



The following topics were discussed during the virtual meeting held with law firms on January 25, 2023. The meeting covered important updates and information about the VCF, as well as specific actions law firms are being asked to take to address issues that are preventing the VCF from being able to decide claims on first review. The slides presented at the meeting are available under [Communications to Law Firms](#) on the VCF website. You are strongly encouraged to review these notes in tandem with the slides.

- **General Announcements:**

The Department is making progress on naming a permanent Special Master and we hope to have an update soon.

Regarding the addition of Uterine Cancer to the list of WTC Health Program covered conditions, VCF policy has always been that if the Health Program adds a condition to the list, we will consider it eligible for compensation assuming all other eligibility criteria are met. The condition has already been added to the list of conditions in the online claim form – both for initial claims and amendments.

- **2022 Year in Review:** The VCF's eleventh [Annual Report](#) was published on February 6, 2023. Despite the significant changes in 2022 with Rupa's departure, Auggie's appointment as interim Special Master, and the search for a permanent Special Master, the report highlights a successful year by any measure, with the team issuing over 9,100 award decisions (initial and amended) and awarding over \$1.4 billion. The report also includes several new statistics this year that show the breadth of work done by the VCF team. These include:

- Over **14,000** claims Preliminarily Reviewed.
- Almost **7,000** third-party feed requests processed (Note: this number does not include every claim sent to the WTC Health Program for information on certified condition(s)).
- Over **900** Personal Representatives validated.
- Over **3,600** Third Party Verification forms received and processed.
- Over **800** Private Physician packets reviewed.
- Over **4,400** Claim Information Resolution Forms processed.
- Over **3,800** Change of Attorney requests received and processed.
- Over **48,000** calls to our Helpline.
- Almost **13,000** pieces of mail received.
- Ongoing maintenance, security, support, and enhancements to the online claims system, and reporting and data management.

The 2022 statistics are positive in many ways, but the VCF team also handled a large amount of work that negatively impacted its ability to decide claims and issue awards. These included:

- Over **7,600** claims went through Preliminary Review and were made inactive because they were missing the minimally required documents needed to begin substantive review of the claim. Of these, **24 percent** were reassessed and deactivated two or more times.
- Almost **12,000** claims previously deemed Inactive because they were missing the minimally required documents were reviewed again and procedurally denied because the VCF did not receive a response to the request for the minimal information needed to begin substantive review.
- Over **13,000** claims which were previously denied or deemed inactive were reviewed again when new documents came in, all in response to prior Missing Information requests.
- Over **1,100** claims were substantively reviewed, placed on hold while awaiting Missing Information, and then reviewed again and substantively denied because the claimant does not meet one or more of the eligibility criteria or the VCF still did not have sufficient information to approve the claim following the 30-day Missing Information period.
- Almost **200** appeals were converted to amendment during the appeals triage process, which is



almost 25 percent of appeal forms received, because the documentation requested during initial review was submitted prior to the scheduled appeal hearing and there was no longer a need to have the hearing.

These statistics are important for several reasons. First, they show the amount of work done by the VCF team beyond what has historically been reported. Second, they show a pervasive problem that needs to be solved. **The one thing that holds the VCF back from deciding more claims is the issue of claims that cannot be moved forward in the process the first time they are picked up for review.** The incomplete claims are the number one driver of the statistics referenced above, and the re-work is crippling the VCF’s ability to decide more claims.

- **Premature and Insufficient Claims:** When the VCF held a call with law firms in [June 2021](#), the discussion included mention of plans for new public reporting. This included reporting on document misfiles (rolled out in February 2022 to impacted firms), and reports on what we call **premature** and **insufficient** claims. We now have data that highlights the magnitude of this issue.

Premature claims are submitted without the basic supporting documentation to allow Preliminary Review to begin, or to move out of Preliminary Review on the “first pass” and onto Substantive Review. The VCF waits a minimum of 60 days before a claim is picked up for Preliminary Review to allow time for the upload or receipt of mail with the minimally required documents. Premature claims receive a Missing Information letter and are moved to “Inactive” status during the Automated Document Check process and/or Preliminary Review.

These claims are considered premature because they should not have been submitted if:

- (1) The minimally required documents needed for the VCF to begin preliminary review of the claim have not been completed and submitted to the VCF; and/or
- (2) The victim is not yet certified for treatment by the WTC Health Program for a physical condition and does not qualify for the Private Physician Process; and/or
- (3) The Personal Representative or Court-Appointed Guardian does not have the required documentation to validate his or her authority to file the claim.

Premature Claims – Data: The data in the table below is for claims submitted between 2017 and 2021. Claims submitted in 2022 have not been reviewed in large enough numbers to have meaningful data.

