form
- Statement of Illness/Injury
- Daily Activity Report
- Command Log entry
- Exposure Report (49)
- Medical Board Report
- Affidavit (see section [1.6a](#) for more detail regarding affidavits)
- WTC Notice of Participation
- NYPD Rescue Detail badge (must include victim's name and photo)

For civilian NYPD members, please refer to section [1.6](#) above regarding documents to demonstrate proof of presence. If you need help obtaining documents to demonstrate that you were present at the site, please contact the Patrolmen's Benevolent Association at 212-298-9144.



Communications Workers of America's (CWA)

Certain CWA members completed a WTC Recovery/Cleanup Effort Exposure Information form, which was distributed to CWA local unions and then provided to the CWA District 1 office upon completion. These forms may support presence where they:

- (a) clearly identify a VCF-qualifying date and location of service;
- (b) were created contemporaneously with your alleged exposures; and
- (c) include a signed and notarized statement by Micki Siegel de Hernandez, the Occupational Safety and Health Director of CWA District 1, verifying the authenticity and safekeeping of the form.

If you were a CWA member and completed this form, please contact Micki Siegel de Hernandez at 212-509-6994 to see if your form is on file and to obtain the form and the accompanying signed and notarized statement.

Lucent Technologies

If you were a CWA member who worked for Lucent Technologies in 2001, the VCF may be able to obtain records confirming presence. The CWA, District 1 union maintained lists of: (a) individuals who were working as "Installers" at the Verizon building at 140 West Street in the week after 9/11; and (b) individuals who received respirator training and were "certified" or approved to use those devices at Ground Zero on or before October 3, 2001. Note that these lists do not include all Lucent employees who were involved in the emergency response effort. Therefore, *you should still submit other evidence* (such as affidavits or contemporaneous records) demonstrating that you were physically present in the NYC Exposure Zone during the period beginning on September 11, 2001, through May 30, 2002.

Verizon

The VCF works with Verizon to directly obtain information for individuals who assert that they participated in the World Trade Center response while working for Verizon. You should submit the name of your supervisor at the time you participated in the World Trade Center response, if known. Additionally, Verizon may not be able to confirm the actual location of an individual's work in all cases but may be able to verify that an individual worked for the company during the time period. Therefore, if you allege presence based on work with Verizon, *you should also submit other evidence* (such as affidavits or contemporaneous records) demonstrating that you were physically present in the NYC Exposure Zone during the period beginning on September 11, 2001, through May 30, 2002.

Empire BlueCross BlueShield

The VCF works with Empire BlueCross BlueShield ("EBCBS," now a subsidiary of WellPoint Inc.) to directly obtain information for individuals who assert that they were working for EBCBS at the World Trade Center on September 11th. While EBCBS may be able to confirm whether an individual was assigned to work at the World Trade Center, it does not have attendance records that would confirm whether the individual was actually present at the site on September 11th. Therefore, if you are alleging presence based on employment at EBCBS, *you will still need to submit other evidence* (such as affidavits or contemporaneous records) demonstrating that you were physically present in the NYC Exposure Zone during the period beginning on September 11, 2001 through May 30, 2002.

Marriott

The VCF works with Marriott to directly obtain information for individuals who assert that they were working for Marriott in the World Trade Center on September 11th and who made a Workers' Compensation claim. These claimants do not need to submit any documents as proof of presence at the site, unless the VCF specifically requests such documents.



Claimants who allege presence based on employment with Marriott but who were not present on September 11th or who did not make a Workers' Compensation claim *will need to submit other evidence* (such as affidavits or contemporaneous records) demonstrating that they were physically present in the NYC Exposure Zone during the period beginning on September 11, 2001, through May 30, 2002.

Morgan Stanley

The VCF works with Morgan Stanley to directly obtain information for individuals who assert that they worked for Morgan Stanley and were present at the World Trade Center on September 11th. These claimants do not need to submit any documents as proof of presence at the site, unless the VCF specifically requests such documents.

Claimants who allege presence based on employment at Morgan Stanley but who *were not present on September 11th will need to submit other evidence* (such as affidavits or contemporaneous records) demonstrating that they were physically present in the NYC Exposure Zone during the period beginning on September 11, 2001, through May 30, 2002.

New York State National Guard

The VCF works with the National Guard to directly obtain information for individuals who assert that they participated in the World Trade Center response while on State Active Duty. While the National Guard may be able to confirm whether an individual was on Active Duty, it does not have records that would confirm the actual location of the work. Therefore, Claimants who allege presence based on work with the National Guard will still need to submit other evidence (such as affidavits or contemporaneous records) demonstrating that they were physically present in the NYC Exposure Zone during the period beginning on September 11, 2001 through May 30, 2002.

New York State Workers' Compensation Board ("WCB")

The VCF may be able to obtain records confirming presence from the New York State Workers' Compensation Board for individuals who have made a Workers' Compensation claim based on their 9/11-related work. To do so, the VCF needs the WCB number associated with the individual's Workers' Compensation claim. You should submit documents reflecting your WCB number. You should also submit other evidence (such as affidavits or contemporaneous records) demonstrating that you were physically present in the NYC Exposure Zone during the period beginning on September 11, 2001 through May 30, 2002 when you submit your claim.

WTC Volunteer Fund administered by the New York State Workers' Compensation Board

The VCF may be able to obtain records confirming presence from the New York State Workers' Compensation Board for individuals who have made a claim to the WTC Volunteer Fund based on their 9/11-related work. To do so, the VCF needs the Workers' Compensation Board number associated with the individual's Workers' Compensation claim. You should submit documents reflecting your WCB number. You should also submit other evidence (such as affidavits or contemporaneous records) demonstrating that you were physically present in the NYC Exposure Zone during the period beginning on September 11, 2001, through May 30, 2002 when you submit your claim.

WTC Health Registry

For individuals enrolled in the WTC Health Registry, the VCF has an arrangement with the WTC Health Registry to obtain direct access to individual survey responses. Claimants must first give their permission to release these responses to the VCF. The WTC Health Registry will provide you with an authorization form that authorizes the WTC Health Registry to release this information to the VCF. You can contact the WTC Health Registry by calling 866-692-



9827. *You will still need to submit other evidence* (such as affidavits or contemporaneous records) demonstrating that you were physically present in the NYC Exposure Zone during the period beginning on September 11, 2001 through May 30, 2002.

1.7 VCF1 Claims

If you were found eligible for compensation in VCF1, you are eligible to amend your claim and seek additional compensation. You may be eligible for additional compensation if:

- You suffered a new physical injury or condition that you had not suffered at the time of the VCF1 claim filing or that was not compensable at the time of VCF1.
- You suffered a new loss that you had not suffered at the time of the VCF1 claim filing – for example, if you were previously compensated for non-economic loss only and have since been determined to be totally disabled due to an eligible condition, you can amend the claim to seek economic loss.
- Your prior eligible condition has substantially worsened, resulting in damages or loss that was not previously compensated.

In most cases, you do not need to submit proof of presence as otherwise required if you were deemed eligible for VCF1 (see section [1.6](#) for more information on proof of presence). The VCF will contact you if any additional information is needed.

1.8 Eligibility Review and Determination

When you file a claim, the VCF begins by confirming that you meet the eligibility criteria set forth in the statute and implementing regulations based on the information and/or documentation in your claim file (see Section [1.1](#)). If we need something further in order to determine your eligibility, you will receive a missing information letter. It is important that you respond to all missing information letters within 30 days. If your claim is incomplete at the end of the 30-day period and the VCF is not able to confirm your eligibility for compensation, your claim will either be denied as ineligible or placed in an inactive status. If your claim is denied or is placed in inactive status, you can still submit the information that is needed at a later point (provided you do so before December 18, 2020). If you submit new information, the VCF will reactivate the claim for review and will send you a letter explaining the decision or outcome of the review. If your claim is reviewed and denied, you have the option to appeal the decision.

You will receive a letter from the VCF explaining the eligibility decision on your claim. If you are found to be eligible for compensation, the letter will list the conditions for which you have been found eligible. These are the conditions that the VCF will consider when calculating the amount of your award.



Section 2. Calculation of Loss (Compensation)

Once the VCF confirms you have met the eligibility criteria, we will compute your loss. Claims seeking only non-economic loss are the simplest and fastest to review. **Non-economic loss** is sometimes called a “pain and suffering” award. This is determined based generally on the nature and severity of the individual’s condition and the effect of the condition on activities of daily living and does not take into account economic loss caused by the condition. The Special Master may determine non-economic loss on a case-by-case basis.

To calculate **economic loss**, the VCF must first determine whether there is in fact a compensable loss. There are three types of economic loss: loss of earnings/benefits, out-of-pocket medical expenses, and replacement services loss. Each of these types of losses is explained in the sections below.

If you are submitting a personal injury claim and you claim a loss of earnings, the VCF must determine whether you are unable to work or have a reduced ability to work as a result of an eligible physical condition. If that is the case, then the VCF must determine the extent of that loss. The VCF will then compute the amount of past and/or future lost wages in light of these factors (as explained below). The VCF will obtain relevant information for some portion of this analysis from outside entities such as the Social Security Administration (“SSA”), the FDNY, the NYPD, or Workers’ Compensation. If the victim has died from an eligible condition and if the Personal Representative of the victim seeks compensation for loss of the victim’s future earnings, the VCF will compute the future lost earnings as of the date of the victim’s death using the procedures explained below.

The VCF uses loss models that are described in detail below. The methodologies for computing economic loss are based on those from the original VCF, with certain updates in the components of the economic loss calculation assumptions and methodologies as appropriate and in light of the amendments to the statute that were enacted as part of the December 18, 2015 reauthorization of the VCF. As required by the statute, your final award will be calculated using this basic formula: Economic Loss plus Non-Economic Loss minus Collateral Offsets.

2.1 Non-Economic Loss

The Zadroga Act defines non-economic loss as losses for physical and emotional pain, suffering, inconvenience, physical impairment, mental anguish, disfigurement, loss of enjoyment of life, loss of society and companionship, loss of consortium (other than loss of domestic service), hedonic damages, injury to reputation, and all other non-pecuniary losses of any kind or nature.

Each person who was killed or injured in the September 11th attacks suffered grievous harm, and each person experienced the unspeakable events of that day in a unique way. After extensive fact finding, public outreach, and review of public comments in the original VCF, the Special Master and the Department of Justice concluded that the most rational and just way to approach the difficult task of placing a dollar amount upon the pain and emotional suffering suffered by the thousands of individuals killed or injured by the September 11th attacks was to assess the non-economic losses for categories of victims.

a. Valuation of non-economic loss:

Non-economic loss for death

The regulations set a presumed award for non-economic losses sustained by the victim,



and the victim's spouse² and dependents, because of the victim's death as a result of the September 11th aircraft crashes or subsequent debris removal: \$250,000, plus an additional \$100,000 for the spouse and each dependent of the decedent. The latter figures - \$100,000 for the spouse and each dependent - include a non-economic component of "replacement services loss."

Non-economic loss for injury

The 2015 reauthorization statute established certain caps on non-economic awards for physical injury claims. The maximum non-economic loss for any one type of cancer condition is \$250,000, and the maximum non-economic loss for any one type of non-cancer condition is \$90,000. If the victim has more than one type of cancer, the Special Master may issue an award for each type of cancer. Similarly, if the victim has cancer and severe non-cancer conditions, the Special Master may issue an award for both the cancer and non-cancer conditions.

The non-economic loss is based generally on the severity of the condition and the effect of the condition on the victim's ability to maintain normal activities of daily living. It is possible that an individual victim with many relatively mild conditions would receive a non-economic award that is less than that of a victim who has only one condition that is severe. For example, a victim who has a respiratory condition that significantly restricts the victim's ability to participate in activities of daily living and recreational activities, or that is progressive and not effectively treated, may have a higher non-economic award than a victim who has a mild respiratory condition and another mild condition which have not had a significant effect on their activities of daily living.

The VCF will calculate non-economic awards in the same general manner as they were calculated in the original VCF. In the original VCF, the vast majority – around 90% -- of non-economic awards for respiratory conditions ranged from \$25,000 to \$125,000. In some cases, the awards were lower (as low as \$2,000) and in a few cases, the awards were higher (greater than \$150,000). In general, when an eligible non-cancer condition has a consistent, sustained, and severe impact on a victim's daily life (such as when the eligible condition disables the victim from working), the non-economic award will be in the range of \$90,000. Individuals who are required to use certain assistive devices that significantly impair their daily life in order to manage their eligible condition (such as CPAP or similar devices to address obstructive sleep apnea), and have medical records or a letter from a treating physician documenting such use, may be deemed to be eligible for non-economic loss of \$90,000. When the victim demonstrates mild or negligible impairment on daily life, or if the eligible conditions have resolved over time or are reasonably well-controlled through over-the-counter medication, the non-economic award will generally range between \$20,000 and \$30,000. For eligible cancers, the non-

² The regulations provide that the Special Master will identify the spouse of a victim by looking to the victim's Federal tax return. Prior to June 26, 2013, same-sex married couples were prohibited from identifying themselves as married on their Federal tax returns because Section 3 of the Defense of Marriage Act ("DOMA") prohibited the Federal Government from recognizing same-sex marriages. Following the decision of the Supreme Court in *United States v. Windsor*, 133 S. Ct. 2675 (2013) (finding Section 3 of DOMA unconstitutional) and pursuant to Department of Justice policy, all lawful same-sex marriages will be recognized if they were valid in the place where the marriage was celebrated. The Special Master will therefore recognize all same-sex marriages valid in the place where the marriage was celebrated notwithstanding that a victim's Federal tax return filed before June 26, 2013, could not identify a same-sex spouse.



economic award will generally range between \$125,000 and \$250,000. In some cases, the victim may suffer from multiple types of cancer or may have a severe non-cancer eligible condition along with an eligible cancer. In such cases, the non-economic award may be greater than \$250,000. These are general benchmarks and awards may vary as each claim is evaluated individually.

b. Documentation of non-economic loss:

If the WTCHP has certified your condition, no further documentation is necessary to support a claim for non-economic loss; the VCF will award non-economic loss at the lowest end of the range for the applicable condition based solely on the fact of the WTCHP certification. If, however, the certified condition significantly impairs activities of daily living or if the certification does not reflect the severity of the condition, additional documentation of the types described below can help the VCF evaluate whether increased non-economic loss awards within the appropriate range are appropriate. To help the VCF understand the severity and effect of your condition, you may want to submit some additional information with your claim. Please only submit documents that are related to your 9/11-related eligible physical conditions. For example, the types of documents listed below can assist the VCF in the evaluation of your claim:

- Medical documents that show the type and frequency of medical treatments you have had for your condition. For example, documents that show hospitalization, surgery, emergency treatment, and/or treatment for side effects of the condition.
- Test results and treatment prescribed that show the severity of your condition. For example, many people with respiratory injuries have pulmonary function tests. If you have had such tests, please submit the test results including the physician's interpretation of the tests. Other examples include computed tomography scans, x-rays, endoscopies, esophagogastroduodenoscopies, laryngoscopies, somnography studies, or other diagnostic and treatment procedures.
- Medical records documenting severity and/or effect of the condition on daily life.
- Documentation of the medications required to manage your condition and how often you take those medications. The type of medication prescribed and the frequency of use of the medication can help demonstrate the severity of the condition.
- Medical records or treating physician statements showing use of assistive devices that significantly impair activities of daily living – such as breathing devices that may be used for obstructive sleep apnea.
- If your condition has limited your activities, please submit any explanation or documentation that explains this effect of your condition. For example, you could submit letters or reports from specialists who treated your eligible conditions.
- Records of state and federal agency proceedings or private insurance records that address your medical condition.
- A personal statement discussing the impact of the eligible conditions on your life. Such a statement is most helpful if it provides a timeline and details on the medical treatments you have experienced. Note that in general, the VCF will need medical records substantiating claims of medical procedures (surgery, etc.).

You do not have to submit all of your medical records. Your physician may have summarized the history of your condition and treatment. A document summarizing your medical history will often be sufficient to prove the extent of your non-economic loss. If you submit medical records, it is very helpful if you highlight the relevant information in the records so the VCF can easily find the pertinent information.



2.2 **Economic Loss**

You can claim economic loss if you have experienced one of the following losses/expenses because of your eligible condition:

- Loss of earnings
- Loss of employment-related benefits
- Past out-of-pocket medical expenses and other out-of-pocket expenses
- Replacement services
- Burial or memorial service expenses if the victim is deceased from an eligible condition

a. Establishing lost earnings/benefits:

If you are physically injured as a result of an eligible condition, you can make a claim for earnings/benefits you lost before you submitted your claim to the VCF, and you can make a claim for earnings/benefits you expect to lose in the future (after submission of your claim) as a result of your eligible condition. If you are filing on behalf of a deceased victim (meaning a victim who died from an eligible 9/11-related physical condition), you can make a claim for lost earnings/benefits incurred before the victim died as a result of an eligible condition and you can make a claim for the lost future earnings resulting from the death of the victim. The VCF will determine whether the portion of the claim requesting loss prior to death (the personal injury portion of the claim) is timely based on the standard timeliness rules.

b. Documentation of past lost earnings:

In order to qualify for past lost earnings (i.e., losses incurred before you filed your VCF claim), you must show that you were unable to work, or unable to work at the same level, as a result of your eligible condition and that you incurred losses as a result. You will need to submit two types of information. First, you need to show that you actually lost compensation. For example, your employer might provide a statement showing your compensation history and time periods where you missed work and were not compensated. If you were compensated fully through sick pay or other compensation, that means you have not “lost” compensation. Second, you need to show that you were unable to work, or unable to work at the same level, because of your eligible physical condition. Examples of such documentation might include a medical report explaining that you had to miss work because of your eligible condition, determinations by an insurance carrier that provided disability coverage, or Workers’ Compensation records.

c. Establishing loss of future earnings/benefits:

If you are filing a personal injury claim, in order to qualify for an economic loss award for loss of future earnings/benefits, you must first show that you have a permanent partial or total occupational disability caused by an eligible condition.

