



The following topics were discussed during a conference call held with law firms on April 26, 2022. The meeting covered important updates and reminders about the VCF.

- **General Announcements**

On April 5, 2022, Special Master Rupa Bhattacharyya [announced](#) she would be leaving the VCF and the Department of Justice effective April 30, 2022. On April 19, 2022, the Attorney General appointed August (Auggie) Flentje to fill the role of Special Master on an interim basis while a search for a permanent Special Master is underway. Auggie has been a career civil service attorney with the Department of Justice Civil Division since 1998. He has worked with the VCF in the past, and is familiar with its functions and operation. A [message from Auggie](#) to the 9/11 community was posted to the VCF website following the call with law firms.

The VCF does not expect any delays in the processing or payment of claims as a result of the transition to an interim Special Master. As Special Master, Auggie will continue to render decisions on appeals, and will exercise the Special Master's discretion in evaluating requests that involve unique circumstances. Auggie spent significant time with Rupa during the transition period, and is already reviewing claims and issuing determinations.

On the topic of VCF leadership changes, this was the first law firm call since [Kim Brown joined the VCF](#) in February in the newly-created position of Director of Operations. Kim is focused on a number of operational areas and workforce support.

As of March 31, 2022, the VCF has made awards to almost 44,000 individuals, with nearly 10,000 of those receiving more than one award due to the addition of a claim amendment. In total, we have awarded over \$9.7 billion dollars. Claim filing volume for the last twelve months, on average, has been nearly 1,000 claims per month, with another 200-300 amendments per month. Unlike in the earlier years of the program, we now receive more claims per month from survivors than from responders. The VCF continues to keep pace with claims coming in, and has maintained an average claim review time of one year from submission date, since April 2021.

- **New "Abandoned" Claim Process**

The VCF is in the very early stages of its plan to revamp the online claims system, the outcome of which will eventually be the design and development of a new, more modern claims management system. We have begun some of the foundational work that will be necessary for the new system, and a major focus at this time is on identifying the actions that will need to be taken to ensure only "clean" data and claims are eventually migrated to the new system.

As part of this effort, we are working to resolve claims in which the claimant has been [found eligible for compensation](#), but never filed the Compensation section of the claim form. These are older claims (prior to the current version of the claim form) and because we do not have the compensation portion of the claim, we cannot issue awards. These claims have all received multiple letters reminding the claimant of their "approved" eligibility decision, and urging them to submit the compensation claim so we can calculate their award. Given the amount of time that has lapsed without any response from these claimants, we plan to remove them from our list of pending claims.

We sent letters to all affected claimants earlier this month, requesting that the claimant file the compensation section of the claim form within 60 days, and noted that we would deem the claim "abandoned" if we do not receive the compensation section by the requested date.

In early June (i.e. 60 days from when we sent the letters), we will move any claim for which we did not receive a response into the new "abandoned" status. We will send each claimant a letter notifying them that we have closed their claim, but that they can re-open it at any time in the future by calling the Helpline.

This is not a large number of claims, but the status in the online system will show as "Abandoned."



- **No More Original Documents**

The previous backlog in processing incoming mail, which delayed the time from when we received the mail to the document being visible in the online system, has been eliminated. Current processing time is about one week from receipt to upload to the system. This progress is due in part to changes made last year to no longer require the mailing of original Exhibit As and Client Authorizations, thereby reducing the volume of incoming mail. These changes have been very successful, and, effective immediately, **we no longer require the mailing of original Death Certificates, Letters of Administration, and other Court Orders to the VCF.**

Death certificates can now be scanned and uploaded to the claim using the document type “Proof of Death,” and Letters of Administration or other representative-related Court Orders can be uploaded using the document type “Personal Representative Document.” **When naming the uploaded file, use only letters and numbers in the file name. Do not include blank spaces or any special characters (hyphens, periods, underscore, etc.).**

Although these documents can now be uploaded to the online system, **each document must still be complete and unaltered, and the original must be maintained.** You are not required to provide an affirmation or attestation of originality when uploading the document, but we will request the original document in any claim where the upload is illegible or appears altered, or any other circumstance where inspection of the original is deemed necessary. If the Letters of Administration or Court Order was issued via email, please also upload the email that the Letters of Administration or Court Order was attached to when it was issued.

We are updating our Missing Information letters and the various places on our website where it notes original documents are required, but these updates are **effective immediately**, and you should **stop mailing death certificates, Letters of Administration, and other representative-related Court Orders** to the VCF.

One of the best ways to speed overall claims processing is to stop mailing documents that we do not require as originals. **The only document we now require as an original is the ACH Payment Form.** All other documents should be uploaded to the online claim system and should not be mailed.