All Claims			
	Type of Missing Information	2017 - 2021 Totals	
Premature Claims	Claim Form Signature Page and/or Exhibit A	17,321	33.8%
	Certified Physical Condition	16,534	32.3%
	Proof of Appointment as victim’s Personal Representative or Guardian	2,981	5.8%
	Total Submitted Claims	51,257	

Represented Claims: All Claims filed by Law Firms on behalf of Claimants			
	Type of Missing Information	2017 - 2021 Totals	
Premature Claims	Claim Form Signature Page and/or Exhibit A	11,674	26.9%
	Certified Physical Condition	14,603	33.7%
	Proof of Appointment as victim’s Personal Representative or Guardian	2,528	5.8%
	Total Submitted Claims	43,358	

The data in this table shows the following:

- **Across all Submitted claims**, almost **34 percent** were submitted either without a Signature Page and/or Exhibit A, or with one that was not sufficiently completed. **Across all claims**



submitted by law firms (Represented Claims), the number is **almost 27%**.

- **Across all Submitted claims**, over **32 percent** were submitted before the individual was certified by the WTC Health Program (based on information directly provided to the VCF from the Health Program). **Across all claims submitted by law firms**, the number is **almost 34 percent**.
- **Across all Submitted claims**, almost **six percent** of claims lacked the documentation to begin validating the Personal Representative (PR). Although this percentage may seem small, it accounts for **almost 3,000 claims**, which is a large number of claims to touch more than once. **Claims submitted by law firms** account for almost the entire total for these claims.

Premature claims, by default, become Inactive claims. The VCF cannot move the claim forward for substantive review, and it is moved to “Inactive” status during Preliminary Review. It is therefore helpful to also review **data on the number of claims deemed Inactive**. This data includes claims submitted in 2022 because a large enough number of those claims have been through Preliminary Review. The data is provided for two timeframes, 2017-2022 and 2020-2022, to demonstrate that claims submitted in a rushed fashion in late 2018 and early 2019 when the potential funding cuts were announced did not skew the overall data. As shown below, the percentage of claims deactivated in both time periods is nearly identical.

All Claims			
Timeframe	Total Deactivations	Number of Claims Deactivated	% of Claims Deactivated
Submitted 2017-Today	58,864	32,364	54.60%
Submitted 2020-Today	25,930	14,901	54.37%

Represented Claimants			
Timeframe	Total Deactivations	Number of Claims Deactivated	% of Claims Deactivated
Submitted 2017-Today	46,683	25,439	42.91%
Submitted 2020-Today	19,717	11,230	40.98%

The data in the table above shows that across all submitted claims, over **54 percent** were deactivated for not having the minimal information needed to move the claim to Substantive Review. **Across all claims submitted by law firms** (Represented Claims), the number is **over 40 percent**. **This means of all claims submitted my law firms, over 40 percent are missing the minimum basic information to review the claim.**

Every premature claim referenced in the charts above requires the VCF team to review the claim more than once before it can begin Substantive Review.

Insufficient claims are claims for which the minimally required documents have been submitted (either at the time the claim was filed or in response to a Missing Information letter), the VCF reviewed the claim, and the documents to support eligibility were found to be insufficient to render a decision on the claim. These claims are placed on hold while awaiting a response to the Missing Information letter. This category primarily contains claims that were submitted with proof of presence documents that do not meet the VCF’s requirements.

Insufficient Claims – Data: The data on the next page is for claims submitted between 2017 and 2021. Claims submitted in 2022 have not been reviewed in large enough numbers to have meaningful data.



All Claims			
	Type of Missing Information	2017 - 2021 Totals	
Insufficient Claims	Proof of Presence	21,466	41.9%
	Private Physician Packet	2,941	5.7%
Total Submitted Claims		51,257	

Represented Claims: All Claims filed by Law Firms on behalf of Claimants			
	Type of Missing Information	2017 - 2021 Totals	
Insufficient Claims	Proof of Presence	17,225	39.7%
	Private Physician Packet	2,651	6.1%
Total Submitted Claims		43,358	

The data in the table above shows the following:

- **Across all Submitted claims**, almost **42 percent** were submitted with insufficient proof of presence, meaning the presence document did not meet the VCF's requirements. This does not include those claims where the VCF has an agreement with a third party to exchange information, contacted the third party to request the information, and the third party was not able to provide the information needed to establish presence. **Across all claims submitted by law firms** (Represented Claims), the number is **almost 40 percent**.
- **Across all Submitted claims**, almost **six percent** of claims were submitted without the documents needed to evaluate the condition for the Private Physician process. **Claims submitted by law firms** account for almost the entire total for these claims. The percentage may seem small, but the number of claims – over 2,600 – is not.
- **Why it Matters – the Impact of Premature and Insufficient Claims:** There are certainly other factors that slow down claim review, such as delays in getting information through agreements in place with third parties. The root of the issue, however, is premature and insufficient claims.

