



September 11th
Victim Compensation Fund

September 11th Victim Compensation Fund

An Overview

November 2017

www.vcf.gov

1-855-885-1555

Please Note:

This document is intended to be used as a reference by individuals who are filing a claim with the September 11th Victim Compensation Fund (“VCF”), or by those who are interested in how the VCF operates. It is not intended as a comprehensive tool for understanding the rules, regulations, policies and procedures that govern the VCF. 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.

VCF Overview: Table of Contents

Subject	Slide Number
What is the VCF?	4
Background/History	5
Eligibility	6
Compensation	15
Filing a Claim	22
Contacting the VCF	26

What is the VCF?

- The September 11th Victim Compensation Fund (“VCF”) provides compensation for losses suffered by individuals who were physically injured (or relatives of those who were killed) as a result of the terrorist-related aircraft crashes of September 11, 2001, or debris removal efforts.
- The VCF is a federally-funded program administered by the Department of Justice and Special Master Rupa Bhattacharyya.

Background/History

- Congress established the original VCF (“VCF1”) in 2001 to bring financial relief to those most devastated by the events of September 11, 2001. VCF1 closed in 2004.
- In January 2011, the Zadroga Act re-opened the VCF and included expanded eligibility criteria, new filing deadlines, and limited funding. Many of the policies and procedures used to evaluate claims and calculate losses were based on VCF1.
- In December 2015, the Zadroga Act was reauthorized, increasing total funding for the VCF from the original \$2.775 billion to a total of \$7.375 billion. Eligibility requirements remained the same, but the policies and procedures for evaluating claims and calculating losses changed.

ELIGIBILITY

VCF2 Eligibility: Overview

- In order to be eligible for a VCF award, you must meet the following criteria:
 1. Timely registration of the claim by the applicable deadline.
 2. WTC Health Program certification for treatment of an eligible physical injury or condition that is determined to be “a result of” the attacks or debris removal.
 3. Presence at a 9/11 crash site or routes of debris removal at any point from September 11, 2001, through May 30, 2002.

If applicable, the following criteria must also be met:

4. Timely dismissal, withdrawal, and/or settlement and release of a 9/11-related lawsuit.
5. If already compensated under VCF1, showing of a new condition or new loss that was not previously compensated.
6. If someone other than the victim is submitting the claim, that person must show that he/she is authorized to act on behalf of the victim.

Eligibility Criteria #1: Timely Registration

- The applicable [registration deadline](#) is based on individual circumstances.
- In general, you must register within two years of when you knew or reasonably should have known: (1) that you suffered a physical harm as a result of 9/11, and (2) that you were eligible to file a claim.
- For WTC Health Program members, the “Registration Start Date” – the date that triggers the two-year registration period – is the earlier of:
 1. the date of the WTC Health Program certification letter, or
 2. the date on which another government entity determined that the physical injury or condition was 9/11-related.
- Per VCF policy, if registration is timely for **any** condition or injury, **all** eligible conditions **may** be considered for an award.
- Registration is the first step in the VCF claims process. You can register with the VCF even if you don’t currently have a certified condition. Registering preserves your right to file a claim later, if needed, but does not commit you to doing so.

Eligibility Criteria #2: Certified Condition(s)

- You must have an eligible *physical* injury or condition that is determined to be a result of the attacks or debris removal.
- In general, the VCF relies on certification by the WTC Health Program. In very limited cases, conditions may be verified through the VCF [Private Physician process](#).
- The VCF and the WTC Health Program work closely together and exchange information regarding conditions for which you are certified for treatment.
- The VCF cannot process a claim until we receive notification from the WTC Health Program that you have been certified for at least one physical condition.

Eligibility Criteria #3: Presence

- You must have been present at a 9/11 crash site, on routes of debris removal, or at any location within the VCF's NYC Exposure Zone at any point from September 11, 2001, through May 30, 2002.
 - The VCF's [NYC Exposure Zone](#) runs south of Canal Street and is narrower than the WTC Health Program's "New York City Disaster Area," which runs south of Houston Street and includes any block in Brooklyn contained within a 1.5-mile radius of the former WTC complex.
- The VCF requires proof of your presence. Documentation to demonstrate presence may include: employer letters, sworn affidavits, worker injury reports, medical records, and lease/mortgage documents.
 - In some cases, the VCF may be able to obtain information to support presence from third-parties, such as the FDNY, NYPD, WTC Health Registry, and other employers and entities.
 - If denied, you can appeal the determination and provide testimony under oath at a hearing, which may support a finding of presence.