All claimants seeking lost earnings for injury or death must provide to the VCF any documents that demonstrate earnings history and benefits. The VCF generally will use information obtained from the Social Security Administration to determine earnings history. If the victim does not have SSA earnings (e.g. worked outside the United States or does not have a Social Security number), then you must provide other documents demonstrating earnings – including tax returns, statements of profit/loss from a business (if self-employed), W2 forms, 1099 forms, pay stubs, or employment offer letters. If you believe that the victim’s earnings history does not fully account for future earnings potential, then you must provide documentation supporting any argument that the VCF should take into consideration other information in determining future earnings. For example, if the victim had received a promotion before becoming disabled and if the



earnings history did not reflect that promotion, then you must provide proof of the promotion and the effect of the promotion on earnings. If you were eligible for bonuses, deferred compensation, stock options, or any other form of compensation that might not be reflected in the SSA earnings report, you must submit proof of such forms of compensation if you want the VCF to consider such forms of compensation or increases in compensation in evaluating your claim.

Active Duty Military Personnel

Compensation for military service members and uniformed service members includes all of the various components of compensation, including, but not limited to, basic pay (“BPY”), basic allowance for housing (“BAH”), basic allowance for subsistence (“BAS”), federal income tax advantage (“TAD”), overtime bonuses, differential pay, and longevity pay.

d. Establishing disability:

Governmental Determinations

In general, the VCF will accept a determination by a governmental agency that the victim has a disability and will accept the governmental agency’s determination of the cause of the disability. If the governmental agency determines that the cause of disability is a condition that the VCF has found eligible, then the disability determination will provide a basis for a determination of future loss of earnings/benefits. For example, the VCF will accept disability determinations made by the Social Security Administration, the FDNY, the NYPD, NYCERS, and Workers’ Compensation boards.

Private Insurers

The VCF may also accept a determination of disability made by a private insurer.

Treating physician

In some cases, the VCF may accept a disability determination made by a treating physician.

Pending disability evaluations: what to do if you are waiting for a disability decision from a government entity or insurer

If you are requesting economic loss but you have a disability application pending with a government entity, such as the Social Security Administration (“SSA”), a state Workers’ Compensation Board, an employer (such as the FDNY), or a private insurer or institution, and if your application for disability is based on a condition that is eligible for the VCF, you should submit a claim for non-economic loss only. You can then amend your claim to include economic loss once the disability determination is issued, as long as it is before the VCF closes on December 18, 2020.

If you are concerned that the disability evaluation you have submitted will not be decided in time to meet the filing deadline in the VCF, and if you are receiving treatment through the WTC Health Program, you can request participation in the WTC Health Program disability evaluation process by following the instructions in [Appendix B: WTC Health Program Disability Evaluation Process](#). The instructions are also available under “Forms and Resources” on the VCF website.

Documentation for disability determinations

In order to calculate lost wages and benefits, the VCF must be able to verify that your disability is based on an eligible 9/11-related physical injury. If you know that your disability determination does not clearly indicate that your eligible condition (as listed in your eligibility decision letter from the VCF) is the basis of the disability determination, you



should provide additional documentation that explains the relationship between the disability and your eligible condition(s).

- **Social Security Administration (“SSA”)** – The VCF will obtain certain disability information directly from the SSA, but if you have received a SSA disability determination as a result of an appeal, it is helpful if you submit that determination.
- **Workers’ Compensation** – If you have a Workers’ Compensation determination from the New York State Workers’ Compensation Board, the VCF can obtain that information directly. To do so, the VCF needs the Workers’ Compensation Board number associated with the victim’s Workers’ Compensation claim. You should submit documents reflecting your WCB number. If you have a Workers’ Compensation determination from another state, then you must submit the Workers’ Compensation determination documents.
- **Insurer** – If you have a disability determination from a private insurer, you must submit the document from the insurer confirming the disability finding and the basis for the disability. You must also submit a copy of the disability insurance policy.
- **Private physician** – To be considered, the evaluation must explain the examination and testing done by the physician and document the reasons for concluding that the disability is caused by your eligible condition or conditions. If your disability is only partially caused by your eligible condition(s), then the physician must state the percentage of disability.

WTC Health Program Disability Evaluation (NIOSH process)

The VCF has worked with the WTC Health Program to implement a disability evaluation process for claimants who are disabled due to an eligible condition, but who do not have a determination of a full disability due to an eligible condition from another source.

See [Appendix B: WTC Health Program Disability Evaluation Process](#) for complete details on the WTC Health Program Disability Evaluation Process. Instructions are also available under “Forms and Resources” on the VCF website.

Information specific to victims with an FDNY disability

Depending on their circumstances, FDNY victims should submit either two, three, or five documents (depending on their specific situation as explained below) to demonstrate that they have been found disabled as a result of a VCF-eligible condition or injury.

- **Victims who retired on a 3/4 Accidental Disability based on VCF-eligible conditions and who did NOT reclassify the disability should submit the following three (3) documents:**
 - 1) **The FDNY Medical Board Committee Report:** This is a report from the Chief Medical Officer of the FDNY on FDNY letterhead regarding the “Result of Medical Committee,” which summarizes the FDNY member’s WTC-related exposure, medical history, diagnosis and the Medical Board Committee’s recommendation as to the extent of the member’s disability and fitness for firefighting duty.
 - 2) **Recommendation of the FDNY Pension Fund re: Accident Disability – Lung Bill + WTC Bill:** This is a recommendation of the 1-B Medical Board on FDNY letterhead regarding whether the individual should be awarded an accident disability retirement under the Lung Bill and/or the WTC Bill.
 - 3) **Letter from the Board of Trustees of the Fire Department Pension Fund Regarding Award of Accident Disability Retirement: WTC Bill:** This is a letter issued to the individual on FDNY letterhead from the Director of the Board of Trustees of the Fire Department Pension Fund regarding whether



the Board approved or disapproved the victim's application for accident disability retirement under the Lung Bill and/or the WTC bill.

- **Victims who retired on a 3/4 Accidental Disability and later reclassified the disability under the WTC Bill should submit five (5) documents:** The three documents noted above from the original disability retirement, PLUS the 1-B Medical Board Recommendation and the Board of Trustees Letter from the reclassification proceedings.
- **Victims who retired on a service pension and later reclassified to a 3/4 Accidental Disability under the WTC Bill should submit two (2) documents:** The 1-B Medical Board Recommendation and the Board of Trustees Letter from the reclassification proceedings. These individuals do not need to submit the Medical Board Committee Report because that document will not exist for the disability retirement.

Information specific to claimants with an NYPD disability

For each NYPD victim who is claiming loss of future earnings and/or replacement services and has provided authorization, the NYPD sends the VCF information/documentation regarding the basis of the NYPD victim's disability (if applicable) and information that the VCF uses to calculate loss of earnings and pension benefits.

The NYPD sends the VCF the underlying Medical Board Police Pension Fund Article II Reports that identify the basis of the disability determination for claimants who have retired on a WTC disability. This generally includes the final Medical Board report that identifies the final diagnosis and recommends approval of a WTC disability, as well as any prior Medical Board reports issued that address the claimant's conditions and recommend approval, disapproval, or deferral on the claimant's disability application. It may also include documentation that was included in the claimant's pension file and was reviewed in the course of the disability determination process.

e. Loss of employment-related benefits:

The VCF loss award will include the value of lost employment-related benefits. Employment-related benefits include pension programs, retirement contribution programs, and health benefits. You will need to submit documents to show the benefits you received before your eligible injury and the claimed losses associated with employer-provided benefits. In particular, if the victim was eligible for a defined benefit pension program, you must submit information about that program and the victim's participation in that program if you want the VCF to compute the loss of those benefits.

If you are claiming a loss of pension benefits, you should submit information about those benefits and how they are calculated. If you submit complete information about employer-sponsored pension benefits, the VCF will compute the lost pension based on that information.

If pension information is not provided:

If you do not submit complete information about pension benefits, the VCF will not compute the value of the lost pension and will instead apply its standard default values for retirement type benefits. If there is an indication that you receive a disability pension (or if the decedent received a disability pension before death), but you do not submit information necessary to calculate that pension or determine the basis of that pension, the VCF will not issue a full award and may issue only a non-economic award, because without that information, the VCF cannot determine whether an offset is appropriate and



the amount of that offset. If you later amend your claim and submit the information, the VCF will be able to calculate your economic loss.

Defined benefit plans

If your employer is listed in section [2.2f](#) below, or if your union affiliation is listed in [Appendix C](#), you should provide the information specified. If the victim's employer is not listed in section [2.2f](#) below, then you will need to submit documents describing the pension plan and how the pension would be calculated. Generally, this means that you need to submit the following information and documents about the victim's membership and pension:

- The pension plan or pension summary plan description that describes eligibility requirements and how pensions are calculated
- Membership or start date with the employer or entity
- Years of qualifying service or number of pension credits
- Final salary or earnings that are used to calculate pension amount
- Any other variables or inputs that are used in the pension calculations
- If you currently receive a pension (either directly or as a beneficiary of a decedent):
 - The start date of that pension
 - The amount of that pension
 - The type of that pension (e.g., ordinary, service, disability, etc.)
 - If the pension offers different payment options, provide the document the claimant or decedent received outlining those options
 - If you receive a disability pension, documents showing the injuries or conditions that the pension is based upon

If you do not submit the information listed above, the VCF will compute your economic loss using its standard assumptions. That means that the VCF will assume that the claimant or decedent lost an employer contribution equal to 4% of compensable income.

Defined contribution plans

If your employer provided benefits such as a 401K match or other types of benefits that you would ordinarily receive at the time of retirement, you must submit proof of such benefits in order for the VCF to compute the loss.

f. Documentation to support loss of earnings and pension benefits for specific employers or entities:

Information specific to FDNY

For each FDNY victim who is claiming loss of future earnings and/or replacement services and has provided authorization, the FDNY sends the VCF a printout that is used to calculate the victim's pension and contains the following information, which the VCF uses to calculate economic loss:

- Historical earnings:
 - This includes last 5 years total earnings prior to retirement, including salary, holiday pay, night shift differential pay, and overtime
- 1/60th calculation (for those who served over 20 years)
- Total annual retirement salary (i.e., pension amount)
 - In general, this is based on the higher of Year 5 earnings or 3-year-average. If Year 5 total earnings exceed 120% of average, the pension basis will be capped at 120%.
 - For those who have been granted a WTC disability or reclassification, the pension value is 75% of the higher value, with the exception noted above.



- Type of plan (tier)
- Date of appointment
- Date of retirement

Information specific to NYPD

The NYPD sends the VCF a spreadsheet that includes the following information for each NYPD victim, which the VCF uses to calculate economic loss:

- Historical earnings: this includes last 5-year total earnings and 3-year average of highest 3 of 5 years
- 1/60th calculation (for those who served over 20 years)
- Pension amount: In general, this is based on the higher of Year 5 earnings or 3-year average
- Type of retirement: WTC Accidental or Reclassification, Accidental Disability (not WTC-related), Ordinary Disability (not WTC-related) or Service Retirement
- Date of appointment
- Date of retirement and, if reclassified, date of WTC reclassification
- Basis of disability determination generally: e.g., pulmonary, GERD, cancer, orthopedic.

Generally speaking, a NYPD victim who has been granted a WTC disability pension does not need to submit any additional compensation/pension documentation unless the claimant asserts loss from non-NYPD employment.

NYPD victims who retired on a non-WTC-related accidental pension, ordinary disability pension, or service pension will not be eligible for lost earnings unless they can provide a disability determination from a third party entity – such as the Social Security Administration or a treating physician – that identifies a VCF-eligible condition as a basis of the disability determination.

Information specific to victims who worked for a New York City agency that is part of the New York City Employees' Retirement System ("NYCERS"), such as the NYC Department of Sanitation, the NYC Department of Corrections, or EMS personnel employed by FDNY

If you submit a claim for a loss of future earnings/benefits, you must submit the following:

- Letter from NYCERS informing you about the different pension options, including the accompanying data showing how those options were calculated. The data may be in a document called "Retirement Data Sheet" or "Disability Retirement Data Sheet."
- The NYCERS pension plan that you belonged to (for example, 62/5, 55/25, CC-20, SA20) and your NYCERS membership date (if this information is not provided in your Retirement Data Sheet).
- Letter from NYCERS stating that the pension has been finalized and showing the total annual allowance under the selected option.

Individuals who have a disability pension from NYCERS should also submit:

- NYCERS Medical Board Report
- Letter from NYCERS stating that the victim has been approved for a 3/4 accidental disability

Economic loss information specific to victims who worked for a New York state or local agency that is part of the New York State and Local Retirement System ("NYSLRS")



Individuals who submit a claim for a loss of future earnings/benefits must submit the following (note that individuals may submit this information in the form of a letter from the NYSLRS benefit office or in other documents):

- Membership date
- Tier number and identification of whether the individual is part of the Employees' Retirement System ("ERS") or the Police and Fire Retirement System (PFRS) and specific pension plan to which the individual belonged
- Final Average Salary ("FAS") amount used to calculate pension amount
- How annual benefit was calculated
- Credited and vested years of service
- How the victim chose to receive payments (i.e., payable at a reduced continuing benefit and payable to spouse upon death, etc.)

Individuals who have a disability pension from NYSLRS should also submit:

- A copy of their NYSLRS disability application
- Letter from NYSLRS informing them that their application for a World Trade Center Accidental Disability Retirement has been approved

Economic loss information specific to victims who were a federal employee in the "FERS" or "CERS" system

Individuals who submit a claim for a loss of future earnings/benefits must submit the following:

- Documentation showing the Effective Date and the victim's final grade, step, and location – the best source of this information is the most recent SF-50 (Notification of Personnel Action) prior to retirement. The victim's most recent Earning and Leave Statement prior to retirement may have all of this information except the Effective Date, so if that document is submitted in place of the SF-50, the claimant will need to also provide his/her Effective Date.
- SF-50 (Notification of Personnel Action) from the victim's retirement
- The start date and amount of the victim's pension
- The following information, which is used to calculate the victim's pension. Note that this information should be in a letter that was sent to the victim at retirement or in a Federal Retirement Benefits printout:
 - Date that victim entered the FERS system (date used to calculate Creditable Service for Retirement)
 - Retirement date
 - Total years and months of credited service
 - "Average High-3 Salary"

Individuals who receive a disability pension from FERS should also submit:

- Letter from Office of Personnel Management ("OPM") confirming that the victim's disability retirement has been approved and stating the conditions forming the basis of the disability
- Amount of Monthly Disability Pension in first 12 months (already reduced by Social Security benefits)
- Amount of Disability Pension after 12 months (already reduced by Social Security benefits)
- Estimate of re-calculated Disability Pension at age 62

Economic loss information specific to victims who worked for a New Jersey state or local agency that is part of the New Jersey Police and Firemen's Retirement System ("PFRS")



Individuals who submit a claim for a loss of future earnings/benefits must submit the following (note that you may submit this information in the form of a letter from the PFRS benefit office or in other documents):

- Membership date
- Tier number
- “Final Compensation” amount used to calculate pension amount
- Years of Allowable Service at retirement
- Start date of pension benefits
- Amount of pension benefits
- Type of pension being received (e.g. disability, service)
- Documents showing the basis of the disability pension (if victim receives a disability pension)

Economic loss information specific to victims who worked for certain unions

Many unions offer defined benefit pension plans for their members. In order to calculate loss associated with these pensions, the VCF generally must obtain:

- 1) General pension plan documents describing the computations of the particular pension plan;
- 2) Wage cards from 2001 to the present; and
- 3) Information about the individual’s work with the union (usually consisting of a work history and information about the victim’s monthly pension) in order to calculate a pension loss.

The VCF has worked with the unions listed in the chart in [Appendix C](#) to obtain information that will be helpful in computing loss of earnings and pension.

If your union appears in the chart then the VCF has already received some of the information necessary to calculate pension loss. Therefore, if you are submitting a claim for loss of future earnings/benefits, **please see the chart for the documents you must submit in order for the VCF to calculate your loss.** The chart only lists documents related to loss of pension and other benefits. As with all other claims for lost earnings, **union members must also submit documents establishing a disability and the amount of earnings lost.**

If your union is not in the chart, then you will need to submit documents describing the union’s pension plan and the following information and documents about your union membership and pension:

- Work history showing the hours worked in every year of work. This report should include regular hours and overtime hours. If possible, overtime hours should be broken down into “time and a half” and “double time.”
- Wage cards from 2001 to the present.
- Victim’s start date with union.
- If applicable, the monthly amount and start date of pension being received.
- If possible, pension credits earned.
- If the pension offers different payment options, provide the document the victim received outlining those options.



2.3 Detailed Explanation of Methodology used to Calculate Economic Loss

In general, the VCF will use the following procedures and assumptions for determining future economic loss for both deceased and injured victims:

1. Age and compensable income: Establish the victim’s age and compensable income at death or at the time the victim was unable to work or had to reduce work as a result of eligible conditions. Income will be determined based on the documents submitted with the claim and on data obtained from SSA earnings reports. Generally, the Special Master will consider the three calendar years of employment history before the decrease in the victim’s earnings capacity as a result of the victim’s disability due to the eligible conditions or the victim’s death, but the Special Master also may consider other factors or other years or combinations of years in evaluating the claim. For injury claims, the VCF will compute the percentage of income “lost” based on the percentage of disability. In some cases, the VCF will apply a computation of mitigating earnings for individuals who are disabled from a specific job but who are otherwise able to perform a different occupation.
2. After-tax income: Determine after-tax compensable income by applying the average effective combined federal, state, and local income tax rate for the victim’s income bracket currently applicable in the state of the victim’s domicile for tax purposes. The Special Master will consider the victim’s tax returns as well as effective income tax rates derived from published Internal Revenue Service (“IRS”) data on selected income and tax items for Individual Income Tax Returns by State.³ Effective income tax rates derived from IRS data for New York are shown in Table 1.