The way the VCF works means that every claim touched twice (or more) means another claim is not being reviewed and instead is being delayed. The more times the VCF touches a claim, the slower the team's ability to get decisions out to claimants. We cannot get to the claims that can be decided because the ones that cannot be decided are in the way.

Over the years, the VCF has added people, and has made improvements to the claims system. **The biggest issue, however, is the quality of the claim submissions.**

Pending Claims: As of January 31, 2023, the VCF has just over **12,000 claims** pending either an initial eligibility and/or compensation determination. This number does not include deactivated claims, procedurally denied claims, or substantively denied claims that are likely to come back for review.

If the data about premature and insufficient claims shown in the tables above remains true for claims submitted in 2022 and 2023, it will create large problems for the VCF because it means 40 percent of these claims will be deactivated. Once claims reach Substantive Review, another 40 percent will be placed on hold.

Submitting premature and incomplete claims slows down and delays review. The VCF must generate a Missing Information request, move the claim to Inactive or On Hold status, wait for the requested information to be provided, reactivate the claim, and review the newly submitted documentation with the hope it resolves the issue in full.

The success of the VCF Transformation effort (see below) depends in part on our ability to issue decisions on as many pending claims as possible before the new system launches in early 2024. This is important because it means there will be fewer claims in process at the time the new system goes live. All claims will be migrated to the new system, but the fewer claims that still need review, the



better it will be for claimants, law firms, and the VCF team. This is a core focus for the VCF in 2023. We want law firms that represent VCF claimants to understand where we want to be one year from now so you can partner with us to get there.

- **VCF Transformation:** When the VCF re-opened in 2011, it was a short-term, limited funding program. Every dollar spent on operations, or the claims system came out of the same pot of money available to pay claims. Given the limited funding, the VCF prioritized funding toward the payment of claims and limited spending on the system to those upgrades that were either required or provided the most benefit to users. With the Permanent Authorization in 2019, the VCF, for the first time, had both time and sufficient funding. Now that we have shifted from a short-term to a long-term program, and from an underfunded to a permanently funded one, we have the opportunity to transform both our processes and our claims system to improve the service we provide to the 9/11 community and to ensure the long-term sustainability of the VCF.

Transformation is our plan for ensuring that the VCF is set up to operate efficiently as a permanent program that is here to support victims and their families through 2090. The Mission of the Transformation is to reduce the time to issue an award to VCF claimants by designing a modern, victim-centric claims solution supported by streamlined business processes, automation, and a dynamic operating model. We envision a new claims experience that reinvents our processes, technical platform, and training protocols, with self-service options and process transparency.

The Transformation goals listed below form the foundation for measuring our Transformation success. Although the goals are high-level, they drive more specific measurements we will use to report on our successes:

- **Claim Experience:** Provide claimants and their attorneys with a user-friendly, guided experience that facilitates the filing of complete claims. This includes enhanced claims system usability and expanded self-service capabilities, with tips and guidance embedded into the online claim form.
- **Operational Efficiency:** Create a more efficient program to support all aspects of operations. This includes leveraging automation to replace many of the manual activities done today, leading to reduced processing times and an enhanced claimant experience.
- **Oversight & Governance:** Enhanced reporting and data analysis to support the VCF team in managing operations, ensuring quality and enhanced fraud detection.
- **Sustainability:** Ensuring that the VCF continues to have the capacity to serve the 9/11 community throughout the lifespan of the Fund.

New Claims System – myVCF: At the center of the Transformation and foundational to its success is a new claims system, which will be called **myVCF**. The new system is being built using commercially available software that is secure, used with success across government and industry, and customizable for VCF needs. The VCF team is well underway configuring the software, and we expect to launch myVCF in early 2024.

myVCF will provide:

- A more modern user interface that is easy-to-navigate with user-friendly screens.
- New system guidance, resources, and tools to provide direction when and where claimants need it to support the claim filing process. Instructions and communications will leverage plain language principles to facilitate understanding of what claimants need to do and where claims are in the process.
- Multiple support options, including pop-ups with helpful guidance and easy-to-access reference materials accessible through myVCF, instead of having to go outside the system to the main VCF website
- Self-Service capabilities, including the ability to request expedited status, change attorneys, or request Private Physician exceptions from within the system.
- Individualized document checklists that provide direction on which documents to submit to prove



presence and support compensation based on the information provided in the claim form.

- Ability for claimants to sign forms/releases electronically. NOTE: The VCF cannot accept electronic signatures until myVCF is operational because the new system provides the technology and security needed to be able to accept them in the future.
- Automatic checks for completion to ensure that all required documents and information have been provided before the claim form or self-service transactions can be submitted to the VCF for review.
- Improved status updates to know where the claim is in the process.