Eligibility: VCF vs. WTC Health Program Criteria

- You may be certified for treatment by the WTC Health Program but not eligible for compensation by the VCF.
- The criteria for the two programs overlap, but not entirely:

	VCF	WTC Health Program
Illnesses Covered:	Physical only	Physical and Psychological
Presence/Exposure Zone:	South of Canal Street (Manhattan only)	South of Houston Street and parts of Brooklyn
Presence/Exposure Timeframe:	September 11, 2001 – May 30, 2002	September 11, 2001 – July 31, 2002
Presence/Exposure Duration:	No minimum time required – just need to have been in the zone during the timeframe	Minimum time requirements apply

Note: The VCF does not distinguish between Responders and Survivors in any way: eligibility, the claims process, or the calculation of awards.

Eligibility Criteria #4: Lawsuits (*if applicable*)

- If you filed a 9/11-related lawsuit, you must demonstrate that the lawsuit was dismissed, withdrawn, and/or settled and released by a specified date.
 - If you cannot demonstrate timely dismissal, withdrawal, and/or settlement and release, you cannot file a claim.
 - If you timely settled a 9/11-related lawsuit, that settlement payment will be deducted from any VCF award as required by the statute.
 - There are special rules for claimants with conditions added by the WTC Health Program after 2011.
- When filing a VCF claim, you waive your right to file (or be a party to) a civil action in any federal or state court for damages sustained as a result of 9/11 crashes or debris removal.
- Note: There are two types of permissible 9/11-related lawsuits: civil actions against terrorists and civil actions to recover collateral source obligations.

Eligibility Criteria #5: VCF1 Claims (*if applicable*)

- If you were compensated under VCF1, you must demonstrate that you suffer from a new condition or have a new loss that was not previously compensated.
- For example:
 - A claimant who received a non-economic loss award in VCF1 for an orthopedic injury sustained while escaping from the World Trade Center and now is certified for cancer may be eligible for additional losses.
 - A claimant who received a non-economic loss award in VCF1 for mild to moderate asthma and who was subsequently determined to be disabled due to asthma may be eligible for additional losses.

Eligibility Criteria #6: Authorization (if applicable)

- If someone other than the victim is submitting the claim, that person must prove that they are authorized to act on behalf of the victim.
 - For a deceased victim, this individual is the Personal Representative as appointed by a court.
 - For a minor victim, this is the parent or legal guardian.

COMPENSATION

VCF Compensation: Overview

The compensation award is comprised of 3 components:

1. **Non-economic loss** – Typically referred to as “pain and suffering.”
2. **Economic loss** – Loss of earnings and employment benefits, Replacement Services loss, and/or medical or other out-of-pocket expenses.
3. **Collateral offsets** – Benefits or payments received from other sources that compensated for the eligible injury.

$$\begin{aligned} & \text{Non-economic loss} \\ & + \text{Economic loss} \\ & - \text{Collateral Offsets} \\ & = \text{VCF AWARD} \end{aligned}$$

Each claim is evaluated individually.

VCF Compensation: Non-Economic Loss

The amount awarded for “pain and suffering” varies by type, severity, and the effect of the condition(s) on the victim’s life.

- It is not tied to the number of conditions certified.
- All eligible claimants will receive non-economic loss, minus applicable offsets.
- The Reauthorized Zadroga Act imposes caps of \$250,000 for a cancer and \$90,000 for a non-cancer condition.
 - Awards for cancer conditions range between \$125,000 and the \$250,000 cap set by the Reauthorized Zadroga Act.
 - Awards for non-cancer conditions range between \$20,000 and the \$90,000 cap, depending on the severity of the conditions.
 - Awards at the higher end of these ranges are for those whose conditions are consistent, sustained, and have a severe impact on their quality of life. Awards at the low end of the range are for conditions that impose a mild impairment on daily life, have resolved over time, or are reasonably well-controlled through medication.
 - Multiple cancers or cancer with severe non-cancer conditions may result in awards above \$250,000.

For WTC Health Program patients, the VCF does not need medical records to establish eligibility or to award non-economic loss, but medical records that demonstrate the severity of conditions may help support a higher award.

VCF Compensation: Economic Loss

- You qualify for a lost earnings award only if you have an occupational disability due to an eligible condition based on a determination by:
 - A governmental agency (e.g., Social Security Administration, Workers' Compensation, the FDNY, NYPD, NYCERS),
 - A private insurer, or
 - The WTC Health Program disability evaluation process.
- If you have a third-party disability determination for an eligible condition, the VCF will review whether your lost earnings are a result of that disability.
- The lost earnings calculation considers factors specific to you such as age, income, percentage of disability (e.g., whether the disability is partially attributable to ineligible conditions), date of onset of disability, employer-provided benefits, and other factors.
- The VCF [Policies and Procedures](#) provide additional details on how economic loss is calculated.