- **Social Security Administration (SSA) Consent Forms (Claim Form Exhibit 1)**

For economic loss claims, the VCF works directly with the Social Security Administration to request disability information and earnings history data using the Exhibit 1 – Social Security Administration Consent form. This consent form includes the following requirement in fine print above the signature date block: “SSA must receive this form within 120 days from the date signed.” The SSA has informed the VCF that their regulations require that the consent form be signed within 120 days of the date the VCF sends the form to SSA, and they cannot accept any outdated forms for processing.

For any consent forms that were signed over 120 days before we were able to send the request to SSA, we will need a new consent form signed and uploaded to the online claim before we can send the request to SSA. To facilitate getting updated forms to us for claims that have already been submitted, our law firm liaisons will provide each firm with a list of the firm’s claims that we have already identified as needing new consent forms.

**For all economic loss claims going forward, we request that you wait until a claim has been approved for eligibility before having your client sign the Exhibit 1.** This will help ensure we are able to send the request to SSA before the consent expires.

This also means that if we need updated information from SSA during the course of our review, or if an amendment is filed for additional loss, additional requests for an updated Exhibit 1 may be required. We are making updates to our internal processes, letters, and website to reflect this update.



- **Appeals Scheduling and Processes**

All hearings are now held virtually, in video format. There is no plan for a return to in-person hearings at this time. The virtual setting has allowed the team to hold hearings at the same pace they were being held prior to the pandemic. When a decision is made to resume in person hearings, plenty of notice will be provided.

A few quick reminders that will help ensure hearings continue to run smoothly:

- Please continue to make sure you have someone from your firm who is prepared to assist your client or witness in joining the Zoom hearing.
- It is important that you remain in communication with your client during the time between submission of the appeal packet and notification that the hearing has been scheduled. If there is new documentation you believe negates the need to hold the hearing, upload the documentation to the claim and file an amendment. If you are *not sure* if the new documentation resolves the need for hearing testimony, submit it regardless. The team may then reach out to you and convert the claim to an amendment if it is best handled through that process.
- When you request an interpreter, please be sure to indicate on the Pre-Hearing Questionnaire whether the interpretation is needed for the claimant, for a witness, or potentially for both. This helps us to plan accordingly for the hearing.

- **Online Claims System Acceptable Use Policy**

Over the past several years, and as recently as [March 2022](#), we have sent multiple emails to all contacts on the VCF law firm email distribution list with important reminders about the online claims system [Acceptable Use Policy](#) (or “AUP”). The emails all noted that it is critical that every individual who works with claimants and uses the online claims system should review the policy to ensure they are compliant with the requirements and aware of their responsibilities, and reminded firms that new employees must be required to review the document thoroughly prior to creating their account in the online system.

We have seen several instances recently of system activity that violates the AUP, including the sharing of claimant portal accounts (shared username and password across multiple individuals), and delays in notifying the VCF when a law firm staff member leaves the firm or stops working on VCF claims. ***Several firms recently had their access to the system disabled for several days while we reported their violations to DOJ Security and waited for permission to restore their access.*** These are serious offenses, and we will not hesitate to disable access for any firm or user who is in violation of the policy.

DOJ requires that ALL users of the VCF online claims system comply with the requirements outlined in the Acceptable Use Policy, and all users of the system agree to do so when clicking “Accept” in the “DOJ Warning” box that appears each time you login to the system. Law firms must ensure any new staff members working VCF claims review the policy before creating their account in the system, and firms must immediately notify the VCF when a staff member leaves the firm or stops working VCF claims.

**Failure to comply with these requirements will result in termination of a user’s access.** We are not required to provide notice before terminating a user’s account, and we will not hesitate to do so if the use of the account presents security concerns.

- **Expedited Claims**

The expedited claims process is a critical part of our program, and one that the VCF team is deeply committed to in every way. For this process to work effectively, however, the initial request to



expedite a claim **must include the documentation we need in order to evaluate the request; and the claim must be submitted with all of the information we need in order to review it.**

We have seen a trend in recent months where the VCF is denying almost as many expedite requests as it approves, as well as an increase in the number of requests requiring some type of follow-up because we don't have what we need to even consider the expedite request. This should not be happening, and it slows down the overall expedite process, which is the exact opposite of what we are all trying to do for these claimants.

Note the following important reminders:

- For financial hardship requests: It is necessary to demonstrate that a claimant faces truly imminent circumstances. You should submit clear documentation that the claimant is in the middle of eviction or foreclosure proceedings, is homeless, or is facing utility cutoff. The fact that a claimant has and owes bills will generally not be sufficient. You should provide a full picture of the claimant's overall financial situation when requesting expedited processing.
- For terminal illness cases:
  - Many firms are going to the claimant's physicians and asking them to write letters for the sole purpose of the expedite request. This is not ideal, but we will generally accept the letters *if there are supporting medical records submitted with the physician letter, and* if the letters are clear about a claimant's *specific* prognosis.
  - When expedited processing is granted, keep in touch with your client, and let the VCF know if he or she passes away while the claim is being processed. We hope this does not happen often, but when it does, it is important to notify us so we can take appropriate actions before any payment is processed. Our goal is to avoid the complication of having Treasury contact us to confirm a payment was properly disbursed when their system shows the payee has passed away.
- For all expedited claims: Submit complete claims, and double check to be sure that all applicable supporting documents (e.g., pension records, records of any short-term/long-term disability benefits, etc.) have been submitted *before* you submit the claim.