Specific to law firm users, myVCF will allow law firms to manage user accounts under an organization account that will provide law firm staff with access to all claims associated with the firm and allow for easier management, tracking, and reporting on the firm's claims:

"In Good Order" Claims: myVCF is being designed to enforce the submission of "In Good Order" claims, meaning claims the VCF can decide on the first review. The requirements for a claim to be submitted In Good Order include:

- Responses to all required questions based on the claimant's particular circumstances and claimed loss. All forms will be in the new myVCF system; there will no longer be separate forms or worksheets on the VCF website.
- All required signatures by the claimant on the applicable attestations, notices, and releases.
- Appropriate proof of presence (or the ability for the VCF to obtain proof of presence from a third-party source) based on the victim's reason for being present at the site.
- All required documentation to support the type(s) of compensation claimed.
- Completed Client Authorization for payment.

These requirements are the same requirements the VCF has had for years. These are the minimally required documents and information that are required today. The difference is that the new system will enforce these requirements in ways the current system cannot. With myVCF, incomplete claims will no longer be placed in "Inactive" status or be procedurally denied because the system will not allow an incomplete claim to be submitted. The VCF's goal is to be able to decide claims on first review, and this will help us achieve that goal.

There are also some other actions we are taking to start to "clean up" the data in the current system so that we launch the new system with the most accurate data possible. This includes relating multiple claims for the same victim, reviewing incomplete registrations that have documents uploaded to see if the claim can be moved to a submitted registration, and cancelling all claims that do not have the minimum data points of last name, social security number, and date of birth. An [email was sent](#) to all firms on January 12, 2023, explaining some of this activity.

The VCF is committed to getting the new system up and running within the shortest possible timeframe, given the constraints of deploying a system in the Federal government. We will do this in a way that is easily understood by claimants and their representatives and allows for a seamless transition from the old claims system to the new one. All data, information, and documents in the current system will be migrated over to the new system.

Throughout 2023, you can look forward to ongoing communication from the VCF, including updates on the website and additional meetings. In these communications, we will give you information on how the Transformation is going and the status of claims that are not In Good Order. Towards the end of 2023, we will offer training and guidance on how to use myVCF. We expect to launch myVCF in early 2024.

- **"Priority Date" Policy Change – Order in which Claims are Reviewed:** The VCF is making a policy change related to the order in which claims are assigned for review, which is geared towards helping to get claims In Good Order.



The current policy, outlined in [FAQ 1.2](#) on the VCF website, is to review claims in “first in, first out” order based on the date the claim was submitted. This means that claims that do not have an initial award determination are prioritized at every stage of the review process based on their submit date, even if the claim was previously deactivated or denied. The original submit date has always been used to prioritize the claim for review until an award is issued.

We have realized the current policy incentivizes the one thing the VCF is trying to avoid: premature and insufficient claims or claims that are not In Good Order. The goal of this new policy is to get the premature and insufficient claims out of the way so the VCF can review and render decisions on the In Good Order claims. To do this, the order in which a claim gets assigned for review will be more aligned with the date the claim has what is needed to review it and render a decision.

Below are details on how this change will be implemented.

Preliminary Review:

- If a claim has all minimally required documentation, the order it is assigned for review (the “priority date”) is the same as the claim form submit date. This date assignment is the policy in place today.
- If a claim moves to Preliminary Review and is **deactivated** because it was not submitted with all the minimally required documentation, **the priority date** will be re-set to equal the **date of deactivation**. These are the claims for which the VCF sends a 60-day Missing Information letter notifying the claimant that the claim has been made inactive.
- If a claim is **deactivated** and eventually **procedurally denied** for “failure to respond,” **the priority date is the date of most recent deactivation**. If the claim is deactivated multiple times while in Preliminary Review, the priority date will be the date of the most recent deactivation prior to the denial.

Below are two examples explaining how this new policy will be applied during Preliminary Review:

- **Example 1:** A claim is submitted on October 1, 2022 and enters Preliminary Review on December 1, 2022. The claim has all the minimally required documents and moves to Substantive Review. The claim’s priority date used to assign it for Eligibility review remains the date the claim was submitted: October 1, 2022.
- **Example 2:** A claim is submitted on October 1, 2022 and enters Preliminary Review on December 1, 2022. The claim is missing required documents, a Missing Information letter is sent, and the claim is moved to “Inactive” status. The priority date is the deactivation date, December 1, 2022. When the required documents are received, and the claim is reactivated and moves to Substantive Review, it will carry the December 1, 2022 priority date and will be assigned for Eligibility review based on that date.

Eligibility Initial Review:

When a claim is assigned for Substantive Review, if eligibility is approved, the claim continues to compensation review with the priority date that applied when it entered Eligibility review. In other words, the date that carried forward from Preliminary Review. This date applies even if the VCF sends a Missing Information letter and waits 30 days for the response. As long as the outcome is an approved claim, the priority date from Preliminary Review carries forward and is used to prioritize assignment of the claim for later stages of review.

