



The following topics were discussed during the conference call held with law firms on August 28, 2024. The meeting covered important updates and reminders about the VCF.

General Announcements

I want to take a moment to introduce all of you to our relatively new Manager of Communications and External Affairs, Stathi Patseas. As you know, I am very committed to outreach and to making sure that we inform as many individuals who may be eligible for compensation as possible. Stathi is helping us do just that, and he is based out of our New York office. He came to us from the Mayor's office in New York.

The VCF is on track to have another very successful year, with over 6,700 new and amended claims having been decided as of July 31, and over \$1 billion awarded. Since the VCF reopened in 2011, we have issued awards on 61,095 claims and awarded just over \$14 billion. We continue to receive about 640 new claims each month on average (for reference, the 2023 average was 589), and new claims from survivors continue to outpace those from responders. Part of our success in moving claims can be attributed to our focused efforts on ensuring claims submitted to the VCF have the minimally required documents – what we refer to as “in good order” – and we appreciate your partnership in working to improve claim submissions.

Premature and Insufficient Claims

In March of 2023, we updated our preliminary review process to reset the claim submission date for purposes of prioritizing review for those claims that were made inactive because they were submitted without the minimally required documents and information. We then notified you in February of this year that if these documents are missing during our preliminary review, we will no longer send Missing Information letters and move the claim to inactive status, but will instead **procedurally deny** the claim. These procedural denials, which only occur when the claim is missing the basic, minimally required documents and information, ensure our team members can focus their time and efforts on complete claims.

We have been sharing quarterly reporting on our website tracking the number of premature and insufficient claims since 2023. We just posted our quarterly premature and insufficient report in August so the next quarterly won't be for a few more months. In the coming months, we will update the quarterly reporting to reflect this change in the process, including data on procedural denials. In addition, law firms with 500 or more submitted claims will continue to receive individual data on their number and percentage of procedural denials. The single most important action you can take is to ensure that any claim you submit includes our minimally required documents at the time of submission.

Recent Process and Policy Changes

Since our last call in January 2023, and since our in-person meeting in New York in May of that year, we have made a number of other significant claimant-friendly policy changes.

- **Awards Above the Statutory Cap**

First, regarding the Special Master Authority to issue non-economic loss awards above the statutory caps in special circumstances, we have removed the requirement that requests for this review be made only on appeal. We now consider special circumstances on initial review if we receive sufficient medical documentation to support the claim – the Policies and Procedures are being updated to reflect this process change.



To be clear, the Special master’s intention (consistent with the intent of Congress) is to exercise this authority in very limited and unique circumstances – only in the small number of non-cancer claims where the claimant has an interstitial lung disease (“ILD”) or other pulmonary illness where they have had a single or double lung transplant and the effects of the condition are so severe that they are similar in all relevant respects to what a claimant with lung cancer might suffer.

The Special Master has interpreted the statutory language to allow compensating these limited number of severe non-cancer claimants in the same way that a cancer claimant would be compensated – meaning, \$250,000 for a single condition, and a maximum award, under current VCF policy guidelines, of \$340,000 for multiple severe conditions.

If you believe a claimant meets this threshold, you should request “special circumstances” consideration. If there is a prior claim that has already been decided and paid, and you believe the claimant should be considered, please amend the claim to submit the request for review.

In the case of a claim that involves a single or double lung transplant, the Special Master will consider awarding non-economic loss above the statutory cap when the following required medical documentation is submitted:

- Operative report from the claimant’s lung transplant surgery.
- Hospital admission and discharge summary relating to the lung transplant surgery.
- Records from the claimant’s most recent pulmonary exam.

- **Changes to Components Used to Calculate Lost Earnings**

The VCF has made important changes to the components of, and methodology used, to calculate lost earnings.