Table 1 Presumed Future Effective Combined Federal, State and Local Income Tax Rates for New York								
Income								
\$10,000	\$20,000	\$25,000	\$30,000	\$35,000	\$40,000	\$45,000	\$50,000	\$60,000
3.70%	5.70%	7.70%	8.84%	9.99%	11.14%	12.29%	13.43%	14.58%
Income								
\$70,000	\$80,000	\$90,000	\$100,000	\$125,000	\$150,000	\$175,000	\$200,000	\$225,000
15.12%	15.67%	17.51%	19.34%	21.41%	23.47%	25.53%	27.59%	29.65%
<small>Note: Calculated from data reported by the Internal Revenue Service's Statistics of Income (SOI) Division for individual income tax returns: Forms 1040, 1040A, 1040EZ for Tax Years 2007, 2008, and 2009 (Table 2; files 07in33ny.xls, 08in33ny.xls, 09in33ny.xls). Obtained from the IRS website, http://www.irs.gov/taxstats/article/0,,id=171535,00.html</small>								

3. Employer-provided benefits: Add the value of employer-provided benefits. These benefits will be set at actual levels if you provide the necessary data. If you do not provide data, the VCF will apply the same assumptions that were used in the original VCF, i.e., the VCF will assume

³ Average combined effective income tax rates by earnings bracket were calculated based on an analysis of IRS data for the most recent tax years available: 2007, 2008, and 2009.



that the pension is 4% of pension-eligible compensable income and that medical benefits are \$2,400 per year in current year dollars and will adjust for applicable inflation.

4. Work-life expectancy: Determine a measure of the victim’s expected remaining years of workforce participation using the tabulated work-life expectancies for the victim’s age at the time of death or at the time the victim was unable to work or had to reduce work as a result of eligible conditions contained in the publication, “Worklife in a Markov Model with Full-time and Part-time Activity” by Kurt V. Krueger, Gary R. Skoog, and James E. Ciecka in the *Journal of Forensic Economics*, 19 (1) 2006, pp. 61-82. These are generally accepted tables of work-life expectancy regarding the general population.

Work-life expectancies are based on actual experiences and behavior of the general population and measure the estimated time in years an individual of a given age will remain in the labor force (either employed or actively seeking work), allowing for age-specific mortality risks and rates of workforce transitions. The Special Master will use the expected work-life for active males, with a full-time beginning labor force state, to compute expected remaining years of workforce participation for both male and female victims. The work-life expectancies are shown in Table 2 below. Because published estimated work-life expectancies by gender are lower for women than men, this specification increases the duration of estimated foregone earnings, and thus presumed economic losses, for female victims and was implemented by the Special Master to accommodate for potential increases in labor force participation rates of women.

Table 2
Expected Remaining Years of Workforce Participation

Age	All Active Males
25	34.19
30	29.88
35	25.49
40	21.17
45	17.03
50	13.03
55	9.43
60	6.31
65	4.60

Source: "Worklife in a Markov Model with Full-time and Part-time Activity" by Kurt V. Krueger, Gary R. Skoog, and James E. Ciecka in the *Journal of Forensic Economics* 19(1), 2006, pp. 61-82.

5. Growth rates: Project compensable income and benefits through the victim’s expected work-life using growth rates that incorporate an annual inflationary or cost-of-living component, an annual real overall productivity or scale adjustment in excess of inflation, and an annual real life-cycle or age-specific increase derived using data on average full-time year-round earnings by age bracket from the 2010 Current Population Survey (“CPS”), a monthly survey of households conducted by the Bureau of the Census for the Bureau of Labor Statistics. This survey is widely recognized as a primary source of data on employment status and workforce characteristics of the civilian non-institutional population ages 16 years and older. Because age-specific observed life-cycle increases for all males were higher than observed life-cycle



increases for both men and women combined, the Special Master elected to incorporate the life-cycle increases for males into earnings growth for all victims, both male and female.

Independent of life-cycle increases, inflation and real overall productivity increases of 2% and 1%, respectively, are applied each year. These rates of increase are consistent with the long-term relationship between economy-wide wage growth and risk-free interest rates, which currently reflect lowered inflationary expectations. A schedule containing age-specific earnings growth rates reflecting the combined inflation, overall productivity, and life-cycle increases is shown in Table 3 on the next page. The Special Master has determined that individual age-specific growth rates, rather than growth independent on a particular age bracket at death, better reflects the expected pattern of earnings over one's career⁴ and results in more equitable and consistent projections for victims close to each other in age with otherwise similar family and employment characteristics.

⁴ Real life-cycle increases are typically higher in the earlier stages of one's career, one reason being unrealized opportunities for advancement and promotion that individuals in later stages of their careers have already experienced. During the course of an individual's career, the rate of annual real life-cycle growth tends to gradually decline until a peak real earnings level is attained. Although CPS and other data used to study lifetime earnings profiles indicate that peak real earnings typically decline at some point, in calculating life-cycle earnings growth in excess of inflation and overall productivity adjustments for victims, the Special Master has assumed that peak earnings are maintained.



Table 3
Presumed Age-Specific Earnings Growth Rates
(Including Life-Cycle, Inflation, and Overall Productivity Increases)

Age	Earnings Growth Rate
18	9.976%
19	9.807%
20	9.642%
21	9.481%
22	9.271%
23	9.062%
24	8.854%
25	8.645%
26	8.438%
27	8.230%
28	8.023%
29	7.816%
30	7.610%
31	7.404%
32	7.199%
33	6.994%
34	6.789%
35	6.585%
36	6.381%
37	6.177%
38	5.974%
39	5.771%
40	5.569%
41	5.367%
42	5.166%
43	4.964%
44	4.764%
45	4.563%
46	4.363%
47	4.163%
48	3.964%
49	3.765%
50	3.567%
51	3.369%
52	3.171%
53+	3.000%

Note: Nominal percentage changes assume annual inflation or cost of living increases of 2.0% plus overall productivity adjustments of 1.0% per year. The underlying real life-cycle percentage change is calculated using a regression analysis of log of total earnings on experience and experience squared using earnings for full-time year-round male workers from the 2010 Current Population Survey (CPS) table PINC-04.

- Risk of unemployment:** To better reflect contingencies that the victims would have faced, all projected earnings and fringe benefits (assumed to be received during projected employment and until work-life expectancy) amounts will be adjusted for a factor to account for the risk of unemployment as lifetime jobs are not representative of the modern economy. This adjustment is made because work-life expectancies are based on years of expected workforce participation, which, as defined by the Bureau of Labor Statistics, include periods an individual is either working or seeking work. Historical unemployment rates were examined



and a reduction factor of 6% is applied to presumed earnings and fringe benefits to account for this risk.⁵

7. Personal consumption offsets for decedents: For claims for deceased victims whose death was related to an eligible condition, subtract from annual projected compensable income and benefits the decedent’s share of household expenditures or consumption as a percentage of income, using expenditure data by income level obtained from “Table 2. Income before taxes: Average annual expenditures and characteristics, Consumer Expenditure Survey, 2009,” published by the Bureau of Labor Statistics (“BLS”). This subtraction is a standard adjustment in evaluating loss of earnings in wrongful death claims because some amount of the income the decedent would have contributed to the household would have been consumed personally by the deceased and not available to other household members. A decedent’s expenditures were calculated as a share, based on household size, of certain expenditure categories. For married or single individuals with dependents, these expenditure categories include Food, Apparel & Services, Transportation, Entertainment, Personal Care Products and Services, and Miscellaneous. For single individuals without dependents, Housing, Education and Health are also included.⁶ For lower income categories where total expenditures exceed income, expenditures were scaled to income, so as not to reduce income for expenses potentially met by other forms of support. This approach was intended to avoid a penalty to the victim. Table 4 below shows calculated consumption rates by income bracket and for various household sizes.

	Income								
	\$10,000	\$20,000	\$25,000	\$30,000	\$35,000	\$40,000	\$45,000	\$50,000	\$60,000
Single	77.6%	75.4%	75.0%	73.2%	68.3%	63.4%	63.5%	63.7%	62.6%
Single, 1 dependent child	18.8%	18.8%	18.8%	18.8%	17.7%	16.6%	16.5%	16.5%	16.1%
Married, no children	34.9%	26.8%	25.7%	25.7%	22.4%	19.2%	17.8%	16.5%	16.1%
Married, 1 dependent child	18.8%	16.9%	16.5%	14.7%	13.7%	12.6%	11.9%	11.2%	10.9%
Married, 2 dependent children	12.9%	12.0%	11.8%	10.9%	10.1%	9.4%	8.9%	8.4%	8.2%
	Income								
	\$70,000	\$80,000	\$90,000	\$100,000	\$125,000	\$150,000	\$175,000	\$200,000	\$225,000
Single	61.6%	52.7%	45.8%	45.8%	45.8%	45.8%	45.8%	45.8%	45.8%
Single, 1 dependent child	15.7%	13.4%	11.9%	11.9%	11.9%	11.9%	11.9%	11.9%	11.9%
Married, no children	15.7%	12.9%	10.8%	10.8%	10.8%	10.8%	10.8%	10.8%	10.8%
Married, 1 dependent child	10.6%	8.8%	7.6%	7.6%	7.6%	7.6%	7.6%	7.6%	7.6%
Married, 2 dependent children	8.0%	6.7%	5.8%	5.8%	5.8%	5.8%	5.8%	5.8%	5.8%

In determining household size for claims for decedents, the Special Master will assume that children will remain in the household through age 18. Consumption rates calculated using alternative techniques were considered but found to produce higher personal consumption rates and were not ultimately used to determine the decedent’s household consumption

⁵ Application of individualized unemployment rates by age or occupation was infeasible and determined to be unnecessary.

⁶ Other standard expenditure categories sometimes included in litigation, namely Reading, Cash Contributions, Alcoholic Beverages, and Tobacco Products, were excluded.



offset.⁷ Although the consumption rates determined from BLS data actually represent household expenditures as a percent of before-tax household income, the actual consumption reduction used to determine the decedent's personal expenditures was calculated as a percent of lower after-tax income, which significantly reduces the resulting offset. In addition, the victim's consumption is determined as a share of the victim's own earnings only, rather than the standard share of total household earnings. This further lessens the resulting subtraction, compared to personal consumption offsets typically applied in litigation, if there are other earners in the household.

8. Application of statutory limitation on annual gross income: In accordance with the updates to the statute that were enacted as part of the December 18, 2015, reauthorization of the VCF, for each year of loss, the methodology limits the annual loss of earnings and other benefits related to employment that fall under the definition of gross income in section 61 of the Internal Revenue Code of 1986 to \$200,000. The methodology computes the loss in each year (including pensions) and caps the loss at \$200,000 in each year. The methodology applies adjustments for taxation, risk of unemployment, employee contributions, and personal consumption for deceased claims before applying the annual limit. The methodology accounts for the loss of employer-provided health plans after application of the limit because such costs are exempted from gross income.
9. Present value: Calculate the present value of projected earnings and fringe benefits using discount rates based on a weighted average of historical yields on mid- to long-term U.S. Treasury securities, adjusted for income taxes using a mid-range effective tax rate.⁸ Because the period of presumed economic losses is either longer or shorter, depending on the victim's age, the present value calculations are performed using yields on a blend of securities with longer or shorter times to maturity. For computational efficiency, three blended after-tax discount rates were used, depending on the victim's age as of date of death or time the victim was unable to work or had to reduce work as a result of eligible conditions, and assumed to apply for all years forward. These rates are show in Table 5 on the next page.⁹ The present value adjustments will be based on the period of presumed economic loss (which is in turn based on the age of the victim).

⁷ These alternative techniques included an analysis of BLS data on household expenditures reported by household size, with expenditure categories allocated equally among household members or allocated according to the methodology suggested by authors Robert Patton & David Nelson in their 1991 Journal of Forensic Economics article, "Estimating Personal Consumption Costs in Wrongful Death Cases."

⁸ The tax rate used to determine after-tax interest rates is the computed combined Federal, State and local income tax rate of 15.1% for New York for the \$70,000 earnings bracket. Although it is recognized that a different after-tax interest rate could theoretically be calculated for each age, income, and state combination, such a computation was impracticable for the large-scale valuations to be undertaken here. It was determined that the benefit to the claimants of calculating the decedent's personal consumption offset as a percent of after-tax individual earnings more than outweighed the potential effect of discounting future amounts by income-specific after-tax discount rates. Moreover, computation of the after-tax discount rate using a relatively high combined New York income tax rate, compared to other states, results in a lower after-tax discount rate. The lower the after-tax discount rate, the higher the present value of presumed economic loss.

⁹ The blended discount rates, before tax adjustment, shown in Table 5 imply real interest rates in excess of inflation of 2.1%, 1.8%, and 1.2%, depending on the average time to maturity consistent with the average duration of presumed losses.



Table 5
Assumed Before-Tax and After-Tax Discount Rates

Age of Victim	Before-Tax Discount Rate	After-Tax Discount Rate
35 & Under	4.1%	3.5%
36 - 54	3.8%	3.2%
55 & Over	3.2%	2.7%

Note: The present value of presumed economic loss is calculated by applying the after-tax discount rate corresponding to the victim's age at death to all future periods. For example, projected earnings and benefits for a victim who was 30 years old at the time of death will be discounted to present value at 3.5% per year for all future years, and projected earnings and benefits for a 45-year-old victim will be discounted to present value at 3.2% per year for all future years.

10. **Assumptions:** The computation methodology adopts a number of assumptions implemented to facilitate analysis on a large scale. When viewed in total, these assumptions are designed to benefit the victim and are more favorable than the standard assumptions typically applied in litigation. For example, the Special Master considered that over the course of their projected careers, younger victims could expect to cross into higher income brackets, and be subject to corresponding higher income tax rates, on account of experience-based real lifetime earnings growth in excess of economy-wide national wage increases. To calculate economic losses, however, whatever income tax rate corresponded to the victim's determined compensable income bracket as of date of death, or time the victim was unable to work or had to reduce work as a result of eligible conditions, was assumed to apply for the remainder of the victim's career, without increase. Likewise, the calculations of economic losses also assume that the personal consumption percentage corresponding to the victim's determined compensable income bracket as of date of death, or time the victim was unable to work or had to reduce work as a result of eligible conditions, applies for the remainder of the victim's career, without decrease. It was determined that the net effect of these and other facilitating assumptions was to increase the potential amount of presumed economic loss to the benefit of the victim.

2.4 **Other Types of Loss**

a. **Past out-of-pocket medical expenses:**

You may make a claim for out-of-pocket medical expenses. This means that the VCF will compensate you if: (1) you have incurred and paid for a medical expense related to your eligible condition; and (2) you have not been and will not be reimbursed for that expense. You will need to list every out-of-pocket medical expense for which you seek reimbursement from the VCF. To do this, you must complete the VCF [Medical Expense Worksheet](#) (available under "Forms and Resources" on the VCF website) and provide supporting receipts, invoices, or other documentation for each listed expense showing the amount you paid. **The worksheet must be completed using the Medical Expense Worksheet in Microsoft Excel format and uploaded to your claim.**



If the worksheet is not submitted in Microsoft Excel format in a timely manner, the VCF will calculate the amount of your loss based on the information available and will not include any loss for claimed medical expenses. Should a decision be made on your claim without considering your claimed medical expenses, you can amend your claim in the future with the completed worksheet.

Please be careful to submit only receipts for expenses that are listed in the worksheet and *directly related to an eligible 9/11 physical condition*. If you submit receipts for ineligible or unrelated conditions, the expenses will be denied. If the expense is covered by the WTC Health Program, it is not eligible for reimbursement from the VCF and you should not include it with your claim.

By statute, the VCF does not compensate for potential or anticipated future medical expenses.

b. Replacement services:

If you regularly performed general household-related tasks, and if you cannot perform those tasks as a result of an eligible condition, then the VCF may provide compensation for the value of those “services.” This component of economic loss is called “replacement services loss.” Examples of the types of tasks that are considered for “replacement services” compensation are services that you provided to the family or to yourself, such as cleaning, cooking, child care, home maintenance and repairs, and financial services. Replacement services loss is intended to replace something that was lost – that is, something you used to do and now cannot do because of your eligible condition. In order to be compensated for replacement services, you must demonstrate that you performed the service before the onset of the eligible condition (or that the victim performed the service prior to his or her death from the eligible condition) and that the eligible condition now prevents the performance of such services.

To make a claim for replacement services loss, you should provide a statement listing the types of services you provided before your eligible condition, the amount of time spent on those services (per week or month), and the amount of time you are able to spend on those services now (i.e., with the eligible condition). If the victim is deceased, you should provide a clear statement of the services provided before the onset of the eligible condition and/or death from the eligible condition. You should also submit medical records that show that the reason you cannot perform the services is because of the eligible condition. If services are no longer relevant, they will not be compensated (for example, child care services will not be compensated after the child reaches age 18).

c. Burial or memorial service expenses:

The VCF will compensate for documented out-of-pocket burial or memorial expenses for victims who died as a result of an eligible 9/11-related physical injury. The VCF will calculate such loss on a case-by-case basis using documentation submitted by the Personal Representative.



2.5 Collateral Source Offsets

The VCF is required by statute to offset (that is, deduct) from the computed loss the amount of compensation that you (or beneficiaries of a deceased victim) have received, or are entitled to receive, from certain collateral sources as a result of the injury that is eligible for compensation. Collateral sources may include life insurance, pension funds, death benefit programs, settlement payments from September 11th-related lawsuits, and payments by federal, state, or local governments related to the terrorist-related aircraft crashes of September 11, 2001 or debris removal in the immediate aftermath. For example, the VCF will deduct from the computation of loss the amount that an FDNY victim receives under a WTC disability pension from the FDNY provided that the disability pension is for an eligible condition.

The Special Master will exercise discretion in valuing the appropriate deductions for collateral offsets by determining the following:

- Whether the particular offsets fall within the definition of collateral sources;
- Whether beneficiaries of the VCF award are “entitled” to receive compensation from those collateral sources;
- Whether the collateral source compensation is certain or can be computed with sufficient certainty to enable its deduction while ensuring that beneficiaries receive the full amount of compensation that is appropriate; and
- The appropriate amount of the compensation that should be deducted, taking into account the time value of money and contributions made by the injured victim or decedent in the nature of investment or savings.