If a claim is substantively denied for Eligibility, then the Priority Date will be reset to the date the denial decision is entered. Should the claim come back on amendment or appeal, the date of the denial is the date that will be used to prioritize the claim at that time.

- **Example:** A claim is submitted October 1, 2022. It enters Preliminary Review on December 1, 2022, with all minimally required documentation, and moves to “Under Review” for eligibility. A Missing Information letter is sent because the Witness Presence Statement is not signed and dated. After 30 days there is no response, and the claim is substantively denied. The denial



decision is entered into the claims system on February 1, 2023, and this becomes the claim's priority date that will be used to assign the claim for review for any future amendment or appeal.

Amendments and Appeals:

If a claim is denied and the claimant amends or appeals, and the claim is subsequently reviewed and determined to be eligibility approved, the priority date is the date that was assigned at the time of the most recent substantive denial.

If a claim is denied and then denied again on amendment or appeal, then the priority date is reset to the new substantive denial date.

NOTE: This policy does not change the order in which appeal hearings will be scheduled. Hearings will continue to be scheduled based on the date the Appeal Request Form is received.

Additional notes re: Implementation of Policy Change:

The new policy takes effect **March 27, 2023**, which allows a 60-day period (from the date of the January 25, 2023 meeting with law firms when the policy change was announced) for law firms to review pending claims and confirm they are In Good Order.

The policy does not apply to claims that have already been deactivated and/or denied. The VCF will not revisit these claims' priority dates (currently set to their original claim form submit date). The priority date change policy, will apply if the claimant submits new information and the claim returns to Preliminary or Substantive Review and is deactivated or denied again.

The VCF recognizes this solution is not perfect, but this approach is easiest for the VCF team to implement. The policy change puts the emphasis on more complete claims in order to get to a decision faster. The VCF needs all law firms to assist us in this effort.

- **Call to Action:** To make the VCF Transformation a success and to achieve our Transformation Mission, the VCF is looking to law firms to partner with us. We must decide every possible claim we can decide in the coming year, which means we need to be able to pick them up one time and get them to a decision.

Actions related to Priority Date Policy Change:

The policy change detailed above is a preview of what the new myVCF system will automatically enforce beginning in early 2024. The new system will not allow the submission of claims that are not In Good Order. **Between now and March 27, 2023, which is the end of the grace period to get claims In Good Order before the priority date policy is applied, law firms should do the following:**

1. Review claims that are currently in "Submitted" and "Pending Preliminary Review" status to be sure they have the minimally required documents as outlined in our Policies & Procedures. These requirements have not changed. For claims that are currently in "Inactive" status, the VCF has already generated a letter telling you what is needed, so respond in full so the claim does not get deactivated again, thereby delaying it even more.
2. Do not submit new claims unless they are In Good Order. We want to avoid rework and delays. The VCF waits 60 days before a claim moves to Preliminary Review, so there is no reason you cannot make sure the claim has the minimally required information and documentation.
3. Share this information with your clients. The VCF has heard that some clients push you to submit their claim with what you have instead of waiting to receive the definitive proof of presence document, or in advance of their Health Program certification. Some of you have said that clients threaten to go to other firms if you don't submit their premature claims. We encourage you to share the information from the January 25, 2023, meeting with your claimants so they understand you are doing what is required by the VCF and what is in their best interest in terms of the order in which their claim will be reviewed, and the likelihood of the claim being decided during the first review. If the claim is submitted without the information we need to decide it during the first



review, the priority date will change and the claim will be delayed.

The bottom line is to only submit complete claims – claims In Good Order – for the benefit of your firm, the claimants, and the VCF.

Actions law firms should STOP Doing:

The VCF is also requesting law firms **stop** taking certain actions, in an effort to move claims through to decisions more quickly:

1. Stop submitting presence documents the VCF does not need. We have established relationships with various entities to ease the burden on proving presence, and we continue to expand the list of relationships. The list can be found in [Section 1.9](#) of the VCF Policies and Procedures and law firms are notified by email each time it is updated. **You should submit the definitive proof of presence based on the individual claimant and nothing more.** For example, as outlined in the Policies and Procedures, if the claimant was an FDNY active firefighter, the VCF will get presence information from FDNY directly. If you also submit multiple Witness Presence Statements, or other presence-related documents, the VCF is required to review them and confirm accuracy and consistency, which slows down the review process because we already received what we needed from FDNY. **To assist you in identifying the definitive proof of presence based on a claimant’s circumstances, the VCF created a [summary chart](#) that has been emailed to all firms and posted to the VCF website.**
2. Stop submitting the same document multiple times. Do not submit a document with the initial claim and again in response to a Missing Information letter. The VCF team is required to review all of the documents received and doing this slows down review of the claim.
3. Stop submitting both a Wrongful Death claim and a PR amendment to the Personal Injury claim, unless specifically requested by the VCF.
4. Stop filing Wrongful Death claims as Personal Injury when the Cause of Death is related to an eligible condition. If you do not know if the Cause of Death was related to an eligible condition, VCF policy has always been to file it as a Wrongful Death claim. If it is later determined that the death was not due to an eligible condition, the VCF will convert the claim to a Personal Injury claim.
5. Stop submitting claims prematurely. See details above regarding premature and incomplete claims.
6. Stop sending mail to the VCF. The VCF does not require any documents to be mailed; all documents should be uploaded to the claim.

