



### **What is the WTC Health Program Disability Evaluation Process?**

The VCF has worked with the WTC Health Program to implement a disability evaluation process, which is designed to help provide qualifying claimants with a disability determination for an eligible condition in order to support an economic loss award in a VCF claim.

This program is not for everyone. It is intended for claimants who do not already have a disability determination for an eligible condition from one of the standard third-party entities or sources (e.g., Social Security Administration, FDNY/NYPD, a state Workers' Compensation program, or insurance company). 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 disability determination based on an eligible condition from a third-party entity**, such as Social Security, FDNY, NYPD, NYCERS, 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 and there is a reasonable basis to believe that it is your 9/11-related condition that is preventing your return to work, either in whole or in part.
- 5. Your condition certified by the WTC Health Program could reasonably be found to be disabling.**
- 6. You are not eligible for WTC retirement or WTC reclassification by the FDNY, NYPD, NYCERS, or NYSLRS.** If you are claiming lost earnings based on employment with one of these four entities, and you either did not apply for WTC retirement or reclassification or you were denied WTC retirement or reclassification, you generally are not eligible for this process. Because there is an alternative, formal process available to you to seek a disability determination due to eligible conditions, you do not qualify for a separate disability evaluation through the WTC Health Program. Additionally, if your claim is based on FDNY or NYPD employment, and you have a WTC retirement or reclassification based solely on an *ineligible condition* but have not yet reclassified for an eligible condition, you are not eligible for the WTC Health Program disability evaluation process because these two entities provide the option to reclassify to change the condition. Exceptions to this may be warranted on a case-by-case basis, on appeal only.
- 7. You are not claiming lost earnings based on FDNY or NYPD Employment.** If you are claiming lost earnings based on your employment with one of these entities, you are generally not eligible for this process. Because there is an alternative, formal process available to you to seek a disability determination due to eligible conditions, even if you have already retired due to ineligible conditions, you do not qualify for a separate disability evaluation through the WTC Health Program. This applies even if you retired due to an



ineligible condition because these entities provide the option to reclassify to change the condition. Exceptions may be warranted on a case-by-case basis, on appeal only.

- 8. You are not eligible for WTC retirement or WTC reclassification by NYCERS or NYSLRS.** If you are claiming lost earnings based on one of these entities, and you either did not apply for WTC retirement or reclassification or you were denied WTC retirement or reclassification, you generally are not eligible for this process. Because there is an alternative, formal process available to you to seek a disability determination due to eligible conditions, you do not qualify for a separate disability evaluation through the WTC Health Program. An exception may be made in those cases where you already have a WTC retirement or WTC reclassification, but it is due solely to an ineligible condition, if all of the other above criteria are met.

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

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 that 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. You must also upload the information described below.
- **If you have already submitted your claim:** You will need to submit a compensation amendment through the online system. Click on “Amendments” and then “Compensation Change.” Select “**Request consideration for the WTC Health Program Disability Evaluation Process.**” In the text box at the bottom of the page, provide any additional details about your request. It is also helpful if you list the filenames of all documents you are uploading in support of your request. You must also upload the information described below.

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

- A statement confirming that you have not received a disability determination that is based on a condition deemed eligible in the VCF.
- 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. If you have not already done so, you must submit the Social Security Administration (SSA) Consent Form (Exhibit 1). You may also submit 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 that the condition certified by the WTC Health Program supports a good faith assertion of disability and that there is a reasonable basis to believe that it is your VCF-eligible condition that is preventing your return to work, either in whole or in part. This can be based on the nature of your certified condition (e.g., cancer in active treatment), medical records showing the severity of the certified condition (e.g., test results, physician



statements), or detailed personal statements when accompanied by corroborating documents.

- Any other letters or documents in support of the request that you believe will help the VCF evaluate your request.

You should upload these supporting documents to your claim as one file – with the exception of the Social Security Administration Consent Form (Exhibit 1), which should be uploaded separately. When uploading the file with the supporting documents, select the document type “**WTCHP Disability Evaluation Request.**” The Social Security Administration Consent Form (Exhibit 1) should be uploaded as document type “Exhibit 1: Social Security Administration Form.”

### How does the process work?

Outlined below are the high level steps in the process:

- Step 1.** The VCF will review your request and make a determination as to whether you are an appropriate candidate for the disability evaluation process.
  - i. If the VCF determines that you are not a candidate for the disability evaluation process, we will deny the request and send you a letter explaining that you are not eligible for the process. The denial of a request for consideration for the disability evaluation process is not subject to appeal.
  - ii. If the VCF confirms that you are a candidate for the disability evaluation process, we will notify the WTC Health program and place your claim in an “On Hold” status pending the outcome of the disability evaluation. We will 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 your WTC Health Program clinical center to make an appointment and it will follow up with you directly regarding its procedures. If you decide you do not want the evaluation, you must notify the VCF so we can remove your claim from the “On Hold” status and continue processing it in order 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 it sends the report directly to you.
- Step 5.** You must submit a **compensation amendment** using the online system and upload the report to your claim. Click on “Amendments” and then “Compensation Change.” Select “**Submit WTC Health Program Disability Evaluation Report.**” When uploading the report, select the document type “**WTCHP Disability Evaluation.**” If needed, you can mail the report to the VCF instead.

**Note:** If we do not receive the report within four (4) months of the date you were notified that you are a candidate for the disability evaluation process, the VCF will remove your claim from the “On Hold” status and continue processing the claim based on the documentation in the file, unless you have notified the VCF that you need additional time to submit the evaluation.
- Step 6.** We remove your claim from the “On Hold” status and reactivate the claim for review. We will 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. Please note, however, that the clinics are solely responsible for the appointment schedule. Once your appointment is held, it takes about two weeks for the clinic 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.