- Effective May 1, 2024, the VCF has **raised the Work life Expectancy from age 65 to age 70**. Prior to that, the VCF did not award lost earnings if the victim was 65 years or older at the time of disability or death. The VCF has raised the age to 70, except in cases where the victim’s only eligible disability determination is a pension reclassification, where we will continue to use age 65 as the maximum. The VCF will continue to use the Markov Model to determine the victim’s expected remaining years of workforce participation based on the start of loss.
- Effective May 1, the **annual gross income cap** has been increased to \$255,610, to account for inflation. As explained in our [Policies and Procedures, Section 2.3](#), the VCF Act limits the annual loss of earnings and other benefits that are considered gross income for each year of loss. The previous limit, established by Congress as part of the 2015 VCF Reauthorization, was \$200,000 per year.
- Effective May 1, we changed the **data used to calculate Residual Earnings**. The standard amount used to calculate future residual earnings capacity has been increased to the current minimum wage applicable to large employers in New York City, which equates to \$33,280 annually.

These updates apply to all pending claims, which means all claims (initial or on amendment) for which we have not yet decided the award. Any claims that have not reached “Determination Made: Processing” status as of May 1, 2024, will be calculated under the updated policies.



Claimants will not be permitted to amend their claim to request reconsideration of their previous award under the new policies. As you all know, the VCF reviews claims based on the policy at the time of review and will not allow amendments based solely on an update. While these updates do not change the appeals process or the current criteria to appeal an award, if a claimant appeals an award decided under the updated policies, we will review the request and decide whether it is valid. However, the gross income cap is a statutory requirement and will not be changed on appeal.

- **Hearing Transcripts Available On Line**

This process change was made purely in an effort to obviate the need for a Freedom of Information Act ("FOIA") request to the DOJ Civil Division FOIA office. Hearing transcripts are now being made available in the online claims management system. Transcripts for hearings held after January 2024 are made visible within 30 days of the hearing, and transcripts for hearings held before January 2024 will be provided upon request. You may upload your request to the claim and forward a copy to our law firm liaison email address: VCF.AttorneyInfo@usdoj.gov. The transcript will be visible within 30 days of your request. This does not apply to VCF 1 transcripts. Those will still have to go through the FOIA process.

- **Replacement Services**

Effective February 1, 2024, the VCF changed how replacement services are claimed and awarded to make it simpler for claimants and the VCF. We have simplified how to award replacement services in a wrongful death claim, as well as in certain specific personal injury claims.

To support a baseline replacement services award, claimants only need to claim a compensable service in the claim form response and include all household members in the claim form. If this is done, it will be sufficient to award replacement services. In the new policy, there are add-ons for dependent minors and household members with special needs that lived in the household at the time of death.

The new policy also clarifies situations where replacement services, typically not awarded in personal injury claims, can be awarded. The new policy provides three exceptions:

- Household manager exception;
- Household member with special needs exception; and
- Activities of Daily Living exception.

- **The Household Manager exception** may apply if the claimant's primary role in the household during their working years (before age 70) was childcare or household tasks, and they can no longer perform those tasks because of an eligible condition. This exception applies to individuals who spent more of their time on childcare and household tasks than on earning money through employment, during the years when they might otherwise have been working (i.e., before they reached typical retirement age).

We will review the documents you submit, which are listed in our [Policies and Procedures Section 2.3](#), and the information we get from the SSA, and decide whether there is enough evidence that: (a) the claimant's primary role in the



household during their working years was childcare or household tasks; and (b) their eligible condition(s) permanently interfere with their ability to do those tasks.

If we find that the claimant meets these criteria, we will calculate the amount of the award using the same methodology we use to calculate future lost earnings. We will use the minimum hourly wage applicable to large employers in New York City (\$33,280 annually) as the compensable income at the time their eligible condition began to affect their ability to do household tasks.

- **The Special Needs exception** may apply if the claimant is unable to care for a special needs child or adult because of an eligible condition. Provided all necessary documents are submitted, and we find that the claim meets the criteria detailed in our Policies and Procedures, we will award \$150,000 for each special needs child or adult.
- For the **Basic Activities of Daily Living exception**, we may award replacement services if the claimant's eligible condition(s) interferes with their ability to perform basic activities of daily living. Providing all necessary documents are submitted, and we find that the claim meets the criteria detailed in our Policies and Procedures, we will calculate the amount of the award using our standard calculation methodology.