While it is not possible to define in advance every possible collateral source deduction, the following general illustrations should provide guidance:

- The Special Master has discretion to exclude from consideration life insurance proceeds that are distributed to persons other than the beneficiaries of the VCF award.
- The Special Master has the discretion to adjust the amount of offsets to exclude premiums or assets that were accumulated by the victim through self-contributions paid into a life insurance program to build up a tax-deferred cash value.
- The Special Master may reduce the amount of the offset for a pension to take account of self-contributions to that plan over the injured victim’s or decedent’s lifetime.
- The collateral source offsets will not include monies or other investments in the injured victim’s or decedent’s 401(k) accounts.

Moreover, the final regulations provide that tax benefits received from the Federal Government as a result of the enactment of the Victims of Terrorism Tax Relief Act of 2001 (Pub. Law No. 107-134) will **not** be treated as collateral source compensation.

The following are NOT considered collateral offsets:

- Charitable gifts - the final regulations clarify that benefits from charities (privately-funded charitable entities) disbursing private donations will not be treated as collateral source compensation, even if such charities were created or managed by governmental entities.
- Payments made by the various State Victim of Crime Boards funded with federal funds.
- The cost NIOSH incurs in reimbursing treatment under the WTC Health Program.

a. Collateral offsets that are paid periodically:

The Special Master will only offset the present value of collateral source compensation. This has the effect of decreasing offsets and, thus, increasing the amount of VCF awards. As an example, in the case of Social Security children’s benefits, the Special Master will determine the monthly benefit to the child, multiply that benefit by the number of months



remaining until the child reaches age 18 (taking into account possible limits such as maximum family benefits available), include — if consistent with Social Security guidelines — a factor for inflation, and then discount the total to present value to determine the amount of the offset.

b. Benefits that are contingent on future events or may be subject to liens:

In determining whether a particular benefit from a government or private entity will be deducted or offset from a VCF award, the VCF will evaluate: (a) the nature of the payment, (b) whether it is related to a VCF-eligible injury or condition, (c) whether it can be computed with sufficient certainty, and (d) in the case of families of decedents, whether the recipient of the payment is a beneficiary of the VCF award.

In general, where benefit payments related to a VCF-eligible injury or condition are uncertain, unpredictable, or contingent on unknown future events, the VCF will not deduct or offset such benefits from the VCF award except, in some instances, to the extent they have already been paid. If you know that payments or benefits you have received are subject to a lien, you must notify the VCF. If you do not notify the VCF, we will assume that there are no liens.

Where benefit payments related to a VCF-eligible injury or condition are potentially subject to liens asserted by governmental entities (such as state Workers' Compensation programs) or private entities (such as health insurers), the VCF generally will not offset any payments – including those already paid and any future payments – to the victim or family members of a decedent who are beneficiaries of the VCF award. How the VCF will treat such payments will depend on the facts and circumstances of each individual's situation.

Some Workers' Compensation laws, both domestic and foreign, contain provisions that would allow the insurance carrier to assert a lien against an award issued from the VCF. For those who receive Workers' Compensation benefits from New York State, New York amended its Workers' Compensation statute in 2002 to prohibit insurance carriers from asserting liens against awards from the VCF. Specifically, the NY Workers' Compensation law, Section 29(1-b) provides as follows:

“1-b. Notwithstanding any other provision of this chapter to the contrary, the state insurance fund, if compensation and/or medical benefits be payable therefrom, or otherwise the person, association, corporation, insurance carrier or statutory fund liable for the payment of such compensation and/or medical benefits: (a) shall not have a lien on the proceeds of any award from the September eleventh victim compensation fund of two thousand one established pursuant to title IV of the federal air transportation safety and system stabilization act, public law 107-42, as amended; and (b) shall not terminate or reduce such compensation and/or medical benefits based upon the submission of a claim for an award from such federal fund, and/or the waiver or compromise of any cause of action resulting from such submission.”

As a result of this amendment, if a victim or family member of a decedent has received, or is entitled to receive, payments from the New York State Workers' Compensation Board related to an eligible condition, in general, the VCF will offset those payments unless the payments are contingent for a different reason.

Other state Workers' Compensation programs have not enacted similar legislation. Thus, there is a possibility in those states that payments to a victim or family member of a decedent might ultimately be subject to repayment from the VCF award. As a result, if a



victim or family member of a decedent is eligible to receive Workers' Compensation benefits in a state where a lien has been or could be asserted, the VCF typically will not offset past or future payments to that individual. The VCF will review these benefits on a case-by-case basis.

Similarly, payments from other government or private entities that are potentially subject to liens will typically not be offset from the VCF award. The VCF will evaluate these types of payments on a case-by-case basis.

c. Survivor benefits subject to adjustment or termination:

Some survivors may be eligible for benefits or payments from certain programs that provide periodic payments subject to adjustment or termination depending on potential future events that cannot be predicted. Examples include Social Security survivor benefits to the spouse of the decedent. Such benefits are paid only under certain conditions and only for certain periods of time. Further, the benefits are paid periodically over a period of years.

Where the benefits to be paid due to death of the decedent are uncertain, unpredictable, or contingent on unknown future events, the amount of compensation to which the survivor is entitled can be impossible to compute with accuracy. In those instances, the Special Master has discretion not to require a full deduction where the amount of the collateral source compensation cannot be determined with reasonable certainty.

Thus, for example, the Special Master has determined that Workers' Compensation benefits that are payable only if the spouse does not remarry will only be offset to the extent they have already been paid. Likewise, Social Security and similar benefits payable to a surviving spouse only if the spouse does not remarry or does not earn income above a certain threshold will be offset only to the extent they have already been paid. By contrast, survivor benefits from the Social Security Administration and from the military to children of decedents — who generally are entitled by law to periodic payments until they reach the age of 17 or 18 — can reasonably be computed and will be offset if determinable.

d. Public Safety Officers' Benefits ("PSOB"):

Congress amended the Public Safety Officers' Benefits Act (42 U.S.C. § 3796) to provide that the benefits paid under the Act "shall be in addition to any other benefit that may be due from any other source, except . . . payments under the September 11th Victim Compensation Fund of 2001 . . ." Therefore, if PSOB has paid a benefit to the eligible victim, then the VCF will offset this amount.

If you have applied or plan to apply to PSOB Programs for a September 11th-related injury, you should note the PSOB application in the Collateral Offsets section of the claim form. You should note PSOB applications here even if that application is pending or has been denied, or if you plan to apply for PSOB benefits in the future. The VCF has an arrangement with the PSOB program to exchange information regarding the status of any claim, the amount of any award determination and payment, and the basis of the award determination. It will facilitate the processing of your claim, however, if you submit to the VCF any determination you have received from the PSOB program, or documentation of a payment from the PSOB program, when you submit your claim. If you have already submitted your claim, you should amend the claim to provide the information to the VCF.



e. WTC Volunteer Fund administered by the New York State Workers' Compensation Board:

If an individual is eligible for VCF compensation and is also receiving payments from the WTC Volunteer Fund, the VCF will offset certain of the payments made by the Volunteer Fund.

The VCF calculates economic loss differently from the way the WTC Volunteer Fund calculates economic loss. Therefore, the economic loss awarded by the VCF will not be based on the amount of benefits the individual is receiving from the WTC Volunteer Fund. Since the VCF will compute economic loss based on the date of onset of disability, however, the VCF will offset prior payments made by the WTC Volunteer Fund (payments made prior to submission of a VCF claim) for wages lost as a result of the same injury.

Note: as of the publication of this document, the VCF is evaluating certain changes made to the Volunteer Fund, including the available funding. As a result, the VCF may adjust its offset policies and may offset future payments to be made by the Volunteer Fund.

f. Obligation to notify the VCF of additional offsets:

If you receive any additional payment that constitutes a collateral offset at any time after you submit your claim – including after any award has been determined and paid – until the VCF closes on December 18, 2020, you are required to notify the VCF in writing within 90 days by completing and submitting the [“Collateral Offset Update Form”](#) found under “Forms and Resources” on the VCF website.

Section 3. Awards and Payment

When the VCF has made an award determination for your claim, you will receive a letter notifying you of the amount of your award. Please read this letter carefully. If there is any outstanding missing information on your claim, it will be listed in this letter. This information must be provided before the VCF can begin processing your payment.

If you appeal your loss determination, payment will not begin until a decision is rendered following your hearing. If, however, your claim has been approved for expedited processing due to terminal illness or significant financial hardship, we will process the payment while awaiting the scheduling and outcome of your hearing. Additional information on appeals and hearings can be found in [Section 4](#).

Once the VCF begins processing your payment, it may take up to 45 days before the money is deposited into the designated account.

3.1 Receiving your Payment

All VCF payments are made electronically. The U.S. Department of the Treasury will not issue paper checks for any reason. The VCF can only make direct deposit payments to a regular checking or savings account. Payments cannot be made to money market or brokerage accounts.

3.2 Payment Instructions if you live in the U.S.

Payment will be made via an electronic deposit directly to a regular checking or savings account. Payments will be made by the U.S. Department of the Treasury using the Automated Clearing House (“ACH”) electronic payment system.

You will need to complete the [“VCF ACH Payment Information Form.”](#) You can download the form from “Forms and Resources” on the VCF website or you can call the toll-free Helpline and



request a paper form be mailed to you. Complete the form by carefully following the instructions printed on the back of the form, and mail it on the same day that you submit your claim. **DO NOT upload the form to your online claim.** Note that you must complete and sign Section 1 of the form and a representative from your bank must complete and sign Section 3. The VCF requires that a bank representative sign the ACH form to verify that the bank routing number and your account number are correct. Any missing or incorrect information will delay payment on your claim.

If you use an online bank, please contact your bank and ask about options for mailing or faxing the form to them. Your bank can also download a blank form from the VCF website and complete it on your behalf. You can work with your bank to determine the best way to complete the form. Please remember that a representative from the online bank must sign the form to validate the account information. Once the form is complete, you must mail the completed form directly to the VCF. **DO NOT upload the ACH form to your online claim.**

3.3 Payment Instructions if you live outside the U.S.

Payment will be made via an international wire transfer directly from the U.S. Department of the Treasury to the designated account at the foreign financial institution.

You will need to complete the "[VCF International Wire Transfer Request Form](#)" to provide the information needed for the U.S. Department of the Treasury to electronically transfer your payment to your foreign bank. You can download the form from the "Forms and Resources" section of the VCF website or you can call the VCF Helpline and request a paper form be mailed to you. Complete the form by carefully following the instructions printed on the back of the form, and mail or fax it on the same day that you submit your claim. **DO NOT upload the form to your online claim.** Note that you must complete and sign Section 1 of the form and a representative from your bank must complete and sign Section 3. The VCF requires that a bank representative sign the form to verify that the banking information is correct. Any missing or incorrect information will delay payment on your claim.

3.4 Instructions for Payments made to Law Firm escrow accounts on a Claimant's Behalf

Many law firms who represent VCF claimants have an agreement with their clients that VCF payments will be made directly to the law firm escrow account on behalf of the claimant. The VCF expects that the law firm will disburse the payment to you within 30 days of the money being deposited into the law firm account.

If you are represented by an attorney and payment on your claim will be made to the law firm's escrow account, your attorney will ask that you sign an authorization allowing the VCF to issue your payment to that account. This authorization must include certain specific information as outlined in the "Law Firm Payment Instructions" available on the "Information for Law Firms" page of the VCF website. The authorization must be sent to the VCF as an original document with an original signature.

For Law Firms: please carefully review the "[Law Firm Payment Instructions](#)" available on the "Information for Law Firms" page of the VCF website if your law firm has an agreement with the claimants you represent that VCF payments will be made directly to a bank account maintained by the law firm to hold and distribute proceeds obtained on behalf of clients of the firm. You must follow the specific instructions or payment may be delayed.

Each payment made to a law firm bank account includes the claimant name and claim number as part of the transaction record. You may need to ask your bank to provide this information to



you if it is not easily visible as part of the transaction detail. Payments for multiple individuals will not be grouped into a single transaction, although your law firm may receive more than one deposit on the same day. Your financial institution should provide the details to you for each deposit made to your account.

3.5 Changing your Payment Information

If you submitted a “VCF ACH Payment Information Form” and then changed your bank account, you will need to submit a new form (available on the VCF website) so the VCF has the current banking information for any future payments on your claim. Carefully follow the directions on the form and mail it to the VCF with a letter stating that it should replace the banking information currently associated with your claim.

If you submitted documents directing the VCF to pay your claim through your attorney, that instruction may not be changed after you receive the letter notifying you of your award. You may still remove or change the attorney associated with your claim for any future appeal or amendment. If your award is changed by that amendment or appeal and you submit new payment instructions by completing and submitting the “Payment Instructions Change Form,” then the new payment instructions will apply to the payment resulting from the amendment or appeal and all subsequent payments. The [“Payment Instructions Change Form”](#) is available under “Forms and Resources” on the VCF website. Claimants should be aware that, regardless of how they receive payment from the VCF, they are liable for any agreement related to attorney fees as specified in the attorney-claimant contract.

3.6 Payment Instructions specific to claims for Deceased Victims

The VCF will issue payment on behalf of a deceased victim to the Personal Representative of the deceased individual. The Personal Representative, however, is not necessarily the person who will ultimately receive the award. This depends on the specific circumstances of the claim, the domicile of the decedent, applicable state law, and/or any applicable rulings made by a court of competent jurisdiction. The Personal Representative is required to distribute the award in accordance with the law of the victim’s domicile. In general, under most state law, awards should be distributed as follows:

- As a general rule, the \$250,000 non-economic loss portion of the payment on behalf of the decedent should be distributed to the beneficiaries of the estate pursuant to the decedent’s will or, if the decedent died intestate (i.e., without a will), through the intestacy laws of the state of the decedent’s domicile. If an additional \$100,000 non-economic loss amount is included for a spouse and/or qualifying dependents, that portion should typically be distributed to the spouse and/or qualifying dependents.
- The economic loss portion of the payment is generally distributed based on the wrongful death statute of the state of the decedent’s domicile. In some cases, if the Personal Representative and all parties eligible for the economic loss portion of the payment agree to an alternative distribution plan, the economic loss may be distributed according to that alternative distribution plan, subject to applicable state law.

In some cases, the VCF may require the Personal Representative to submit a proposed distribution plan.

If more than one individual has been appointed as co-Personal Representatives, please see section [6.3](#) for important information about the documentation that is needed in order for the VCF to process the payment on the claim.



Note regarding payments on behalf of minor children: If any portion of the payment is allocated to minor children, the VCF may require additional documentation from the Personal Representative before processing the payment. The Personal Representative is responsible for determining the requirements of applicable law with respect to the distribution to minors and for adhering to these requirements.

3.7 Payment Instructions specific to claims for Minor Victims

If the victim is a minor, the VCF requires that the parent(s) or legal guardian(s) of the minor complete the “Acceptance of Payment on behalf of a Minor Child” form. The VCF will send you this form to complete. If more than one parent or guardian shares custody of the minor, both individuals will need to sign the form. The completed form does not need to be submitted as an original and can be uploaded to your claim.

If the parent(s) or guardian(s) of the minor victim share joint custody, and if the payment on the claim is being made to a bank account that is owned by only one of the custodial parents/guardians, the parent/guardian who is not receiving payment must submit a signed and notarized statement identifying the parent/guardian who will serve as the payee for the claim. If the parent(s)/guardian(s) are represented by an attorney and have agreed that the payment on the claim will be made to the law firm’s escrow account, the authorization to pay that account must be signed by both parent(s)/guardian(s).

3.8 Split Payments

The Special Master will not split a VCF payment among multiple payees. For example, the VCF will not split a payment so a portion is paid directly to a law firm and a portion directly to the claimant. Attorneys who represent VCF claimants should have agreements in place with their clients that include details on the fees being charged and how and when those fees will be paid. Payments made by the VCF are paid only to injured victims or the authorized Personal Representative of a deceased victim, or a parent or guardian of a minor victim. Although the Special Master will authorize payment to a law firm account with appropriate documentation signed by the claimant, the payment is made specifically on behalf of the individual.

3.9 Additional information regarding VCF Awards and Payments

- **Tax information:** VCF awards are not subject to federal income tax. See 26 U.S.C. §139(f).
- **Bankruptcy proceedings:** The VCF cannot advise you on how your award may be treated if the victim or recipient of the award has filed for bankruptcy protection. If a court has ordered that the VCF award must be paid to a trustee in bankruptcy, you must notify the VCF and provide the court order. An attorney may be able to provide more information based on each individual’s particular case.
- **Medicare Secondary Payer claims:** The Centers for Medicare & Medicaid Services (“CMS”) has determined that, pursuant to its waiver authority, it will not pursue Medicare Secondary Payer (“MSP”) claims against awards from the VCF under the Zadroga Act.
- **Other government programs:** The VCF is not able to advise individuals as to whether receipt of a payment from the VCF will affect benefits that the individual may be receiving from any federal, state or local program that determines eligibility based on income or resources. Since each program is different and each individual’s situation is different, you should contact the relevant programs to seek guidance on how an award from the VCF may affect your qualification for benefits.



- **“Early payment” programs:** There are organizations offering accelerated funding for VCF victims. These types of advances or early payments to claimants are not affiliated in any way with the VCF. The Special Master does not endorse any of these entities. If you decide to work with one of these organizations to receive your payment in advance, your agreement with them is completely independent of your VCF claim and any agreement you sign is strictly between you and the specific entity.
- **Advance benefits:** The VCF does not issue early payments, or “advance benefits.” Please follow instructions and submit a complete claim in order to ensure that your claim is processed as quickly as possible.
- **Pro-rated awards:** In the past, the VCF had to issue partial awards in order to ensure that there would be sufficient funds to handle all claims. That is no longer the case. As of December 18, 2015, there will be no proration and no partial awards. Once you receive an award letter and your claim is ready for payment, you will receive the full award.