Actions law firms should START Doing:

The VCF is also requesting law firms **start** taking certain actions, in an effort to move claims through to decisions more quickly:

1. Start submitting In Good Order claims. From this point forward, law firms should only submit new claims when all the required documents and information are ready to submit with the claim, and the claimant has been certified by the WTC Health Program (or qualifies for the Private Physician process and all forms and documents are complete and submitted with the claim).
2. Review all claims in “Submitted” and “Pending Preliminary Review” status and find and upload the definitive presence document. Refer to [Section 1.9](#) of the VCF Policies and Procedures and the [Definitive Proof of Presence](#) summary chart. Witness Presence Statements should be the **last resort** for proving presence. Getting us the “definitive” source before the claim starts to move through the review process, and not submitting other documents we do not need, will speed review of the claim.
3. Review all the documents in a claim before you submit it and review the claim form responses to ensure everything is complete and sufficient. Specific to the claim form responses, this has



become a big issue for the VCF. Without an accurate or correct claim form, the claim is not ready for review. We cannot deny or approve it, and the claim will sit in a queue until the VCF gets what is needed to move it forward. Requesting corrected claim form responses is something we do regularly, and there is no reason for a law firm to submit a claim form with inaccurate claim form data. This is the type of issue that completely stops review of the claim until it is resolved. If you are retained by a claimant after the claim form has been submitted, it is your responsibility to review the answers and data in the form and make sure they are correct.

4. Start reviewing all deceased claims to ensure there is clear information about life insurance policies. This policy has not changed. The VCF needs to know the research was done and needs the written statement attesting to the findings.
 5. Start reviewing the affidavits and Witness Presence Statements that have already been submitted before the claim moves into the review process. Be sure these statements are consistent with the other information in the claim, and complete and sufficient in level of detail, signed, and dated.
 6. Make sure all documents are legible when uploaded to the claim, especially medical records.
- **Next Steps:** Thank you for the work you will do to help the VCF get claims to the point where they can be decided. Our Transformation effort really is exciting, but our success is dependent on everything outlined here.

We will host more meetings with law firms over the year to keep you updated on the progress of In Good Order claims, status of the new system, and any required actions that will help ensure a smooth transition. Please start following the guidance discussed during the meeting and outlined in these notes and focus your efforts on working on getting your claims In Good Order.

- **Questions and Answers:** The following includes questions discussed during the meeting, as well as questions received after the meeting.

Priority Date Policy Change:

1. **If a claim is filed on October 1, 2023, and it is clear at the time of filing that it will require an appeal for presence, if the appeal is successful, will it keep the claim filing date as its priority date?**

ANSWER: The hearing will be scheduled as is done today based on the date the Appeal Request Form is received. If the claimant is found eligible on appeal, the appeal decision will be rendered by the Special Master in the order done today (generally in order based on the hearing date, although more complex appeals may take longer as they require additional time). For claimants claiming only non-economic loss, the amount of the award is typically determined at the same time the eligibility hearing decision is rendered. For those claiming economic loss, the claim will be assigned to a reviewer based on the current priority date (the date of the last substantive denial). We do not believe this will create an undue delay at this step in the process since it will take time for the claim to move through the appeals process, and once a post-hearing decision is rendered, the claim is still likely to have an earlier priority date than other economic loss claims.

We recognize there are a number of questions about the new priority date policy, and we will monitor the implementation of the policy to ensure it does not create unintended consequences for claimants, such as those who truly have no other option to prove presence other than to request an up-front denial and proceed to a hearing.

2. **The VCF has always said “there are some things that are better handled on appeal,” and then there are situations that get “fleshed out” on appeal based on the same evidence that was previously submitted and reviewed. In these instances, if an eligibility appeal is successful, it seems it would be fair to the claimant to put the review date back to the earliest “practical date” and not the last denial date. Would the VCF consider making the priority date for compensation review be the date of filing, rather than the date of denial**



that was assigned prior to the hearing?

ANSWER: See answer to Question 1. In instances where the same evidence submitted for initial review is the same evidence used to determine the claimant is eligible on appeal, the VCF will evaluate if the current priority date (the date of the most recent substantive denial) creates an undue delay for the claimant.

