



September 11th
Victim Compensation Fund

FIRST ANNUAL STATUS REPORT

SEPTEMBER 11TH VICTIM COMPENSATION FUND

OCTOBER 2012

Sheila L. Birnbaum
Special Master



FIRST ANNUAL STATUS REPORT

SEPTEMBER 11TH VICTIM COMPENSATION FUND

OCTOBER 2012

As the Special Master for the reactivated September 11th Victim Compensation Fund (“VCF” or “Fund”), I respectfully submit this first annual report describing the activities of the VCF on the one-year anniversary of the Fund's start-up.

1. BACKGROUND

In 2001, Congress created the September 11th Victim Compensation Fund, which provided compensation for economic and non-economic loss to the personal representative of individuals who were killed as a result of the terrorist-related attacks of September 11, 2001, as well as to certain people who suffered physical injury. As established by Congress, the VCF provides a no-fault alternative to tort litigation – any individual who chooses to seek compensation from the VCF waives the right to sue for damages for 9/11-related physical injury or death. The original VCF (VCF 1) closed in 2004, having paid over \$7.049 billion to survivors of 2,880 people who died in the attacks and to 2,680 who were injured in the attacks or the rescue efforts conducted immediately thereafter.

On January 2, 2011, President Obama signed into law the James Zadroga 9/11 Health and Compensation Act of 2010 (P.L. 111-347) (Zadroga Act). Title I of the Zadroga Act creates the World Trade Center (“WTC”) Health Program, which is operated by the National Institute for Occupational Safety and Health (NIOSH) and provides medical treatment and monitoring for 9/11-related health conditions. Title II of the Zadroga Act reactivates the VCF and expands its scope to enable additional individuals who suffered physical injury or death as a result of the September 11th attacks to obtain compensation, including those who took part in the debris removal efforts during the immediate aftermath of the attacks. The Zadroga Act authorizes the VCF to accept claims for five years, starting in October 2011 and ending in October 2016, with final payments to be made during a sixth year in 2016-2017. Unlike VCF 1, which had no cap on funding, the Act provides a limited \$2.775 billion appropriation, with \$875 million available in the first five years, to provide compensation to claimants, as well as cover the Fund's administrative costs.

On May 18, 2011, Attorney General Eric Holder announced my appointment to serve as Special Master and administer the VCF. I subsequently asked Deborah Greenspan, who was involved in VCF 1, to serve as Deputy Special Master.

2. ACTIVITIES TO DATE

The following identifies key operational events and outreach activities surrounding the implementation of the VCF.

Rulemaking and Initial Operations

On June 21, 2011, I issued proposed rules designed to implement the reactivated VCF. During the 45-day public comment period, the United States Department of Justice received, and my staff and I reviewed and considered, 95 formal comments regarding the rules. In addition, we



organized and participated in several town hall meetings across the New York City metropolitan area, involving hundreds of potential claimants, and met with members of several New York City agencies, unions, and communities affected by the events of September 11th.

On August 31, 2011, the final rules governing the operation of the VCF were published in the Federal Register. The rules took effect on Monday, October 3, 2011, the day on which administrative funding for the VCF became available.

That same day, we launched the VCF's website (www.vcf.gov) and toll-free telephone Helpline. The new website allowed potential claimants to register with the VCF, receive a checklist of documents and information needed to accompany a claim submission, and review frequently asked questions ("FAQ's"), which we have updated frequently.

Once administrative funds became available, we began designing, building, and implementing the VCF claims process. Unlike VCF 1, which required claimants to submit hard copy claim forms and other documents by mail, the current VCF has an online claims system, which will minimize the burden on the claimants, facilitate the efficient processing of claims, and reduce costs in connection with processing claimants' applications.

In addition to a new online claims system, we have been hard at work developing the eligibility and compensation forms, drafting standard operating procedures to guide the review of claims, updating the economic loss models used to value an eligible claimant's losses, and recruiting and training our personnel.

Finally, in order to implement the goals and intent of the Zadroga Act as effectively as possible, we have developed a close working relationship with the World Trade Center Health Program and the WTC Clinical Centers of Excellence ("CCE") (such as the Mount Sinai School of Medicine and Bellevue Hospital Center). We have put in place procedures for exchanging information with the WTC Health Program and the CCEs, which allows the VCF to obtain information directly from the CCE at which the claimant has been or is being treated and therefore minimizes the burden on claimants.