Section 4. Appeals and Hearings

An appeal can be filed after the VCF has notified you of the eligibility or compensation decision on your claim. A hearing will be held on your appeal unless you request, or the VCF determines (with your consent), that the appeal can be decided on the papers. You can file an appeal if you have been found ineligible to receive compensation from the VCF or if you believe the amount of your loss was erroneously calculated. For example, you would file an appeal if you believe that the VCF used an incorrect income amount to calculate lost earnings or did not include in the calculation specific benefits information that was provided in the claim submission. You should only appeal the decision if you think the facts and information you presented in your claim were not properly considered in determining the amount of your loss. You may appeal only if your eligibility denial letter or loss calculation decision letter includes an Appeal Request Form.

Filing an appeal vs. amending your claim

If you have new information to provide that was not previously submitted with your claim, or if your circumstances have changed since receiving your decision letter, you should not appeal but should instead amend your claim. [Section 5](#) includes more detailed information about amending your claim.

4.1 Filing an Appeal

When you receive the letter with your eligibility or compensation decision, it will include an appeal form. To appeal the decision on your claim, you must complete and return the appeal form in its entirety within **30 days** of the date of the decision letter.

The VCF is able to provide accommodations – such as phone or video conference – for individuals who are unable to attend an appeal hearing in person. You should include any requirements on your appeal form.

If you or one of the individuals you are bringing as a witness at your appeal hearing does not speak English, you should bring an interpreter with you to your hearing. This may be an informal interpreter, such as a family member, or your attorney if one is representing you. You should note in your appeal form that you will bring an interpreter with you.

4.2 Hearings Process

After receiving your completed appeal form, the VCF will send you a letter with your assigned hearing date and time and important details about your hearing. Once the VCF has assigned your hearing date and time, **it cannot be changed** except in rare circumstances. If you miss your



hearing, your appeal may be denied and the prior decision on your claim will be considered final.

If you decide after returning your appeal form that you do not want to appeal the decision on your claim, please notify the VCF so that we can update our records and take the appropriate action.

What happens at a hearing: Hearings are held in a non-adversarial manner. Hearings are conducted by the Special Master or a Hearing Officer designee from her office. These Hearing Officers are qualified individuals who have been trained expressly for these proceedings. While hearings vary in length, they rarely last more than one hour.

The objective of the hearing is to give you a chance to present information or evidence that you believe is necessary to support your appeal. You are allowed, but not required, to present witnesses, including expert witnesses. The Hearing Officers will be permitted to examine the credentials of any experts who participate in a hearing. If you are represented by an attorney, your attorney should attend the hearing with you. Any individual who provides testimony at a hearing will be sworn in and will provide testimony under oath.

Please note that immigration status has no bearing on your hearing and undocumented individuals can attend a VCF hearing without risk of exposure.

After the hearing: A new determination is not made on the spot at a hearing. The Special Master will review the information presented at the hearing and you will receive a follow up letter explaining the decision on your appeal.

Section 5. Amendments

You may amend your claim if you have already filed a claim and meet one of the following circumstances:

- You are diagnosed with a new 9/11-related injury or condition or the WTC Health Program certifies you for a condition not previously certified.
- Your injury or condition substantially worsens, resulting in loss that was not previously compensated.
- You have incurred additional economic losses due to your eligible injury or condition.
- You have information in support of your claim that was not submitted to the VCF when your loss amount was determined and that you believe would affect the amount of your calculated loss.
- You need to add, change, or remove the Personal Representative or parent/guardian on an existing claim.
- The victim passes away after filing his or her original claim (see additional information in Section 6.1 regarding steps you should take in this situation).
- Your claim was denied or deemed inactive because you did not respond to the VCF's request for missing information and you are now ready to provide the requested documents.

You may file an amendment online or in hard copy. Follow the instructions in [Appendix A](#) to amend your claim. The instructions are also available under "Forms and Resources" on the www.vcf.gov website.

The VCF will review the new information you submit with your amendment and will notify you of the outcome of our review.



Section 6. Deceased Victims

If you are filing a claim on behalf of a deceased individual, you need to: (1) be appointed as the victim's Personal Representative, and (2) file Appendix A to the claim form.

6.1 Victims who pass away after Filing a Personal Injury Claim

If a victim started or submitted a personal injury claim and then passed away, the next steps on the claim will depend on whether the victim died of causes related to his or her 9/11-related eligible condition or died of unrelated causes. Follow the instructions in [Appendix D: Information and Instructions – Steps to take if a Personal Injury Claimant passes away after filing a Claim](#) based on the specific circumstances of the claim.

If a victim passes away as a result of his or her 9/11-related eligible condition after having received the loss determination on a VCF personal injury claim, the VCF will apply the following guidelines when evaluating a subsequent claim filed by the decedent's Personal Representative:

1. **The VCF will not adjust the previous loss calculation for the personal injury claim.** That claim calculation is considered final (subject to any appeal or amendment that may have been submitted after the loss calculation). Any payment not yet made on the Personal Injury claim will be paid to the authorized Personal Representative.
2. **The VCF will calculate the loss for the deceased claim and deduct the loss determined for the personal injury claim.** The VCF will issue a loss determination for the deceased claim equal to the amount by which the computation for the deceased claim exceeds the total loss determined for the personal injury claim. If the loss determined for the deceased claim does not exceed the loss determined for the personal injury claim, the deceased claim will be valued at zero.

These guidelines apply only when the victim died as a result of a 9/11-related VCF eligible condition after a loss determination had already been made on the personal injury claim. If a loss determination had not yet been rendered on the personal injury claim, the information from the personal injury claim will be reviewed as part of the deceased claim and included in the initial loss calculation for the decedent provided that the claim meets the timeliness requirements.

[Appendix E](#) has detailed information and illustrations that explain how these claims will be calculated and how to determine whether the deceased claim will result in an additional payment. The illustrations are also available on the VCF website at: www.vcf.gov/pdf/PIDeceasedIllustrations.pdf.

6.2 Personal Representatives

a. **Court appointment of a Personal Representative:**

Claims for deceased victims (regardless of cause of death) may be submitted only by the Personal Representative of the victim. In general, for victims who lived in the United States, a Personal Representative is appointed by a state court and that appointment will define the authority of the Personal Representative to take actions regarding the estate of the deceased person. Each state has laws that define the process for appointment of a Personal Representative and the specific authority granted to that Personal Representative. If the victim has died and you wish to file a claim for that victim, you should contact the relevant probate or surrogates court in your state to obtain information about appointment of Personal Representatives. There are different procedures outside the United States and the VCF will address the issue of the appropriate representative for



victims who did not live in the United States on a case-by-case basis in accordance with the law of the domicile of the victim.

In some cases, the victim may not have a large estate or may not require probate proceedings in the absence of an award from the VCF. Even in these situations, the VCF requests that you make every effort to obtain a Personal Representative appointment from a court. In general, states have procedures for individuals to open a simple or small estate in order to obtain an appointment. If you qualify for a VCF award, you might have to revise the petition for appointment. To open such a proceeding in New York, for example, you must file a Petition for Letters of Administration (if the decedent did not have a will), Petition for Probate and Letters Testamentary (if the decedent had a will), or Voluntary Administration (if the decedent's estate meets certain requirements). There is a fee for opening these estate proceedings but, in many cases, the fee will be quite low. In New York, if the value of the estate is less than \$10,000, you will have to pay \$45.00 to open the proceeding. Additionally, if the value of the estate is less than \$30,000 (or \$20,000 if the decedent passed away before January 1, 2009), and the estate does not include certain property, you can file a Voluntary Administration in order to be appointed the Personal Representative of the decedent's estate. This costs only \$1.00. The forms required to open an estate proceeding in New York, as well as additional information on opening an estate proceeding, can be found at the following website: <https://www.nycourts.gov/COURTS/nyc/surrogates/index.shtml>.

There are certain documents you must submit with your claim to be recognized as the lawful Personal Representative of the victim. You must submit a death certificate, and you must submit with your claim the court document that confirms your appointment as the Personal Representative. This document might be called "Letters of Administration" or something else (depending on the state). Please see the section below for additional information on documents that are required.

The Letters of Administration (the document issued by the court appointing the Personal Representative) will often spell out the tasks the Personal Representative is authorized to undertake and will often place limitations on the authority of the Personal Representative. For example, the document might say that the Personal Representative is not allowed to compromise (settle) a claim without specific court approval. Or it might say that the Personal Representative can only collect funds up to a specified limit without specific court approval.

The specific limitations in the Personal Representative appointment document may affect the actions of the VCF. The VCF will inform you if we need additional court documents in order to process the claim. If the appointment document contains a limitation prohibiting you from compromising any lawsuit or claim on behalf of the decedent, you must obtain a clarified Letters of Administration (or similar document) permitting you to pursue a claim with the VCF on behalf of the decedent.

New York has a specific statute that addresses claims submitted to the VCF for individuals who died from a 9/11-related cause. If the victim died from a 9/11-related cause, and the Personal Representative appointment is made in New York, then limitations on the authority of the Personal Representative to take actions will not prevent the VCF from



processing the claim.¹⁰ If the victim did not die from a 9/11-related cause, then the limitations will affect the ability of the VCF to process the claim. In any case, if the Personal Representative appointment document limits the amount of money that the Personal Representative may collect, the VCF will not pay any claim that exceeds that dollar amount. In such cases, the Personal Representative will have to get revised documents that authorize the collection of the remainder of the VCF award. [Appendix F](#) provides important information about letters of administration with limitations. The information is also available under “Forms and Resources” on the VCF website.

If you have not been appointed by a court as the Personal Representative of the decedent or as the executor or administrator of the decedent’s will or estate, and you believe you cannot get such an appointment, you may ask the Special Master to appoint you as the Personal Representative for the purposes of filing a VCF claim. The Special Master will only appoint a Personal Representative in extremely rare circumstances. Please see [Section 6.6](#) below for detailed instructions on requesting a Special Master appointment.

b. Original documents:

The VCF requires “original documents” for death certificates and Letters of Administration (appointment document.) The VCF accepts as “original documents” either the original of the document or a certified copy that has been issued by a court and certified by the Clerk of Court. A certified copy is not the same as a notarized copy. Because the VCF must be able to verify the authenticity of the document, you will need to mail the document (either the original or the certified copy) to the VCF before we can begin review of your claim. Please keep in mind that if you submit an original document, the VCF cannot guarantee that it will be returned to you.

6.3 Multiple Personal Representatives

Each Personal Representative must submit the proper documentation showing appointment as a Personal Representative for the deceased victim and sign all of the applicable signature sections of the claim form. All Personal Representatives can sign the same copy of each required form (multiple signatures on a single form), or each Personal Representative can sign a separate copy of each form. As long as each Personal Representative signs each applicable document, and all signed documents are submitted to the VCF, the signatures do not need to be on the same copy of the document.

The VCF also requires all Personal Representatives on the claim to designate one of the Personal Representatives as the person who will receive VCF payments. The VCF cannot make payments to multiple people on a single claim and must have payment information for one designated

¹⁰ The September 11th Victims and Families Relief Act (enacted May 21, 2002) removes many of the limitations from the letters of administration issued by Surrogate’s Courts in the State of New York. The law provides that a Personal Representative appointed by a Surrogate’s Court can file, prosecute and compromise a claim even if there are restrictions in the letters of administration. See 2002 N.Y. Laws Ch. 73 (S.7356). Specifically, the law states “Notwithstanding any other provision of law to the contrary, or any restrictions set forth in letters relating to any decedent who dies as a result of wounds or injury incurred as a result of the terrorist attacks on September eleventh, two thousand one, a duly appointed Personal Representative is authorized to file and prosecute a claim with the fund, and the filing of such a claim for an award from the fund, and the resulting compromise of any cause of action pursuant to the act, shall not violate any restriction on the powers granted to the Personal Representative relating to prosecution or compromise any action, the collection of any settlement, or the enforcement of judgment.” Id. § 4(e)(3), amending N.Y. EST, POWERS & TRUSTS § 11-4.7(e)(3).



Personal Representative. The Personal Representative who receives the payment is still required to distribute the award in a manner consistent with the law of the decedent's domicile or any applicable rulings made by a court of competent jurisdiction. Each co-Personal Representative who is not receiving payment must submit a signed and notarized statement identifying the individual who will serve as the payee for the claim. If there is more than one co-Personal Representative not receiving payment, they may submit one statement signed by all co- Personal Representatives or each may submit their own statement provided all statements identify the same payee and are notarized.

6.4 List of claims filed on behalf of Decedents

The list of deceased victims for whom a claim has been filed is posted on the VCF website for a period of 90 days.

6.5 Payment Instructions specific to Deceased Victim Claims

Please review the information in Section [3.6](#): “Payment instructions specific to claims for deceased victims.”

6.6 Special Master appointment of a Personal Representative

The Special Master will appoint a Personal Representative only in very limited circumstances. You must first attempt to obtain an appointment from the state probate or surrogate court where the decedent lived.

If you have been unable to open an estate proceeding, you can request that the Special Master appoint you as the Personal Representative of the decedent for purposes of filing a VCF claim by following the instructions in [Appendix G](#). The information is also available under “Forms and Resources” on the VCF website.

Section 7. Information for Individuals with Attorneys

You are not required to have an attorney to file a claim with the VCF. You are free to consult with attorneys and you should make your own decision as to whether you wish to engage an attorney. Some attorneys have indicated a willingness to provide assistance on a pro bono basis. The VCF does not recommend specific attorneys nor do we provide any type of referral.

7.1 Attorney Fees

The VCF will not reimburse individuals for fees charged by their attorneys. Such fees must be paid by the claimant. Under the Zadroga Act, attorneys may not charge any individual more than 10% of the amount of the individual's VCF award. The Special Master will not comment on any disagreement about payment of fees that may occur between an attorney and client.

Attorneys who also charged their client a fee in connection with certain other September 11th-related litigation and settlements may only charge that client for representation for the VCF if the attorney's total charge for both representations does not exceed 10% of the client's total award in the other September 11th-related litigation (for more information, see Section 406(e) of the Zadroga Act, as amended).

a. “Non-routine” expenses:

Under the Zadroga Act, attorneys may not charge a claimant for any expenses that are routinely incurred in the course of providing legal services. The following expenses are never reimbursable for VCF claims:



- Obtaining routine supporting documents
- Costs of printing, mailing, delivery, messenger services, and telephone calls
- Staff expenses
- Any litigation expenses related to a claimant's 9/11-related lawsuit (e.g., court filing fees, depositions costs), as such expenses are not related to the submission of a VCF claim

The Special Master will allow an attorney to charge you for non-routine expenses in excess of the 10% limitation if the expense is considered to be outside of the normal expenses incurred in the course of submitting a claim to the VCF. One example of this type of expense is to obtain copies of medical records in order to:

- Demonstrate the severity of an eligible injury and/or whether the victim is disabled (i.e., unable to work at full capacity) because of the eligible injury
- Demonstrate the impact of the injury on the victim – including records of medical treatments, prognosis, and limitations on the victim's activities – for purposes of determining non-economic loss

The following expenses are reimbursable without prior approval of itemized expenses from the Special Master:

- Medical record expenses described above IF
 - the expenses consist only of the amount charged by the facility that maintains the records;
 - the records were obtained specifically for the VCF claim; and
 - the claimant/attorney made efforts to limit the request to those records that appeared necessary for the VCF claim.
- Translation expenses to have a document that is substantive to the claim and provided in a language other than English translated by a certified translator
- Fees for an interpreter to accompany a non-English speaking claimant to a hearing

The Special Master believes that other eligible non-routine expenses will be rare and requires that the reimbursement of all other expenses be specifically authorized by the Special Master. Possible examples might be:

- Travel expenses for necessary meetings with a client located more than 100 miles from the law firm office
- The costs of economist analysis/reports where the victim's economic loss requires the valuation of a business

If you believe your attorney has charged you for unapproved expenses, you may raise the matter with the VCF by calling the Helpline.

7.2 Changing, Adding or Removing an Attorney

To add or change the attorney on your claim, you will need to provide the VCF with the information about your new attorney and complete and submit the Claim Form Signature Page to allow the VCF to communicate with your attorney about your claim. Your attorney will need to complete and submit Exhibit C if the law firm has not already submitted this document to the VCF.

Follow the steps below based on your specific situation to update the attorney information in your claim:

- *If you did not previously have an attorney associated with your claim and you are adding one for the first time, you can add the attorney's name and contact information under*



“Claim Details.” Once you log in to your claim, click on the VCF number in the left column of the Summary Table to access the Claim Details screen. Once you have added the information, call the VCF Helpline to request online access be granted to your claim for your attorney.

- *If you previously authorized the VCF to communicate with an attorney and you now want to revoke this authorization because the attorney no longer represents you, please call the VCF Helpline at 1-855-885-1555 so we can update the information in your claim. If needed, the Helpline can also help you access your online claim.*

If you would like to authorize the VCF to communicate with a new attorney, please have your new attorney’s name and contact information available when you call the Helpline.

7.3 Changing who Receives Payment

If you submitted documents directing the VCF to pay your claim through your attorney, and you want to change these instructions, please read the information in Section [3.5](#): “Changing your payment information.” You should be aware that, regardless of how you receive payment from the VCF, you are liable for any agreement related to attorney fees as specified in your contract with your attorney.

7.4 Online Access to your Claim

You can call the Helpline for assistance with any of the following:

- If your attorney registered you through the VCF’s online claim system, and you would like to gain access to your claim
- If you have hired an attorney to file a claim on your behalf and would like information on the status of your claim



Section 8. Appendix

Appendix A: Instructions for Amending your Claim



Instructions for Amending a Claim

You may amend your claim after submitting the eligibility and/or compensation portion of the claim if you meet one of the following circumstances:

- You are diagnosed with a new 9/11-related injury or condition, the WTC Health Program certifies you for a condition not previously certified, or the WTC Health Program adds a new condition to its list of presumptive conditions and you have been diagnosed with that condition.
- Your injury or condition substantially worsens, resulting in loss that was not previously compensated.
- You have incurred additional economic losses due to your eligible injury or condition.
- You have information in support of your claim that was not submitted to the VCF when your loss amount was determined and that you believe would impact the amount of your calculated loss.
- You need to add, change, or remove the Personal Representative or Parent/Guardian on an existing claim.
- Your claim was denied or deemed inactive because you did not respond to the VCF's request for missing information and you are now ready to provide the requested documents.