- 3. There can be an honest disagreement as to whether a witness statement is sufficiently detailed. Will a reviewer's determination that the witness statement is not sufficiently detailed cause the claim to have a new priority date?**

ANSWER: If the claim is denied, the denial date will be set to the new priority date. Please remember that a recommendation made by a reviewer regarding the sufficiency of a witness statement is done in accordance with our longstanding policy regarding these statements, and the eventual eligibility decision is made by the Special Master or his designee. The Witness Presence Statement form was created specifically to avoid the submission of insufficient witness statements. Please be sure all witnesses complete the form in its entirety, in detail, and that the information in the form is consistent with other information in the claim.

Request for Action – In Good Order, Start, and Stop:

- 4. You asked during the meeting that we stop submitting documents the VCF does not need because it slows the review process. How is the VCF going to handle the evidentiary procedural issue with appeals? The VCF rule on appeals is that we cannot use a document at the time of appeal if we have not submitted it. So, for example, a "picture" is not accepted as evidence itself during the initial review, but it is accepted as evidence on appeal. If we do not submit it, we cannot use it. Same is true with certain affidavits. How is the VCF going to deal with the evidentiary/procedural issue in this situation? It creates a bit of a conflict because it seems the VCF does not want this evidence uploaded because it creates more work for the reviewer, but then we cannot use the picture, witness, etc. at the appeal because they were not provided or identified during the initial case.**

ANSWER: All available Witness Presence Statements should be submitted with the initial claim. Any Witness Presence Statements submitted after denial will continue to be reviewed on an amendment. If an appeal request is filed, any additional attempts to locate additional evidence should be done prior to submission of the appeal packet. In the event a Witness Presence Statement from a new Witness is obtained during the appeal process, the appeal should be withdrawn, and an amendment filed instead. In the event a new Witness Presence Statement (or other new information) is submitted, but the appeal is not withdrawn, it remains at the VCF's discretion as to how to process the appeal request (e.g., convert to an amendment or proceed to hold an appeal hearing).

If the law firm wishes to submit pictures, badges, or other evidence requiring authentication, the law firm should upload those pictures or other evidence as one document with the appeal packet, with a cover page identifying the evidence as that which the law firm plans to authenticate at a future appeal hearing.

- 5. The VCF previously asked us to label proof of presence documents as "newly obtained" or "previously uploaded" when uploading. Should we continue to do so when providing updated proof of presence documents or should we exclusively upload the new documents each time? What about an eligibility appeal package?**

ANSWER: Please submit a cover letter with your presence evidence and plainly state whether evidence is new or has been previously submitted in a different file. If you are submitting multiple presence documents that include both new submission and old submission, the cover letter should indicate which are new, and which have been previously submitted.

Specific to appeal packages, there are no changes to the appeals process and you should continue to follow the current procedures for submitting your appeal package. Please submit a



cover letter with your presence evidence and plainly state whether evidence is new or has been previously submitted in a different file. If you are submitting multiple presence documents that include both new submission and old submission, the cover letter should indicate which are new, and which have been previously submitted.

The label for these files is less important than the cover letter distinguishing new submissions versus old submission.

- 6. If a law firm is taking over a case from another firm, but that firm will not give you the log-in information to access the online claim, how can you check to see what documents, if any, are needed?**

ANSWER: First, a law firm should NEVER give another firm ANY log-in information for the online system. Your access to the claim is not determined by the individual user associated with the claim. Your access to the claim is granted by the VCF once you submit a Change of Attorney form. The form has a place for you to identify the user account that should now have access to the claim and the VCF will process the change accordingly (and remove the prior law firm's access). You can also call the Helpline for assistance.

- 7. What is the best way to update a previously submitted claim form's dates and information?**

ANSWER: For a previously submitted claim form, document the changes in writing. Specifically include what information is incorrect and include the correct information. Submit the request to the VCF by uploading it to the claim.

- 8. Does NYPD verification also apply to traffic officers? The claim form doesn't have the presence dates and employee information.**

ANSWER: We do not have a direct information exchange with NYPD for proof of presence. Please refer to our Policies & Procedures for more information about what is needed for individuals who worked for the NYPD.

- 9. Will some of the proof of presence parameters change to help expedite reviews? For example, if the date range in a Witness Presence Statement is beyond the VCF's presence timeframe (i.e., before September 11, 2001, or after May 30, 2002), a missing information letter is sent, and the claim placed on hold when the dates of interest are included in that date range. This seems to create extra work of the type the VCF is trying to avoid.**

ANSWER: No, the proof of presence parameters will not change to help expedite reviews. The proof of presence evidence in each claim is reviewed separately and all provided evidence is considered. All claims, including those that have been expedited, must meet the same standard of proof. The standard for proving that a claimant was in the exposure zone during our timeframe will remain the same. To help avoid delays in expedited claims, your proof of presence evidence should include as much specific information as possible.