VCF Compensation: Economic Loss

- The [WTC Health Program Disability Evaluation Process](#) is intended for WTC Health Program members who satisfy specific criteria:
 - The claimant is a member of the WTC Health Program.
 - The VCF has deemed the claimant to be eligible for at least one certified physical condition.
 - The claimant does not already have a disability determination based on an eligible condition from a third-party entity.
 - The claimant's earnings must have decreased or stopped due to an eligible condition **and** there must be a reasonable basis to believe that the claimant's eligible condition is preventing his/her return to work.
 - The claimant's WTC Health Program certified condition could reasonably be found to be disabling.
 - The claimant is not eligible for WTC retirement or WTC reclassification by the FDNY, NYPD, or NYCERS (with limited exceptions).
 - Detailed information on the process can be found under "Forms and Resources" on the VCF website.

Note: A WTC Health Program disability evaluation does not guarantee that the claimant will be determined to have suffered a loss eligible for compensation from the VCF.

VCF Compensation: Economic Loss

Replacement Services loss

- May be awarded to compensate for the value of household-related services that a claimant regularly performed but can no longer perform as a result of an eligible condition. Medical records are required to demonstrate that eligible conditions prevent you from performing the claimed services.
- Typically considered to be a component of loss in deceased claims, or in claims where the claimant did not have prior earned income or worked only part-time outside the home.

Medical Expenses loss

- May be awarded for documented out-of-pocket medical costs related to an eligible condition(s), that are not covered by the WTC Health Program, insurance, or other sources.
- Can only be requested as an amendment after an initial award determination has been issued, and only if the total amount of the claimed medical expenses incurred exceeds \$2,000.

VCF Compensation: Collateral Offsets

By law, benefits or payments received from other sources that compensated for the eligible physical injury or condition must be deducted from a VCF award. This includes but is not limited to:

- Social Security disability or survivor benefits
- Workers' Compensation (including WTC Volunteer Fund) benefits
- Pensions
- Public Safety Officers' Benefits payments
- Lawsuit settlement payments
- Life insurance

Note: Charitable benefits are not offset.

FILING A CLAIM

Filing a VCF Claim

- You must:
 1. Register by the [applicable deadline](#).
 2. Complete and submit the [Claim Form](#) (online or in hard copy) and required supporting documents by December 18, 2020.
- The Claim Form requires that you authorize the VCF to obtain information related to the claim from other organizations, including the WTC Health Program. This authorization is provided through the Claim Form Signature Page.
- You do not need an attorney to file a claim.
 - If an attorney assists with the claim, the attorney may not charge more than 10% of the amount of your VCF award.
- The VCF routinely communicates with claimants to identify missing information.
- The VCF Helpline can assist you with using the online claims system, including setting an appointment to get help completing the claim form.

Processing a VCF Claim

- Claims are reviewed in priority order based on the date the Claim Form is submitted.
 - For claims submitted prior to August 1, 2016, this is the date the Compensation Form was submitted (prior to this date, the Claim Form had two separate parts: Eligibility and Compensation).
- The time it takes to process a claim depends on many factors, including:
 - Type of claim
 - Losses claimed
 - Complexity of the claim
 - Whether the documents needed to evaluate the claim have been submitted
- You may **appeal** within 30 days of the determination if the claim is denied, or if you believe the award was erroneously calculated.
 - Appeal hearings are informal and non-adversarial and are usually held in person at the VCF's NY office or via telephone.

Processing a VCF Claim

- You may amend your claim at any point before December 18, 2020, to add a new condition, claim a new loss, and/or submit additional information that may be relevant to the claim.
Note: Certification of a new condition does not automatically mean a higher award.
- Once the appeal period noted in the award letter has ended, payment will generally be authorized within 20 days. It may take up to 45 days before the money is deposited into the designated account.
- In cases of terminal illness or significant financial hardship, the VCF may expedite the processing of a claim, upon request by the claimant or his/her attorney by contacting the Helpline and uploading any appropriate documentation to your claim.

For More Information

VCF WEBSITES

www.vcf.gov

www.vcf.gov/espanol.html

www.vcf.gov/polish.html

www.vcf.gov/chinese.html

- For assistance:
 - Toll-free Helpline: **1-855-885-1555**
 - For the hearing impaired: 1-855-885-1558
 - If calling from outside the U.S.: 202-514-1100
 - Interpreters are available.