Follow the instructions below to amend your claim. Be sure to carefully review the instructions so you are prepared to complete your amendment in full, including submitting any required supporting documents.

If you submitted a Hard Copy Claim Form or need to submit your Amendment in Hard Copy:

- **To add a new 9/11-related condition:** Submit a cover letter requesting to amend your claim to add the new condition(s). If you are being treated by the WTC Health Program for the condition, submit your WTC Health Program certification letter. If you are not being treated by the WTC Health Program for your new condition(s), you must complete and submit a Private Physician package in order for the VCF to evaluate the condition as eligible for compensation. The VCF cannot review your newly claimed condition until the Private Physician forms and applicable medical records are submitted. Information about the Private Physician process, including detailed instructions and forms, can be found on the VCF website under "Forms and Resources."
- **To add other eligibility information:** Submit a cover letter requesting to amend your claim and provide details about the new information you are submitting. Mail the letter with the required supporting documents based on the type of amendment.
- **To add new Compensation information or to claim additional losses:** Call the VCF Helpline at 1-855-885-1555 for instructions on how to add new information to your claim.
- **To add, change, or remove the Personal Representative or Parent/Guardian:** Complete and submit Part I of the VCF Claim Form and the applicable supporting documents to prove your authority to file a claim on the claimant's behalf. You must mail those documents along with the items listed below to the VCF before we can review your request:
 - Claim Form Signature Page
 - "[ACH Payment Information Form](#)" or other payment instructions
 - If modifying the Personal Representative for a deceased victim, you will also need to submit:
 - Exhibit F
 - **Original or a certified copy** of the Court Order, Letters of Administration, or Testamentary Letters showing the appointment of the Personal Representative of the decedent or the executor or administrator of the decedent's will or estate, and a copy of the decedent's will if one exists
 - **Original or a certified copy** of the death certificate listing the cause of death
 - If modifying the Parent or Guardian, you will also need to submit:
 - Copy of the minor's birth certificate (if not already provided to the VCF)
 - Document showing the current status of any custody agreement
 - Copy of the court order granting custody or appointing guardianship or a copy of the will or deed appointing guardianship



If you submitted your claim form Online:

Log in to your claim. Go to the Summary Table to check the current status of the specific section of your claim form (Eligibility or Compensation) that you need to amend. You will only be able to amend your claim if you have previously submitted the applicable section of the form. If the status shows as “Incomplete,” you will not be able to amend your claim but can edit the information directly into the form before submitting it.

- Click on your VCF number to get to the Claim Details page.
- Click on the “Amendments” tab where you can view previously submitted amendments or submit a new amendment. Previously submitted amendments can be viewed by clicking on the amendment number, but they cannot be edited.

To add a new 9/11-related condition:

1. Click on “Add Eligibility Amendment.”
2. Select the new condition(s) from the drop down list and click “Add Condition.” If applicable, enter comments into the text field provided.
3. Click “Submit Amendment” to submit your amendment. You will return to the “Amendments” screen where you can start a new amendment (if applicable) and view the submitted amendment.

To add other eligibility information:

1. Click on “Add Eligibility Amendment.”
2. Select “Other (including traumatic injury)” from the bottom of the drop down list.
3. Enter the reason for the amendment (i.e. presence, lawsuit information, etc.) in the new text box that appears.
4. Click “Add Condition.”
5. Enter additional details about your amendment in the comments field.
6. Click “Submit Amendment” to submit your amendment. You will return to the “Amendments” screen where you can start a new amendment (if applicable) and view the submitted amendment.

To add new compensation information or claim additional losses:

1. Click on “Compensation Change.”
2. Select one or more categories from the list to indicate the type of change you would like the Special Master to consider: Medical Expenses, Loss of Earnings, Replacement Services, Non-Reimbursed Burial and Memorial Services Costs (for deceased claims only), Collateral Offsets, or Non-Economic Loss.
3. In the text box, provide details of the changes you are requesting to the previously submitted Compensation section of your claim form.
4. Click “Submit Amendment” to submit your amendment. You will return to the “Amendments” screen where you can start a new amendment (if applicable) and view the submitted amendment.

To Add, Change or Remove the Personal Representative or Guardian:

1. Click on “Modify PR or Guardian.”
2. Complete all required fields shown with a red asterisk.
3. Click “Submit Amendment” to submit your amendment. You will return to the “Amendments” screen where you can start a new amendment (if applicable) and view the submitted amendment.

To Upload Documents in support of the Amendment:

All amendments require some type of supporting documents or information. The Amendment screen lists the documents you need to submit based on your amendment type. You may also review the [Document Checklist](#) to identify the applicable documents. Although the checklist is intended for first-time claim submission, the documents listed are generally the same when submitting an amendment.

From the “Amendments” tab:

1. Click on “Upload File(s)” on the top right tool bar. Follow the steps to upload the documents.
2. Once you have completed uploading the documents, you can view all documents submitted on the claim by clicking the “View Documents” button next to “Upload Files.” You can also view supporting documents under the “View Documents” tab in the Claim Details view.



Appendix B: WTC Health Program Disability Evaluation Process



What is the WTC Health Program Disability Evaluation Process?

The VCF has worked with the WTC Health Program to implement a disability evaluation process for claimants who are disabled due to an eligible condition, but who do not have a determination of a total and permanent disability from some other source, such as the Social Security Administration, a state Workers' Compensation program, or a private doctor or insurance company. This program provides a way for you to have a disability evaluation for purposes of your VCF claim.

This program is not for everyone. It is intended for claimants who have partial or full disability *due to an eligible condition* but do not have, or cannot get, a disability determination from one of the standard third party entities. Claimants who have a disability decision based on an ineligible condition may be candidates for the program if their eligible condition has become disabling.

Who is eligible for this process?

You must meet the following criteria to be eligible for a WTC Health Program disability evaluation:

- 1. You are a member of the WTC Health Program.**
- 2. The VCF has deemed you eligible for at least one physical condition** that is certified by the WTC Health Program.
- 3. You do not already have a full disability determination based on an eligible condition from a third-party entity**, such as Social Security or a workers' compensation program.
- 4. You are not currently working or you are earning materially less income** than what you earned before your 9/11-related condition affected your ability to work.
- 5. Your condition certified by the WTC Health Program could reasonably be found to be disabling.**

What do I have to do to be considered for the process?

As part of our routine claim review, the VCF identifies claimants who are prospective candidates for a WTC Health Program disability evaluation. If you think you are a suitable candidate and have confirmed you meet the criteria to be eligible for the disability evaluation, you may request the VCF consider you as a candidate for the process by doing one of the following:

- **If you are submitting a new claim:** When submitting your claim, answer the question in the compensation portion of the claim form. This can be found by selecting the "Loss of Earnings" checkbox on the first tab of that section. Select "Loss of Future Earnings." On that tab, you will see a question asking if you are interested in seeking a disability evaluation through the WTC Health Program. Selecting "Yes" will indicate to the VCF that you are interested in having the VCF evaluate you as a candidate for the disability evaluation program.
- **If you have already submitted your claim:** You will need to amend your claim through the online system. In the text field, enter a note requesting that the VCF evaluate you as a candidate for the disability evaluation program. You may also upload a letter or other document in support of the request.

In addition to requesting consideration for the program, you also must submit the following information:

- A statement confirming that you have not received a full disability determination that is based on a condition deemed eligible in the VCF. In addition, if you have not already done so, you must submit the Social Security Administration Consent Form (Exhibit 1 to Compensation Form).



- Documentation showing your work and/or earnings history to show that you are not currently earning an income that approximately equals or exceeds the income you earned prior to your alleged disability. You can satisfy this requirement by submitting the Social Security Administration Consent Form (Exhibit 1 to Compensation Form), tax returns or W2s, a document showing your work history year-by-year including, for example, the social security work history that you can get online from the SSA, or an affirmative statement discussing your past and current work and/or earnings history.
- Documents that show the condition certified by the WTC Health Program supports a good faith assertion of disability. This can be based on the nature of your certified condition (e.g., cancer in active treatment) or medical records showing the severity of the certified condition (e.g., test results; personal statement).

How does the process work?

Outlined below are the high level steps in the process:

- Step 1.** Once the VCF has confirmed you are a candidate for the evaluation process, we notify the WTC Health program and we place your claim “On Hold” pending the outcome of the disability evaluation. We also send you a letter explaining the process and inviting you to make an appointment for an evaluation.
- Step 2.** You decide whether or not to proceed with the evaluation. If you want the evaluation, you contact the center to make an appointment and they will follow up with you directly regarding their procedures. If you decide you do not want the evaluation, you must notify the VCF so we can remove your claim from “On Hold” status and continue processing it to render a decision.
- Step 3.** You go to the WTC Health Program for your appointment and have the evaluation.
- Step 4.** The clinic produces the disability evaluation report, including the physician’s summary, and they send the report directly to you.
- Step 5.** You must **amend your claim** using the online system and upload the report to your claim. This notifies us that the evaluation has been completed. When uploading the report, select the document type “WTCHP Disability Evaluation.” If needed, you can mail the report to the VCF instead.
- Step 6.** We remove your claim from “On Hold” to continue review and notify you of the decision on your claim.

How long does the process take?

This is not expected to be a lengthy process once the appointment with the WTC Health Program physician is held. However, the clinics are solely responsible for the appointment schedule. Once your appointment is held, it takes about two weeks for the center to produce the report and send it to you. If you schedule an appointment and do not show up without notifying the clinic in advance, the clinic will notify the VCF and we will render a decision on your claim without the disability evaluation.



Appendix C: Required Documents to support Economic Loss – Union Members



Required Documents to support Economic Loss – Union Members

If your union appears in this chart, then the VCF has already received some of the information necessary to calculate pension loss. Therefore, if you are submitting a claim for loss of future earnings/benefits, **please see the chart for the documents you must submit in order for the VCF to calculate your loss.** The chart below only lists documents related to loss of pension and other benefits. As with all other claims for lost earnings, **union members must also submit documents establishing a disability and the amount of earnings lost.**

Union	Required Documents
32-BJ – Building Services Program A	<ul style="list-style-type: none"> • A document or letter showing: <ul style="list-style-type: none"> • Confirmation that victim is a member of Pension Plan Program A • Union membership start date (“fund hire date”) • Date last worked in covered employment • Retirement or membership end date • Confirmation if victim is a Commercial or Residential worker • Number of vested credits • If Victim received Long-Term Disability benefits through union: start date, end date, and amount of benefits • Confirmation if victim participated in the Early Retirement Incentive Program • Date of start of pension, amount of pension, and type of pension that victim receives (e.g. service, disability)
Local 1 – Plumbers of New York City	<ul style="list-style-type: none"> • Work history showing the hours worked in every year of work • A document or letter showing: <ul style="list-style-type: none"> • Member’s start date with union • Member’s retirement date • Pension credits earned • Date of start of pension and amount of pension
Local 3 - IBEW	<p>Members with an “A” rate of pay/classification</p> <ul style="list-style-type: none"> • The VCF needs the following information and documents to calculate pension loss, if applicable, from the Local 3/JIBEI pension fund, the National Electrical Benefit Fund, the IBEW Pension Fund, and the National Electrical Annuity Plan: <ol style="list-style-type: none"> 1. Membership start date 2. Job level (e.g. journeyman) 3. Member’s Division: <ol style="list-style-type: none"> a. Fixture, Manufacturing, or Supply divisions, or b. Electrical Industry 4. Local 3/JIBEI Pension fund: <ol style="list-style-type: none"> a. Hours history report showing the number of hours worked by year and credited for pension purposes. b. Indication of whether victim is vested and years of vesting service. c. Total service credits/years of credited service earned. d. If victim is receiving a disability or retirement pension or has received a lump-sum pension: <ol style="list-style-type: none"> i. Start date of pension ii. Method chosen for payment (lump-sum, monthly benefit, etc.) iii. Joint/survivor pension option selected and monthly pension amount with option chosen. iv. Type of pension (disability, retirement, etc.) 5. NEBF Pension Fund: <ol style="list-style-type: none"> a. Hours history report showing the number of hours worked by year and credited for pension purposes. b. Indication of whether victim is vested and years of vesting service. c. Total service credits/years of credited service earned. d. If victim is receiving a disability or retirement pension or has received a lump-sum pension: <ol style="list-style-type: none"> i. Start date of pension ii. Method chosen for payment (lump-sum, monthly benefit, etc.) iii. Joint/survivor pension option selected and monthly pension amount with option chosen. iv. Type of pension (disability, retirement, etc.). <p>Note: if victim receives a disability pension from the NEBF, the VCF will assume that the pension was based on victim’s Social Security disability unless the victim submits documents showing a different basis (e.g., medical records submitted with the disability pension application)</p>



Union	Required Documents
	<p>6. IBEW Pension Fund</p> <ol style="list-style-type: none"> a. Indication of whether victim is currently vested (through membership dues) b. Total years of vesting service/total years of continuous credited "A" membership c. If victim is receiving a disability or retirement pension or has received a lump-sum pension: <ol style="list-style-type: none"> i. Start date of pension ii. Method chosen for payment (lump-sum, monthly benefit, etc.) iii. Joint/survivor pension option selected and monthly pension amount with option chosen. iv. Type of pension (disability, retirement, etc.). <p>Note: if victim receives a disability pension from the IBEW Pension Fund, the VCF will assume that the pension was based on victim's Social Security disability unless the claimant submits documents showing a different basis (e.g. medical records submitted with the disability pension application)</p> <p>The above information will allow the VCF to calculate pension loss as well as a \$0.25/hour contribution to the National Electrical Annuity Plan. Additionally, the VCF will be able to calculate losses from the Local 3 Annuity Plan, the Local 3 401(k) plan, the Health Savings Plan, the Additional Security Benefits Plan, and potentially a higher loss from the National Electrical Annuity Plan if the victim submits:</p> <ol style="list-style-type: none"> 7. Wage cards or the operative collective bargaining agreement from the victim's date or retirement through the present <p>Members with a rate of pay/classification that is not "A" The VCF needs all of the above information, including #7, to calculate pension and other benefit loss. That is, while the VCF can calculate pension loss for A members without the wage cards or collective bargaining agreements, it cannot do so for non-A members.</p>
<p>Local 12A - International Association of Heat and Frost Insulators and Allied Workers</p>	<ul style="list-style-type: none"> • A work history report showing: <ul style="list-style-type: none"> • Start date with Local 12A • Last day of work with Local 12A • Hours worked per year with Local 12A
<p>Local 15 - International Union of Operating Engineers</p>	<ul style="list-style-type: none"> • "Participant Basic Data Report" • An indication of the member's category before retiring (Cement League or General Contractors Association (G.C.A.); Building Contractors Association (B.C.A.); Contractors Association of Greater New York (C.A.G.N.Y.); Steel; or Utility) • If victim receives a pension from the Central Pension Fund: <ul style="list-style-type: none"> • Letter from the Central Pension Fund providing amount, start date, and type of pension (if victim receives a pension) • The Central Pension Fund "Calculation Worksheet" showing how the pension was calculated. If the victim's pension amount has changed at any point in time (for example, if the member received a disability pension prior to reaching age 55, and then received a different amount after turning 55), the claimant should submit a Calculation Worksheet for each time the amount changed. • If victim does <u>not</u> receive a pension from the Central Pension Fund: <ul style="list-style-type: none"> • The final Semi-Annual Benefit statement the victim received from the Central Pension Fund
<p>Local 46 – Metal Lathers</p>	<ul style="list-style-type: none"> • "Member Inquiry" document, which shows the following information: <ul style="list-style-type: none"> • Initiation date • Monthly pension amount (if victim receives a pension) • Date retired • Pension credits earned to date • Vesting credits earned to date and year that victim became vested • Date last worked • "Member Service Credit" document, which shows the following information by year: <ul style="list-style-type: none"> • Hours worked • Taxable gross wages • Pension credits • Vesting service credits • Confirmation of whether victim was a journeyman/foreman or apprentice • Type of pension that victim receives (e.g. service, disability)