NYSLERS LOAs

The VCF will calculate pension loss for victims who worked for New York State entities that are part of the New York State and Local Retirement System ("NYSLRS") (e.g., employees of New York State government agencies, municipalities in New York other than NYC, and other local government entities), if complete documentation is provided.

The VCF has an arrangement with NYSLRS, whereby they directly provide the VCF information and documentation needed to evaluate disability, lost earnings, and pension benefits for its members (living and deceased), upon receipt of a completed Exhibit B1. **You should not contact NYSLRS directly to obtain this information.** Doing so will unnecessarily tie up limited resources and may delay claims processing.

Note: For deceased victims, the VCF will submit Personal Representative's Letters of Administration to NYSLRS along with the completed Exhibit B1 form you provided with the claim. Please note that as of June 23, 2023, NYSLRS requires original or court certified Letters of Administration. Therefore, for VCF claims that will need NYSLRS pension information, you must submit the original Letters of Administration, not a copy. Additional details can be found in [Policies & Procedures Section 2.2h](#).

Proof of Presence Updates

The VCF works very hard to try to ease the burden of proof on claimants, and as such, we work with a broad range of third-party entities to develop relationships that can provide documentation of presence. Over the past year, we have established several new relationships. Presence information can also be found in the [Definitive Proof of Presence Documentation Chart](#) on our website.

Volunteers at Trinity Church or St. Paul's Chapel: As of June 16, 2023, the VCF has records of individuals who volunteered in the aftermath of the attacks and who signed in at either Trinity Church, located at Broadway & Wall Street, and/or at St. Paul's Chapel at 209 Broadway. If a claimant signed



in as a volunteer at Trinity Church or St. Paul's Chapel, they can submit a written statement with their claim with the following information: (1) note specifically that they signed in at Trinity Church or St. Paul's Chapel while volunteering; (2) list the specific date(s) they recall signing in; and (3) provide the name of the group they volunteered with (if applicable) or a description of the type of work they were doing as a volunteer. If the claimant submits a statement that includes this information, they **do not need to submit** additional presence documentation with their claim. The VCF will review the claim and the records received from the church and will contact the claimant if additional proof of presence is required. Please begin following this new guidance immediately for any claims you submit for individuals whose presence is based on their volunteer activity at Trinity Church or St. Paul's Chapel.

Volunteers with Salvation Army: As of May 2, 2024, the VCF has an arrangement with the Salvation Army in which the Salvation Army will provide documents directly to the VCF regarding proof of a Salvation Army employee's or volunteer's presence at the site. As a result, Salvation Army employees or volunteers do not need to submit any documents as proof of presence at the site unless the VCF specifically requests such documents.

New York State Department of Environmental Conservation: If a claimant was employed by the New York State Department of Environmental Conservation and worked in the NYC Exposure Zone during the period beginning on September 11, 2001, through May 30, 2002, the New York State Department of Environmental Conservation may be able to provide a letter verifying presence.

The claimant should contact human resources by email at personnel@dec.ny.gov or call 518-402-9273 and request that they directly send to the VCF an employer verification letter. In the body of the email, the claimant must include the following: claimant first name; last name; last four digits of the social security number; the claimant's location between September 11, 2001, and May 30, 2002; permission to disclose the information to the VCF; and the VCF's official email address, VCF.Thirdpartyverification@usdoj.gov, which is where human resources can directly send their response.

Port Authority: As of May 13, 2024, the VCF has an arrangement with the Port Authority of New York and New Jersey in which the Port Authority of New York and New Jersey will provide documents directly to the VCF regarding proof of a Port Authority of New York and New Jersey employees' presence at the site. As a result, the Port Authority of New York and New Jersey employees **do not need to submit any documents** as proof of presence at the site unless the VCF specifically request such documents.

American Red Cross: In addition to the new entities we have added, we also have ongoing discussions with many others.