- 10. The VCF policies and procedures online states individuals who worked for ConEd should also submit other evidence (such as contemporaneous documents or Witness Presence Statements), but the new "Definitive Proof of Presence" chart states the VCF does not require any proof of presence documents for these claims. Which is correct?**

Answer: The new chart is correct. We do not need any proof of presence for those employed by ConEd unless the VCF requests it after reviewing the claim.

New Claims System – myVCF:

- 11. The myVCF slide (slide 13) seemed to indicate that all of the steps need to be completed for a "registration." Can claimants still register in the new system without filing a claim?**

ANSWER: Yes! Our message remains that if you were there, you should register. In registration we are going to ask whether the victim has/had a 9/11 related condition, and, if so, whether the victim is/was certified for treatment. Answering "no" to either question does not prevent the



registration. Rather, VCF will use that information to inform what next steps are presented to the claimant/attorney once the registration is submitted.

12. Will the new system allow law firms to view the Third-Party Verification forms once received by the VCF, or at least let firms know that the VCF has received it?

ANSWER: We have been asked this question before, and we understand why it is helpful for you to know the form has been received. Currently, we are not allowed to show the form due to privacy concerns. This topic has come up, however, in our discussions about the new system, and we hope at a minimum to be able to show you confirmation that the document has been received by the VCF.

13. How will claims be submitted/treated in the new system if counsel knows they do not have enough documentation to establish presence and want to request an eligibility hearing?

ANSWER: This is a question we have been considering as we design the new process and system. We are evaluating options that focus on assisting the claimant in getting over the presence “hurdle” as early in the process as possible. We are also considering enabling the claim form to be submitted without presence documents in certain situations, while also ensuring the ability to do so is reserved only for those claims where there truly is no document or other evidence that can be submitted to support presence. We will have more information on this topic as we get into the more detailed design of the new system.

Miscellaneous Questions:

14. The WTC Health Program was backlogged before COVID. The pandemic exacerbated an already broken system. The switch to Sedgwick to run the national program made things even slower. It takes so long to get an appointment to get certified. What news have you heard to expedite this system?

ANSWER: This question should be directed to the WTC Health Program or refer to their website. Information on the Nationwide Provider Network transition can be found at <https://www.cdc.gov/wtc/npntransition.html>.

15. Governor Hochul’s laws impact deceased claims that do not have a 9/11 cause of death. Will the VCF still require unrestricted letters of administration (LOA) for those claims?

ANSWER: If the LOA contains a cannot compromise limitation, the VCF will still accept them regardless of the cause of death. Whether the VCF can pay out the award will still depend on current policies, even if the courts change their processes.

16. Would the VCF consider awarding \$250,000 for Prostate Cancer on initial review instead of awarding \$200,000 and forcing an amendment, thereby requiring a second review of the claim? Is there a rule for prostate cancer-related side effects in terms of a two-year time period? For example, claimant had a prostatectomy in May 2021. Is the claimant required to show evidence of side effects existing in May 2023?

ANSWER: The VCF will continue awarding \$250,000 for Prostate Cancer *with evidence of increased severity* at all stages of review – including initial review. The policies regarding the most common indicators of increased prostate cancer severity are:

- Metastasis or Recurrence: Medical evidence showing evidence of metastasis or recurrence may be a basis for a finding of increased severity regardless of when treatment ended in relation to claim submission.
- Long-Term Complications: The VCF requires medical evidence showing that at least two years have passed since the end of treatment in order to make a finding of increased severity based on long-term complications (e.g., erectile dysfunction, urinary incontinence). This means that the VCF cannot make a finding of increased severity



based on long-term complications where less than 2 years have passed since the end of treatment. Claimants should submit an amendment with medical records showing ongoing long-term complications if those complications continue two or more years after the end of treatment.

- 17. What is the procedure to request permission from the VCF to use the Private Physician process when a claimant has been denied eligibility by the WTC Health Program? For example, when the claimant worked at the Fresh Kills landfill.**

ANSWER: If you have questions about a specific claim, please contact our law firm liaisons for guidance. Detailed information about the Private Physician process can be found at <https://www.vcf.gov/private-physician-process>.

- 18. Are you planning to issue a standard replacement services award in Wrongful Death claims?**

ANSWER: If there are future policy changes, we will communicate those accordingly.

- 19. Will the two-year wrongful death registration deadline still apply for endometrial/uterine cancers that have just been deemed eligible for compensation?**

ANSWER: The two-year deadline still applies but should not be an issue for these claims because the two-year clock starts at the date of certification or verification. If the individual has already passed away and is coming through the Private Physician process, the date the cancer is verified through that process starts the two-year clock. As a general reminder, the certification or verification of a new condition re-starts the two-year clock for those claimants who may have missed a prior registration deadline.

- 20. What will happen if there is a government shutdown?**

ANSWER: VCF stays open even through a shutdown. Our funding is not tied to the Congressional appropriations and budget process. In the event of a shutdown, however, there may be delays with other agencies who support our process, such as SSA or Treasury.