Union	Required Documents
Local 78 - Asbestos, Lead & Hazardous Waste Laborers	<ul style="list-style-type: none"> • Mason Tenders' DC Pension Fund "Pension Work History" printout, showing hours worked and vested and credited service per year • Mason Tenders' DC Trust Funds "Personal Statement of Contributions" showing detailed hours worked per year • Letter from Mason Tenders' District Council Trust Funds indicating pension start date and disability (or other) pension amount awarded (if victim receives a pension) • A screenshot from the Mason Tenders District Council Annuity Fund showing annuity contributions, forfeitures, payouts, investment return and balance (<i>this is helpful but not mandatory</i>)
Local 79 - General Building Laborers'	<ul style="list-style-type: none"> • Mason Tenders' DC Pension Fund "Pension Work History" printout, showing hours worked and vested and credited service per year • Mason Tenders' DC Trust Funds "Personal Statement of Contributions" showing detailed hours worked per year • Clarification on whether victim is Local 79 regular or "Local 79 Tier B Demolition" • A document or letter showing: <ul style="list-style-type: none"> • Member's start date with union • Member's retirement date • The number of service credits and vested credits accumulated as of retirement • Date of start of pension and amount of pension (in single life annuity form)
Local 94 - International Union of Operating Engineers	<ul style="list-style-type: none"> • "Participant Basic Data Report" • If victim receives a pension from the Central Pension Fund: <ul style="list-style-type: none"> • Letter from the Central Pension Fund providing amount, start date, and type of pension (if victim receives a pension) • The Central Pension Fund "Calculation Worksheet" showing how the pension was calculated. If the victim's pension amount has changed at any point in time (for example, if the member received a disability pension prior to reaching age 55, and then received a different amount after turning 55), the claimant should submit a Calculation Worksheet for each time the amount changed. • If victim does <u>not</u> receive a pension from the Central Pension Fund: <ul style="list-style-type: none"> • The final Semi-Annual Benefit statement the victim received from the Central Pension Fund
Local 197 - United Derrickman	<ul style="list-style-type: none"> • Work history showing the hours worked in every year of work • A document or letter showing: <ul style="list-style-type: none"> • Member's start date with union • Member's retirement date • Pension credits earned • Date of start of pension and amount of pension
Local 580 - Architectural and Ornamental Iron Workers	<ul style="list-style-type: none"> • "Pension Credit History" document showing hours worked and credits earned per year • Letter from Fund Office of Local 580 showing membership date, individual's level (e.g. journeyman), and amount, start date, and type of pension (if victim receives a pension) <p><i>Note: The VCF may be able to obtain these documents directly from the union but it may expedite your claim if you submit them with your Compensation Form.</i></p>
Local 638 - Steamfitters Construction Trades	<ul style="list-style-type: none"> • "Member Work History Annual Rollup Report" showing hours, wages and credits per year • A document or letter showing: <ul style="list-style-type: none"> • Member's start date with union • Member's level at time of retirement (journeyman; temp heat and air conditioning; apprentice) • Date of start of pension and amount of pension (in single life annuity form)
Local 780 - Cement Masons	<ul style="list-style-type: none"> • Work history showing the hours worked in every year of work (such as the "Member Contributions Printout") • A document or letter showing: <ul style="list-style-type: none"> • Member's start date with union • Member's retirement date • Pension credits earned • Date of start of pension and amount of pension



Union	Required Documents
<p>Consolidated Edison CECONY Management and CECONY Weekly – Local 1-2</p>	<ul style="list-style-type: none"> • The “Consolidated Edison Retirement Plan” printout that contains the following sections: <ul style="list-style-type: none"> • Pension Summary • Data • Salary History • Alternative Formula • Standard Formula • Statement of Final Benefits • CECONY Management victims should also submit (but CECONY Weekly victims do not need to submit): <ul style="list-style-type: none"> • If victim receives a disability pension, a decision by the pension fund granting the disability pension and showing what conditions/injuries that decision is based upon
<p>New York City District Council of Carpenters consisting of the following locals: Local 20 - United Brotherhood of Carpenters and Joiners of America; Local 45 - United Brotherhood of Carpenters and Joiners of America; Local 157 (including former members of Local 608) - United Brotherhood of Carpenters and Joiners of America; Local 740 - Millwright & Machinery Erectors; Local 926 - United Brotherhood of Carpenters and Joiners of America; Local 1556 - Dockbuilders and Timbermen; Local 2287 - Resilient Floor Coversers; Local 2790 - United Brotherhood of Carpenters and Joiners of America Shop and Industrial</p>	<ul style="list-style-type: none"> • “Pension Statement” showing hours worked, contribution amounts, credits earned, and benefit amounts by year, as well as information on the monthly pension amount available to the member under various pension options <i>Note: this document can be downloaded from the New York City District Council of Carpenters Benefit Funds website</i> • “Participant Work History Detail Report” • Letter from New York City District Council of Carpenters Benefit Funds showing membership date, individual’s level (e.g. journeyman), and amount, start date, and type of pension (if victim receives a pension) <i>Note: The VCF will calculate pension and annuity loss for the Carpenters trades using Carpenter Building Commercial Rates. If you believe your loss should be calculated using other rates, you must inform the VCF and provide documentation showing which rates should be applied and why.</i>



Appendix D: Information and Instructions: Steps to take if a Personal Injury claimant passes away after filing the Claim



Information and Instructions:

Steps to take if a claimant dies after filing a Personal Injury Claim

If a claimant who has filed a Personal Injury claim dies, the VCF will stop processing the claim and/or payment of that claim until a Personal Representative of the deceased claimant is appointed. This protects the decedent's personal information and ensures details about the claim are shared only with those who are authorized to access the information.

This document outlines the steps you must take to allow the VCF to continue processing a claim for the decedent. Please note the steps differ depending on whether or not the decedent died of a 9/11-related eligible condition.

Personal Injury claimant who has died of causes unrelated to an eligible 9/11-related Condition

- Step 1. Identify the authorized Personal Representative:** The Personal Representative is the only individual authorized to submit a claim or receive payment on behalf of a deceased individual. This is normally the individual who is appointed by a court of competent jurisdiction, such as a state surrogate or probate court, as one of the following: (1) the Personal Representative of the decedent's will or estate; (2) the Executor of the Decedent's will; or (3) the Administrator of the Decedent's estate.
- Step 2. Amend the original claim to add information about the Personal Representative and submit the required documents:** The Personal Representative will need to amend the original Personal Injury claim to identify him/herself as the Personal Representative. Please visit the VCF website for detailed instructions on [how to amend the claim](#), including a list of the documents you must submit to demonstrate appointment as the Personal Representative. You do not need access to the online claim in order to submit the amendment, the supporting documents, or the additional information listed in the steps below.
- Step 3. Complete and submit required Exhibits and Claim Form Signature Page:** The Personal Representative must also complete and submit a new Claim Form Signature Page and applicable exhibits. If the claim was submitted prior to July 2016, you will also need to submit an Exhibit F. If the Personal Representative is represented by an attorney, the attorney may need to submit an Exhibit C for the law firm if one is not already on file with the VCF.
- Step 4. The VCF will contact you:** We will review the information submitted by the Personal Representative and send you a letter confirming that the Personal Representative is authorized to represent the decedent for the VCF claim. The VCF will contact you to request any missing information, and notify you of the decision on the claim.
- Step 5. Complete and submit the Compensation portion of the Claim Form (if applicable):**
 - **If the decedent did not already submit the Compensation portion of the Claim Form and required supporting documents,** the Personal Representative should complete and submit the form.
 - **If the form has been submitted but a decision not yet rendered,** the VCF will contact the Personal Representative to request any missing information and will notify you once a decision is rendered.
 - **If the VCF has already rendered a compensation decision on the claim,** you do not need to submit any additional information specific to the Compensation portion of the Claim Form.
- Step 6. Submit payment information for the Personal Representative:** The Personal Representative should submit payment information so the VCF can process any future payments. This may be a VCF ACH Payment Information Form or an authorization to pay a law firm account if the Personal Representative has such an agreement. If payment has already been made on the claim, the VCF will add the Personal Representative information and associated payment instructions to the claim for any future payments.

Need Help?

- Need online access to the Personal Injury claim or prefer to file your claim in hard copy? Call our Helpline at **1-855-885-1555**
- Visit www.vcf.gov for forms, instructions, Frequently Asked Questions, and other resources



Personal Injury claimant who has died of causes related to an eligible 9/11-related Condition

Step 1. Identify the authorized Personal Representative: The Personal Representative is the only individual authorized to submit a claim or receive payment on behalf of a deceased individual. This is normally the individual who is appointed by a court of competent jurisdiction, such as a state surrogate or probate court, as one of the following: (1) the Personal Representative of the decedent's will or estate; (2) the Executor of the Decedent's will; or (3) the Administrator of the Decedent's estate.

Step 2. Complete and submit a new Claim Form: The Personal Representative will need to complete and submit a new claim by beginning a new registration under a new VCF number, and then completing all of the information in the eligibility and compensation portions of the claim. Please visit the VCF website "How to File a Claim" page for more information. *You must submit a new Claim Form even if a compensation decision was rendered on the original claim.* There are certain sections of the form that are specific to claims for deceased individuals and we must have this information in order to calculate or re-evaluate the amount of the award. Once you have submitted the Claim Form, the VCF will review your claim and will contact you if any additional information is needed in order to render a decision.

Step 3. Submit the required supporting documents that are applicable to your claim. Review the Document Checklist to identify the specific documents you will need to submit in order for the VCF to process your claim. ***You do not need to resubmit any documents that were already submitted with the original Personal Injury claim as the VCF will be able to copy those documents to the new claim.***

Step 4. Submit payment information for the Personal Representative: The Personal Representative should submit payment information so the VCF can process any future payments. This may be a VCF ACH Payment Information Form or an authorization to pay a law firm account if the Personal Representative has such an agreement. If payment has already been made on the claim, the VCF will add the Personal Representative information and associated payment instructions to the claim for any future payments.

Need Help?

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- Need online access to the Personal Injury claim or prefer to file your claim in hard copy? Call our Helpline at **1-855-885-1555**



**Appendix E: Explanation and Illustrations: Loss Calculation for Deceased Claimant
with Prior Personal Injury Claim**



Explanation and Illustrations:

Calculation of Deceased claims filed on behalf of a Deceased claimant after loss calculation was already determined on a previously filed Personal Injury Claim

When a claimant who previously filed a Personal Injury (“PI”) claim passes away after having received the loss determination on the PI claim, the VCF will apply the following guidelines when evaluating a subsequent Deceased claim filed by the decedent’s Personal Representative:

1. **The VCF will not adjust the previous loss calculation for the personal injury claim.** That claim calculation is considered final (subject to any appeal or amendment that may have been submitted after the loss calculation). Any payment not yet made on the personal injury claim will be paid to the authorized Personal Representative
2. **The VCF will calculate the loss for the Deceased claim and deduct the loss determined for the Personal Injury claim.** The VCF will issue a loss determination for the Deceased claim equal to the amount by which the computation for the Deceased claim exceeds the total loss determined for the PI claim. If the loss determined for the Deceased claim does not exceed the loss determined for the PI Claim, the Deceased claim will be valued at zero.

These guidelines apply only when the claimant died as a result of a 9/11-related VCF eligible condition after a loss determination had already been made on the personal injury claim. If a loss determination had not yet been rendered on the personal injury claim, the information from the personal injury claim will be reviewed as part of the deceased claim and included in the initial loss calculation for the decedent.

How can I evaluate the claim and determine whether the deceased Claim will yield an additional payment?

Each claim is calculated based on the individual circumstances of the claim and thus there is no “rule” that you can apply to all claims. You should note the following:

Economic Loss. The calculation of lost future income for a deceased claim differs from the loss of future income calculation in a personal injury claim in the following ways:

1. The VCF will adjust the loss for a deceased claim to reflect the decedent’s share of household expenditures (consumption factor). This would tend to lower the loss determination for lost future income.
2. The VCF will not employ a residual earnings deduction for deceased claims. Thus, if the personal injury loss was a partial loss, then it is possible that the deceased claim loss of future income would be greater than the loss of income in the personal injury claim. In addition, any applicable pension offset for a deceased claim will differ from the disability pension offset for a personal injury claim.

Non-Economic Loss. For personal injury claims, non-economic awards are determined based on the extent of physical harm – measured by the impact on the claimant’s ability to work and to conduct activities of daily living. For deceased claims, presumed amounts generally apply -- \$250,000 for the decedent, plus an additional \$100,000 for the spouse and each dependent of the deceased individual. Thus, non-economic loss paid for a deceased claim might exceed the non-economic loss paid in the personal injury claim.



Offsets. The VCF will subtract from the computed loss collateral source payments received by, or payable to, the beneficiaries of the deceased claimant. The offsets applicable to a deceased claim may be significantly different than the offsets applicable to a personal injury claim. For example, a disability pension that the claimant had been receiving may have been offset from the personal injury claim loss determination, while a survivor pension may be offset from the deceased claim. Likewise, there may be other offsets – such as death benefits, life insurance, and Social Security survivor benefits – that would reduce a deceased claim loss calculation but would not have been applicable to the personal injury claim. If the decedent has a large life insurance policy payable to one or more of the decedent’s beneficiaries, then you should take the amount of that policy into account in evaluating whether to file a deceased claim.

Detailed hypothetical illustrations are provided on the next three pages.

September 11th Victim Compensation Fund

Hypothetical Example: NYPD Claimant Who Retired on a Disability Pension and Filed a PI Claim, and Passed Away after Receiving a VCF PI Award

Personal Injury Claim Assumptions

Permanent or Temporary Loss:	Permanent
Full or Partial Loss:	Full
Start of 3/4 Disability Pension:	4/30/2013
Age at Start of 3/4 Disability Pension:	51.0
Primary Employer:	NYPD
Total Annual Earnings From All Employers:	\$94,000
Years Since NYPD Appointment as of 04/30/2013:	22.8

Deceased Claim Assumptions

Date of Death:	1/1/2015
Age at Death:	52.7
Marital Status:	M
Number Children Under Age 18 or Disabled: (Ages 17.5 and 12.4 as of date of death)	2
Primary Employer:	NYPD
Total Annual Earnings From All Employers:	\$94,000
NYPD Annual Earnings:	\$94,000
Years Since NYPD Appointment as of 01/01/2015:	24.5

Total Hypothetical Economic Losses Before Collateral Offsets:	
Loss of Earnings, Pension, and Other Fringe Benefits	\$936,416.00
Past and Future Medical Expenses	\$0.00
Loss of Replacement Services	\$0.00
Total Hypothetical Economic Loss	\$936,416.00
Total Hypothetical Non-Economic Losses	\$125,000.00
Total Hypothetical Economic and Non-Economic Losses Before Collateral Offsets	\$1,061,416.00

Total Hypothetical Economic Losses Before Collateral Offsets:	
Past Earnings Losses - From Date of Disability (04/30/2013) to Date of Death (01/01/2015)	\$129,809.00
Loss of Future Earnings, Pension, and Other Fringe Benefits	\$821,853.00
Past Medical Expenses	\$0.00
Loss of Replacement Services	\$0.00
Non-Reimbursed Burial or Memorial Costs	\$0.00
Total Hypothetical Economic Loss	\$951,662.00
Total Hypothetical Non-Economic Losses	\$550,000.00
Non-Economic Loss for Deceased	\$250,000.00
Non-Economic Loss for Dependents	\$300,000.00
Total Hypothetical Economic and Non-Economic Losses Before Collateral Offsets	\$1,501,662.00

Hypothetical Collateral Offsets (All):	
Present Value of NYPD Disability Pension Benefit	\$204,455.00
Past Social Security Disability Benefits	\$11,215.00
Present Value of Claimant's Future Social Security Disability Benefits	\$311,052.44
Past and Future Workers Compensation Benefits	\$0.00
Past and Future ST and/or LT Disability Insurance	\$0.00
VCF1 Award	\$0.00
WTCHP	\$0.00
Prior Settlements	\$0.00
Other Offset	\$0.00
Total Hypothetical Offsets	\$526,722.44

Hypothetical Collateral Offsets (All Except Personal Life and AD&D Insurance):	
IF ELECTED ANNUITY PENSION:	
Present Value of NYPD Survivor Annuity Pension Benefit	\$450,373.00
Social Security One-time Lump Sum Death Benefit	\$255.00
Past Social Security Benefits	Spouse & Decedent \$20,187.00
	Children/ Parents \$0.00
Present Value of Children's Future Social Security Survivor Benefits	\$101,130.00
Present Value of Parent's Future Social Security Survivor Benefits	\$0.00
Past and Future Workers Compensation Benefits	Spouse/Children \$0.00
Job Related Life Insurance and Other Death Benefits (Federal, State, & City Level)	\$125,000.00
(Hypothetical example; Actual amount will be based on employment and union benefits)	
VCF1 Award	\$0.00
WTCHP	\$0.00
Settlement Amounts	\$0.00
Other Offsets	\$0.00
Hypothetical Collateral Offsets (All Except Personal Life and AD&D Insurance)	\$696,945.00

Total Hypothetical Presumed Award	\$534,693.56
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Hypothetical Presumed Award (Before Offsets for Any Personal Life and AD&D Insurance)	\$804,717.00
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Here You Would Subtract Any Personal Life and AD&D Insurance Payments That Went to Eligible Beneficiaries:	
As an Example, Following is the Result if the Claimant had a \$100,000 Personal Life Insurance Policy:	
Personal Life Insurance Paid to Spouse (Less Premiums)	\$100,000.00
Personal AD&D Insurance Paid to Spouse (Less Premiums)	\$0.00
Total Hypothetical Offsets for Personal Life and AD&D Insurance	\$100,000.00

Total Hypothetical Presumed Award (All Offsets Included)	\$704,717.00
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If a claim is filed by a Personal Representative of a Deceased Claimant who died as a result of a 9/11-related VCF eligible condition after a loss determination had already been made on a Personal Injury Claim that had been filed before the Claimant died, the following methodology will be applied. Note that the VCF will not adjust the previous loss calculation for the Personal Injury claim - that claim calculation is considered final (subject to any appeal or amendment that may have been submitted after the loss calculation).