- **Witness Presence Statements (WPS)**

**Do not alter, modify, or remove any information requested on the Witness Presence Statement form.** The form was crafted very carefully to ensure that we get the information we need. Changes to the form make it harder to review and process claims, and removing information we request may cause claims to be delayed while we attempt to obtain the needed information. Every point of information on the WPS is needed for our review, so please use the form from our website without modification. If you know you submitted an altered WPS for a claim that has not yet come under review, you should review what was submitted against the same standards as our form. If the submitted statement is not sufficient, supplement the claim with the additional details needed in order to avoid the claim being placed on hold for missing information.

It is important to remember that witnesses must have been at least 18 years old at the time they witnessed the claimant at the site or in the NYC exposure zone in order for the VCF to rely upon their statement as a proof of presence. We make an exception only for claimants who were present in the exposure zone while attending high school, but cannot get a school transcript despite their best efforts to do so. In those cases, the VCF will consider completed Witness Presence Statements from witnesses who were high school classmates of the claimant at the time of 9/11, but were not yet 18 years of age. If you have submitted a statement for any of your claims from a witness who you know (or believe) was a minor at the time they attest to having seen the claimant, and the witness does not meet the exception of having been a high school classmate of the claimant at the time, please obtain additional proof of presence and upload it to the claim as soon as possible.





- **Third Party Verification (TPV) Requests**

The VCF cannot make completed TPV forms visible in the current claims management system. If a copy is needed, you should request that the employer copy you on the email sent directly to the VCF with the completed form, or ask that they provide a copy separately to you or your client.

- **Medical Expense Reimbursement**

The VCF will only reimburse compensable out-of-pocket medical expenses if they exceed \$5,000 and were incurred prior to the date the WTC Health Program certified the condition as eligible for treatment. Compensable expenses do not include any costs that have been, or will be, reimbursed by an insurance company, a secondary payer (such as Medicaid, Medicare, or a second insurance provider), or any other collateral source. You must submit documentation to prove the compensable expense was paid for by the claimant and has not and will not be reimbursed. This includes receipts showing the actual amount and date paid, an explanation of benefits from the insurance company with dates of service, and any other related expense documentation.

The VCF Policies and Procedures ([section 2.4.a](#)) provides the full set of criteria that must be met in order to be consider the expenses for reimbursement.

**NOTE:** WTC Health Program members who were treated at **New York-Presbyterian Hospital** for a 9/11-related certified condition, and who paid for those services out of pocket, should not submit a claim for those expenses to the VCF. If your client was treated at New York-Presbyterian and charged for services, (866) 833-6437 is the number to call to request reimbursement.

- **Medical Records Roadmap**

If you submit more than 75 pages of medical records in support of a claim for noneconomic loss, the records must be highlighted or provide guidance that indicates which sections are related to the claimant's certified or verified conditions. Highlighting irrelevant information delays review and processing of the claim.

- **Compensation Amendment Required when seeking Additional Loss**

The VCF will not automatically review a claim for additional compensation when the claim has been approved for eligibility and the only amendment filed is an eligibility amendment for a new condition. If you are seeking additional loss for a claimant as a result of a newly certified condition, you must file a compensation amendment.

As a one-time courtesy, the VCF is reviewing some eligibility amendments that were filed more than two years ago that will result in additional compensation. Any eligibility amendments for additional conditions that were filed in 2021 or later, and that do not have a corresponding compensation amendment, will not be reviewed for additional loss until a compensation amendment is filed.

DO NOT file eligibility amendments for the sole purpose of adding a condition when it will not change the prior award. We only need to know about a new condition when it results in a new loss.

- **Documentation for Lost Earnings Claims and Amendments**

When filing claims for lost earnings that include a request for pension loss, or if there is an applicable pension offset, be sure to submit the required pension documentation as requested in our [Policies and Procedures](#) and as listed on the applicable Document Checklist. The same documentation is required when filing a compensation amendment for lost earnings that includes a pension loss or offset.

**NOTE:** The VCF works directly with NYCERS to obtain pension records for those claimants or deceased victims who were members of NYCERS. We are working to update our Policies and



Procedures, Missing Information letters, and [Forms and Resources](#) page to reflect this change. **Effective immediately, you no longer need to complete the Pension Worksheet for NYCERS members.**