Community Outreach

In addition to working hard on building a strong infrastructure for the VCF, I have made it my top priority to communicate information about the program and educate claimants on the claims process. We've done this in several different ways:

- **Website** – The VCF website (www.vcf.gov) allows a claimant (or authorized representative) to file a claim electronically and to obtain a list of documents and information needed in order to process a claim. The website guides claimants step-by-step through the application process and includes instructional videos. To enhance accessibility to a diverse audience, the claim forms are available in Spanish and the claim form instructions, checklists and other supporting materials are available on the website in Spanish, Polish and Chinese. The frequently asked questions ("FAQ's") section of the website is updated on an ongoing basis with information to assist claimants and their attorneys. To date, our website has had over 73,000 unique visitors.
- **Helpline** – On day one, we established a toll-free Helpline where individuals (not an automated service) are available to answer questions about the claims process and assist with specific claims. Claimants who do not have access to a computer can call the Helpline to request a hard copy form be sent to them in the mail. Staff are available Monday to Friday from 8:30am to 5:00pm ET. (After-hours, callers can



leave a message, which will be returned the next business day.) To date, the Helpline has received more than 5,600 calls.

- **Town Hall Meetings** – A series of Town Hall Meetings were held around the New York City metropolitan area with various community groups and potential claimants in order to explain the structure and purpose of the Zadroga Act and the claims process.
- **Pro Bono Legal Training Sessions and Clinics** – We worked with the New York City Bar Association Justice Center and two New York City law schools (Columbia University Law School and Benjamin N. Cardozo School of Law), to enable volunteer lawyers and law students to help claimants in filing their claims. VCF staff provided training sessions for the volunteers and organized and supervised free legal clinics for potential claimants who registered through the VCF Helpline. We will continue to expand these outreach pro bono efforts.
- **Meetings with Local, State and Federal Agencies** – My staff and I have been in close contact with key personnel at the New York City agencies most affected by the 9/11 attacks, including the Fire Department of New York (“FDNY”) and the New York Police Department (“NYPD”) – as well as various state and federal agencies, including the New York State Workers’ Compensation Board and the Social Security Administration. Through these relationships, we are able to gain direct access to information regarding proof of a claimant’s presence at the site, compensation information and employment-related benefits and disability. These efforts help minimize the burden on claimants, streamline the claims process, provide an efficient mechanism to verify and authenticate claimant’s specific information, and reduce administrative costs. We have also been in touch with the Mayor’s Office and New York City’s 311 information call number to assure that information about the VCF is accessible to all potentially eligible parties.
- **Meetings with 9/11 Interest Groups** – My staff and I have held several meetings with representatives from local unions and community groups in an effort to address questions and concerns, and to educate these groups about the VCF criteria and claims process. This includes: DC 37 Municipal Employees Union, construction union representatives, Communications Workers of America, New York State Laborers Health and Safety Fund, the Feal Good Foundation, the New York Immigration Coalition, the Asian American Legal Defense Fund, and Manhattan Community Board 1.
- **Meeting with Claimants’ Attorneys** – My staff and I have met with many claimants’ attorneys to address specific questions regarding individual claims, as well as general questions about claims procedures, the mechanics of filing electronically, and substantive criteria for approving claims and determining economic and non-economic loss.
- **Additional Outreach Efforts** – Beginning in Fall 2012, Single Stop, which offers services and legal assistance to residents of New York’s poorest neighborhoods, will be able to screen its constituents for eligibility for medical treatment through the World Trade Center Health Program. Those ultimately certified as eligible by the WTC Health Program may be referred for pro bono legal assistance. This project is a joint effort by the VCF, Single Stop locations (sponsored by the Robin Hood Foundation), the World Trade Center Health Program, and the New York Lawyers for the Public Interest (“NYLPI”).



3. VCF APPLICATION PROCESS

Under the Zadroga Act, in order to be eligible for the Fund, individuals must show that they (1) were present at a “9/11 crash site” at the time or in the immediate aftermath of the crashes – defined as any point in time from September 11, 2001 through May 30, 2002 – and (2) suffered physical harm or death as a direct result of the crashes or debris removal. Under the Zadroga Act and the final regulations, the 9/11 crash sites include:

- The World Trade Center site, the Pentagon site and 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; and
- 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, and east on Clinton Street to the East River; AND
 - Any area related to, or along, routes of debris removal, such as barges and the Fresh Kills site.