The VCF will calculate the loss for the Deceased Claim and deduct the loss already determined for the Personal Injury claim. The VCF will issue a loss determination for the Deceased Claim in the amount by which the computation for the Deceased Claim exceeds the total loss determined for the PI claim. If the loss determined for the Deceased Claim does not exceed the loss determined for the PI Claim, the Deceased Claim will be valued at zero. In this hypothetical, the loss calculated on the Deceased Claim would exceed the loss already determined for the PI claim, so the Deceased Claim calculation would be as follows:

Total Hypothetical Presumed Award on Deceased Claim	\$704,717.00
Less Total Hypothetical PI Presumed Award Already Determined	-\$534,693.56
Resulting Determination on Deceased Claim After PI Determination	\$170,023.44

Hypothetical Example, For Illustrative Purposed Only
Actual Calculations Will Differ Based on Particulars of Claim and Offsets

Hypothetical Example: Claimant With No Pension Who Filed a PI Claim and Passed Away After Receiving a VCF PI Award

Personal Injury Claim Assumptions

Permanent or Temporary Loss:	Permanent
Full or Partial Loss:	Full
Start of Earnings and Pension Loss:	10/27/2012
Age:	54.3
Employer:	Company ABC
Total Annual Earnings From All Employers (adjusted if partial loss):	\$85,000

Deceased Claim Assumptions

Date of Death:	1/1/2015
Age at Death:	56.5
Marital Status:	M
Number Children Under Age 18 or Disabled:	0
Primary Employer:	Company ABC
Total Annual Earnings From All Employers:	\$85,000

Total Hypothetical Economic Losses Before Collateral Offsets	
Loss of Earnings, Pension and Other Fringe Benefits	\$761,442.00
Other Earnings Losses	\$0.00
Past and Future Medical Expenses	\$0.00
Loss of Replacement Services	\$0.00
Total Hypothetical Economic Losses Before Collateral Offsets	\$761,442.00
Total Hypothetical Non-Economic Losses	\$125,000.00
Total Hypothetical Economic and Non-Economic Losses Before Collateral Offsets	\$886,442.00

Total Hypothetical Economic Losses Before Collateral Offsets:	
Past Earnings Losses - Date of Disability (10/27/2012) to Date of Death (01/01/2015)	\$161,867.00
Other Earnings Losses	\$0.00
Loss of Future Earnings, Pension, and Other Fringe Benefits	\$568,474.00
Past Medical Expenses	\$0.00
Loss of Replacement Services	\$0.00
Non-Reimbursed Burial or Memorial Costs	\$0.00
Total Hypothetical Economic Losses	\$730,341.00
Total Hypothetical Non-Economic Losses	\$350,000.00
Non-Economic Loss for Deceased	\$250,000.00
Non-Economic Loss for Dependents	\$100,000.00
Total Hypothetical Economic and Non-Economic Losses Before Collateral Offsets	\$1,080,341.00

Hypothetical Collateral Offsets (All):	
Present Value of Disability Pension Benefit	\$0.00
Past Social Security Disability Benefits	\$36,384.00
Present Value of Claimant's Future Social Security Disability Benefits	\$219,949.58
Past Workers Compensation Benefits	\$0.00
PV of Future Workers Compensation Benefits	\$0.00
Past ST or LT Disability Insurance	\$0.00
PV of Future Long-Term Disability Insurance	\$0.00
VCF1 Award	\$0.00
WTCHP	\$0.00
Prior Settlements	\$0.00
Other Offset	\$0.00
Total Hypothetical Offsets	\$256,333.58

Hypothetical Collateral Offsets (All Except Personal Life and AD&D Insurance):	
Present Value of Survivor Pension Benefit	\$0.00
Social Security One-time Lump Sum Death Benefit	\$255.00
Past Social Security Benefits	Spouse & Decedent \$47,849.00
	Children/Parents \$0.00
Present Value of Children's Future Social Security Survivor Benefits	\$0.00
Present Value of Parent's Future Social Security Survivor Benefits	\$0.00
Past and Future Workers Compensation Benefits	Spouse/Children \$0.00
Job Related Life Insurance and Other Death Benefits	\$0.00
VCF1 Award	\$0.00
WTCHP	\$0.00
Settlement Amounts	\$0.00
Other Offsets	\$0.00
Hypothetical Collateral Offsets (All Except Personal Life and AD&D Insurance)	\$48,104.00

Total Hypothetical Presumed Award	\$630,108.42
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Hypothetical Presumed Award (Before Offsets for Any Personal Life and AD&D Insurance)	\$1,032,237.00
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Here You Would Subtract Any Personal Life and AD&D Insurance Payments That Went to Eligible Beneficiaries:

As an Example, Following is the Result if the Claimant had a \$250,000 Personal Life Insurance Policy:

Personal Life Insurance Paid to Spouse (Less Premiums)	\$250,000.00
Personal AD&D Insurance Paid to Spouse (Less Premiums)	\$0.00
Total Hypothetical Offsets for Personal Life and AD&D Insurance	\$250,000.00

Total Hypothetical Presumed Award (All Offsets Included)	\$782,237.00
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If a claim is filed by a Personal Representative of a Deceased Claimant who died as a result of a 9/11-related VCF eligible condition after a loss determination had already been made on a Personal Injury Claim that had been filed before the Claimant died, the following methodology will be applied. Note that the VCF will not adjust the previous loss calculation for the Personal Injury claim - that claim calculation is considered final (subject to any appeal or amendment that may have been submitted after the loss calculation). The VCF will calculate the loss for the Deceased Claim and deduct the loss already determined for the Personal Injury claim. The VCF will issue a loss determination for the Deceased Claim in the amount by which the computation for the Deceased Claim exceeds the total loss determined for the PI claim. If the loss determined for the Deceased Claim does not exceed the loss determined for the PI Claim, the Deceased Claim will be valued at zero. In this hypothetical, the loss calculated on the Deceased Claim would exceed the loss already determined for the PI claim, so the Deceased Claim calculation would be as follows:

Total Hypothetical Presumed Award on Deceased Claim	\$782,237.00
Less Total Hypothetical PI Presumed Award Already Determined	-\$630,108.42
Resulting Determination on Deceased Claim After PI Determination	\$152,128.58

Hypothetical Example: *Claimant With No Pension Who Filed a PI Claim and Passed Away After Receiving a VCF PI Award*

Personal Injury Claim Assumptions

Permanent or Temporary Loss:	Permanent
Full or Partial Loss:	Full
Start of Earnings and Pension Loss:	10/27/2012
Age:	54.3
Employer:	Company XYZ
Total Annual Earnings From All Employers (adjusted if partial loss):	\$40,000

Deceased Claim Assumptions

Date of Death:	1/1/2015
Age at Death:	56.5
Marital Status:	M
Number Children Under Age 18 or Disabled:	0
Primary Employer:	Company XYZ
Total Annual Earnings From All Employers:	\$40,000

Total Hypothetical Economic Losses Before Collateral Offsets	
Loss of Earnings, Pension and Other Fringe Benefits	\$376,283.00
Other Earnings Losses:	\$0.00
Past and Future Medical Expenses	\$0.00
Loss of Replacement Services	\$0.00
Total Hypothetical Economic Losses Before Collateral Offsets	\$376,283.00
Total Hypothetical Non-Economic Losses	\$125,000.00
Total Hypothetical Economic and Non-Economic Losses Before Collateral Offsets	\$501,283.00

Hypothetical Collateral Offsets (All):	
Present Value of Disability Pension Benefit	\$0.00
Past Social Security Disability Benefits	\$30,400.00
Present Value of Claimant's Future Social Security Disability Benefits	\$187,048.27
Past Workers Compensation Benefits	\$0.00
PV of Future Workers Compensation Benefits	\$0.00
Past ST or LT Disability Insurance	\$0.00
PV of Future Long-Term Disability Insurance	\$0.00
VCF1 Award	\$0.00
WTCHP	\$0.00
Prior Settlements	\$0.00
Other Offset	\$0.00
Total Hypothetical Offsets	\$217,448.27

Total Hypothetical Presumed Award	\$283,834.73
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Total Hypothetical Economic Losses Before Collateral Offsets:	
Past Earnings Losses - Date of Disability (10/27/2012) to Date of Death (01/01/2015)	\$77,517.00
Other Earnings Losses -	\$0.00
Loss of Future Earnings, Pension, and Other Fringe Benefits	\$260,520.00
Past Medical Expenses	\$0.00
Loss of Replacement Services	\$0.00
Non-Reimbursed Burial or Memorial Costs	\$0.00
Total Hypothetical Economic Losses	\$338,037.00
Total Hypothetical Non-Economic Losses	\$350,000.00
Non-Economic Loss for Deceased	\$250,000.00
Non-Economic Loss for Dependents	\$100,000.00
Total Hypothetical Economic and Non-Economic Losses Before Collateral Offsets	\$688,037.00

Hypothetical Collateral Offsets (All Except Personal Life and AD&D Insurance):	
Present Value of Survivor Pension Benefit	\$0.00
Social Security One-time Lump Sum Death Benefit	\$255.00
Past Social Security Benefits	\$40,150.00
	Spouse & Decedent
	Children/Parents
Present Value of Children's Future Social Security Survivor Benefits	\$0.00
Present Value of Parent's Future Social Security Survivor Benefits	\$0.00
Past and Future Workers Compensation Benefits	\$0.00
Job Related Life Insurance and Other Death Benefits	\$0.00
VCF1 Award	\$0.00
WTCHP	\$0.00
Settlement Amounts	\$0.00
Other Offsets	\$0.00
Hypothetical Collateral Offsets (All Except Personal Life and AD&D Insurance)	\$40,405.00

Hypothetical Presumed Award (Before Offsets for Any Personal Life and AD&D Insurance)	\$647,632.00
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Here You Would Subtract Any Personal Life and AD&D Insurance Payments That Went to Eligible Beneficiaries:	
As an Example, Following is the Result if the Claimant had a \$100,000 Personal Life Insurance Policy:	
Personal Life Insurance Paid to Spouse (Less Premiums)	\$100,000.00
Personal AD&D Insurance Paid to Spouse (Less Premiums)	\$0.00
Total Hypothetical Offsets for Personal Life and AD&D Insurance	\$100,000.00

Total Hypothetical Presumed Award (All Offsets Included)	\$547,632.00
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If a claim is filed by a Personal Representative of a Deceased Claimant who died as a result of a 9/11-related VCF eligible condition after a loss determination had already been made on a Personal Injury Claim that had been filed before the Claimant died, the following methodology will be applied. Note that the VCF will not adjust the previous loss calculation for the Personal Injury claim - that claim calculation is considered final (subject to any appeal or amendment that may have been submitted after the loss calculation).

The VCF will calculate the loss for the Deceased Claim and deduct the loss already determined for the Personal Injury claim. The VCF will issue a loss determination for the Deceased Claim in the amount by which the computation for the Deceased Claim exceed the total loss determined for the PI claim. If the loss determined for the Deceased Claim does not exceed the loss determined for the PI Claim, the Deceased Claim will be valued at zero. In this hypothetical, the loss calculated on the Deceased Claim would exceed the loss already determined for the PI claim, so the Deceased Claim calculation would be as follows:

Total Hypothetical Presumed Award on Deceased Claim	\$547,632.00
Less Total Hypothetical PI Presumed Award Already Determined	-\$283,834.73
Resulting Determination on Deceased Claim After PI Determination	\$263,797.27



Appendix F: Instructions for Letters of Administration with Limitations



VCF Treatment of Letters of Administration or Other Court Orders Providing Limitations on the Authority of a Personal Representative

In order to process a claim filed on behalf of a deceased individual, the Special Master must first “validate” the Personal Representative of the decedent. To validate the Personal Representative, the Special Master evaluates the letters of administration, letters testamentary, court orders or other similar documentation issued by a court. Many Letters of Administration and court orders contain limitations that affect the VCF’s ability to process or make payment on the claim. Below are examples of common types of limitations, what effect those limitations have on a VCF claim, and what action you must take in order for the VCF to process and/or pay your claim.

Limitations on the Personal Representative’s Authority to File, Prosecute and/or Compromise Any Action or Claim on Behalf of the Decedent: If there are limitations regarding the Personal Representative’s authority to file, compromise or prosecute a claim on behalf of a decedent, the VCF may accept the Letters in certain circumstances, described below.

- **Letters of Administration or court order issued by a New York State probate or Surrogate’s Court:** If you were appointed as Personal Representative by a probate or Surrogate’s Court in the State of New York, the VCF may process your claim *if* there is sufficient documentation in the file confirming that the decedent passed away as a result of his/her eligible 9/11-related conditions. We are able to accept letters of administration issued in New York with these limitations where there is documentation confirming that the decedent died due to his/her eligible conditions because of the specific provision in the NY Statute, EPTL 5-4.6. You may submit various types of documents to show cause of death. For example, a long-form death certificate might provide the relevant cause of death. Or, the cause of death may be documented with medical records (including a letter from the decedent’s physician).
 - If the VCF determines that the decedent’s death is related to his/her eligible conditions, the VCF will notify you by letter that you have been “validated” as the Personal Representative of the decedent for purposes of the VCF claim, and will continue to process the claim.
 - If the VCF determines that the decedent’s death is not related to his/her eligible 9/11-related conditions based on the documentation submitted, the VCF will notify you by letter that you must obtain revised Letters of Administration or a court order that does not contain such limitations. The VCF will not process the claim until you submit acceptable revised Letters of Administration or court order.
 - If it is not clear to the VCF whether the decedent’s death is related to his/her eligible 9/11-related conditions based on the documentation submitted, the VCF will notify you by letter to request clarifying documentation regarding the cause of death and to obtain revised Letters of Administration or a court order that does not contain such limitations. The VCF will not process the claim until you submit acceptable revised Letters of Administration or court order or sufficient documentation that the decedent died due to his/her eligible conditions.
 - If you know that the decedent did not die from an eligible condition, please provide that information to the VCF. This will help us to address the claim quickly.
 - If the Letters of Administration or court order specifically prohibits you from filing a VCF claim, you must obtain new Letters of Administration or a court order that



authorizes the pursuit of a VCF claim. The VCF will not process the claim until you submit acceptable revised Letters of Administration or court order.

- **Letters of Administration or court order issued by a probate or surrogate's court outside of the State of New York:** If you were appointed as Personal Representative by a probate or surrogate's court outside of the state of New York, you must obtain revised Letters of Administration or a court order permitting you to pursue a claim with the VCF on behalf of the decedent. The VCF will not process the claim until you submit acceptable revised Letters of Administration or court order.

Monetary Limitations: If the Letters of Administration or court order limits the amount of money that the Personal Representative can collect, the VCF will generally accept the documents for purposes of evaluating the claim, but will not make any payment on the claim in excess of the dollar limit specified, without further order of the court. For example, if the Letters of Administration or court order restricts you from collecting more than \$25,000 and the VCF issues you a loss determination letter indicating a total loss of \$500,000, the VCF will only issue a \$25,000 payment without further court order. This policy applies regardless of the state in which you were appointed and regardless of the cause of death (in other words, this applies even if the Letters of Administration were issued in New York and the decedent's death was caused by an eligible condition).

Time-Limited Court Orders/Letters of Administration: If the Letters of Administration or court order contains an expiration date – that is, the documents indicate that they have expired or will expire before payment will be issued – you must obtain revised Letters of Administration or a court order that extends your authority to collect assets or administer the estate. This policy applies regardless of the state in which you were appointed and regardless of the cause of death (in other words, this applies even if the Letters of Administration were issued in New York and the decedent's death was caused by an eligible condition).



Appendix G: Information on appointment of a Personal Representative



Appointment of a Personal Representative

The Special Master will appoint a Personal Representative only in very limited circumstances. You must first attempt to obtain an appointment from the state probate or surrogate court where the decedent lived.

In general, states have procedures for individuals to open a simple or small estate in order to obtain an appointment. To open such a proceeding in New York, you must file a Petition for Letters of Administration (if the decedent did not have a will), Petition for Probate and Letters Testamentary (if the decedent had a will), or Voluntary Administration (if the decedent's estate meets certain requirements). There is a fee for opening these estate proceedings but, in many cases, the fee will be quite low. In New York, if the value of the estate is less than \$10,000, you will have to pay \$45.00 to open the proceeding. Additionally, if the value of the estate is less than \$30,000 (or \$20,000 if the decedent passed away before January 1, 2009), and the estate does not include certain property, you can file a Voluntary Administration in order to be appointed the Personal Representative of the decedent's estate. This costs only \$1.00. The forms required to open an estate proceeding in New York, as well as additional information on opening an estate proceeding, can be found at the following website:
<https://www.nycourts.gov/COURTS/nyc/surrogates/index.shtml>.

Other states have their own procedures for opening an estate. If the decedent's domicile (permanent residence) was in a location other than New York, you should consult that state's rules regarding opening a probate or surrogate court proceeding.

Sometimes courts will issue Letters of Administration with limitations. For example, the letters might prohibit you from compromising any claim. Follow the instructions [here](#) if you have received Letters of Administration with any limitations.

In limited circumstances, if you are unable to open an estate proceeding, you can request that the Special Master appoint you as the Personal Representative of the decedent for purposes of filing a VCF claim. To do so, you must submit a sworn or notarized statement to the VCF and provide certain documentation as described below.

I. Prepare a written statement that addresses each of the items listed below and explains the reason you are asking the Special Master to appoint the Personal Representative:

- Your name and relationship to the decedent
- Why you were unable to obtain a court appointment
- Whether the decedent had a will, and:
 - If the decedent had a will, whether you know of anyone else who has been named Executor of the decedent's will
 - If you do not know whether the decedent had a will, whether a diligent search has been conducted for a will, including a search of any safety deposit boxes used by the decedent
- That you have searched the records of the court with proper jurisdiction, and:
 - Whether, after searching the records of the court with proper jurisdiction, anyone else has been appointed or has applied to be appointed as Personal Representative or Administrator of the decedent's estate
- Whether any of the individuals below survive the decedent (indicate the individuals' names and locations):
 - Spouse (husband/wife)
 - Children (list all, minor and adult)
 - Descendants of any predeceased children (must include marital, non-marital, and adopted)
 - Any children of the decedent adopted by persons related to the decedent



- Mother/Father
- Sisters or brothers, either of whole or half blood, and children of predeceased sisters or brothers
- Grandmother/Grandfather
- Aunts or uncles, and children of predeceased aunts and uncles (first cousins)
- First cousins once removed (children of first cousins)

The statement must either be notarized (including the State and County in which the document was signed and notarized) **or** must include the following sworn statement:

- If signed within the United States, its territories, possessions, or commonwealths, add this language: "I declare under penalty of perjury that the foregoing is true and correct. Executed on [date signed]."
- If signed outside the United States, add this language: "I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed on [date signed]."

The statement must include the printed name of the individual who is submitting it and the individual's signature.

II. Submit the following documentation with the statement:

- The decedent's will, if applicable
- Documentation demonstrating proof of your relationship to the decedent:
 - For a spouse, a copy of the marriage certificate or joint tax return
 - For a child, a copy of the child's birth certificate or the decedent's tax return
 - For a parent, a copy of the decedent's birth certificate
 - For a brother or sister, a copy of the brother's or sister's birth certificate and the decedent's birth certificate