The physical harms covered by the VCF include both traumatic physical injuries and personal injury or death resulting from health conditions or diseases that the WTC Health Program has determined to be 9/11-related. The list of presumptively-covered health conditions may be adjusted during the program. Additionally, in evaluating whether a claimant’s injuries or conditions are “a result of” the crashes or debris removal, the VCF generally accepts determinations of the WTC Health Program. The WTC Health Program evaluates each claimant’s claimed injuries and exposures to determine whether the 9/11–related exposure is substantially likely to have been a significant factor in aggravating, contributing to or causing the injury or condition.

As required by the VCF’s final rules, a claims evaluator will review each submission, alert the claimant of any missing information needed to process the claim, and then present the claim file to the Special Master’s Office for review. The Special Master has 120 days from the time a compensation form is considered substantially complete to make a decision and notify the claimant. By law, the Special Master’s decision is final and not subject to judicial review. However, claimants may appeal the decision to the Special Master and are entitled to a hearing before a hearing officer.

As in VCF 1, all awards generally will be calculated as follows: Economic loss plus non-economic loss minus collateral source payments. Collateral source payments, such as life insurance or proceeds from a settled 9/11-related lawsuit, are those that a claimant has received, is receiving or is entitled to receive as a result of the September 11th attacks.

As with any government program involving compensation, it is crucial that we implement key protocols to prevent fraud. The VCF requires claimants to submit supporting documentation for each element of their claims, including: proof of presence at the site, proof of a 9/11-related injury, proof of timely withdrawal of certain 9/11-related lawsuits, proof of economic loss, and proof of disability. These proof requirements help us make sure that legitimate claims are processed and paid and that fraudulent claims or claims of questionable validity are detected. These efforts are particularly important given the cap on the total amount of money available for the Fund. Much more information about the application process is available at www.vcf.gov.



4. NEW RULE REGARDING CANCER

In September 2012, NIOSH implemented a new rule that adds certain cancers to the list of covered conditions for the World Trade Center Health Program. As announced, the VCF will follow the medical analyses conducted by the doctors and scientists at NIOSH who manage the Health Program. The VCF will add those cancers to the list of covered conditions for compensation under the VCF and will adjust its procedures accordingly. We are working on making changes to our operations and website that reflect the new rule.

5. STATUS OF CLAIM FILINGS

To date, approximately 14,000 potential claimants have registered on the VCF online claims system. However, only 697 claimants have submitted eligibility forms, and many of these were missing essential information at the time they were submitted. We have been working closely with claimants (or their attorneys, as appropriate) to fill these gaps. A small number of individuals have been informed that they are eligible and asked to finish their compensation claim, if they have not already done so. (Although claimants may submit the forms for determining compensation at any time, they are not required to fill out those forms until after we determine their eligibility.) We are working with many other claimants to get additional information in order to determine whether they are eligible.

As the lawyers and claimants collect the documents they need for submission of claims, we expect the number of completed claim forms to increase substantially in the coming months. Under the Zadroga Act, claimants who had an eligible injury as of October 1, 2011 have two years from the date to submit claims. If a claimant subsequently learns of physical harm, the claim must be filed within two years of the date they learn or reasonably should have known that they suffered a physical injury as a result of the attacks. At such time that new injuries such as certain cancers are added as conditions eligible for compensation from the VCF, claimants will have two years to file a claim from the time the Fund includes the new condition to the list of those covered. Thus, there is plenty of time left for people to apply.

The table below provides additional information on the potential claimants who have registered on www.vcf.gov as of September 23, 2012.

Presence at Site	
Attend school/childcare/adult care facility	105
Residents within NYC zone	632
NYC - Other Capacity	573
Responder-Shanksville	13
Responder-Pentagon	24
Responder-NYC	8,944
Non-Responder - Pentagon	37
Non-Responder cleaning or maintenance work	973
Non-Responder other capacity	1,589
Claimant Circumstances	
Previously filed VCF claim	1,432
Received treatment under WTC Health Program	6,982
Deceased claimant	223
Percentage of Claimants represented by an Attorney	80.11%



6. SUMMARY

Since my first day on the job, my goal has been to administer the Fund in a manner that is fair, transparent and easy to navigate. We have accomplished a great deal in the past year and will continue to make every effort to work with the 9/11 community, educate and assist potentially eligible claimants, and make sure that those who are eligible for the Fund receive compensation consistent with Congress's intent.

I would like to take a final moment to thank all of those in the 9/11 community who have advised us and worked with us to implement this important program. As a life-long New Yorker, the opportunity to serve the country and the 9/11 community in this way is a tremendous honor. I am ever grateful for your support over this past year and look forward to continuing our work with you as we move forward.