The VCF recently met with the American Red Cross regarding presence verification requests they've received directly from law firms. These requests included asking the American Red Cross to verify pieces of presence evidence (e.g., ID Badges and Certificates of Appreciation), requesting the completion of Third-Party Verification Forms, and contacting the Red Cross directly for presence verification, sometimes before a claim is even filed with the VCF. All of these inquiries place a significant burden on the staff and limited resources of the American Red Cross. As a result, we ask that the law firms refrain from contacting the American Red Cross directly – we will do so on the claimant's behalf, and they will respond to us directly. Oftentimes the information from the Red Cross is not enough to confirm presence and we need additional proof, so please be sure to include witness presence statements or other primary documentation with claims for Red Cross volunteers.

For any entity for which we have identified a "definitive proof of presence" document, you do not need to submit additional documentation unless our guidance specifically directs you to do so. Submitting additional proof of presence materials when not needed only slows down our claim review.



We will continue to update our Policies and Procedures [Section 1.9](#) as new entities are added, but, as always, we ask that you read all emails you receive from the VCF, as we consider those a primary source for getting information to you as quickly as possible.

Appeals Update

The VCF has held more than 600 appeal hearings so far in 2024. Prior to the COVID-19 pandemic, the VCF held all appeal hearings in-person in New York City and Washington, DC. The VCF transitioned hearings to an all-video format during the pandemic, but resumed in-person hearings in August 2023. Since that time, the VCF has held more than 120 in-person hearings at either monthly or bi-weekly intervals, with frequency adjusted on a rolling basis depending on demand. At this time, and with limited exceptions at the VCF's discretion, claimants may choose either the in-person or video hearing option.

Our in-person hearings provide a safe and supportive environment with a trauma-informed hearing panel. In-person hearings also mitigate an additional layer of "tech-related" stress some claimants may feel in addition to their anxiety about the hearing itself. The Pre-Hearing Questionnaire is being updated to re-include the in-person options, but you don't have to wait until then to notify the VCF that your client would like an in-person hearing. You can write-in the in-person option when returning the form.

Hearing Witnesses: The VCF expects you to make efforts to bring all witnesses to a presence or exposure hearing. This instruction applies even if someone at the VCF spoke to that witness during the initial review stage of the claim. That witness is part of the record upon which the claimant has relied in asserting their eligibility to participate in the VCF. There is value to both the claimant and the VCF in hearing from the witness directly, especially if clarification is needed regarding statements previously provided to the VCF. We recognize the challenges in having witnesses come to the hearing and appreciate your ongoing efforts to have them appear.

Expedite Request Requirements:

The ability to request expedited processing of a claim is something the VCF takes very seriously, and we continually look for anything we can do to simplify this process. We are currently developing reference materials to clarify what is needed for expedite requests and will share those once they are completed. A claim will only be expedited when there is evidence that the condition is imminently terminal or there is an imminent financial hardship. Examples of imminent financial hardship include eviction or foreclosure proceedings that have been filed, a utility cut-off notice with a specific date, or other tangible harm to the claimant beyond late bills. For financial hardship claims, it is helpful to provide bank statements and credit card statements or other documents showing the claimant's full financial status.

When filing these requests, all standard required documentation must also be submitted – and sufficient – including a complete claim form, Claim Form Signature Page, Exhibit A, Proof of Presence (unless we have a relationship with the applicable entity to get the information directly), and Proof of an Eligible Condition.

The Private Physician exception requests are accepted for terminal illness expedites but not for financial hardship requests. For financial hardship expedite requests, we need documents that support the request and explain why it should be granted. Providing all the required documentation up front helps us help your claimants.

9/11 Notice Act

Many of you may be familiar with the 9/11 Notice Act, which New York Governor Hochul signed into law almost one year ago. Since then, we have been coordinating closely with the Empire State



Development team that is tasked with implementing the Act. They put together a toolkit of resources including social media graphics with captions, email/newsletter language, and printed materials, along with a website landing page that provides information on the VCF and the World Trade Center Health Program (WTC Health Program). We have worked with them and had the opportunity to provide a lot of input on the language within that toolkit and to our knowledge, it will be deployed to state agencies and community partners to amplify through their channels. We will also post any appropriate materials to our website.

VCF Transformation/myVCF Update

The VCF's Transformation effort is focused on reducing 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.

At the heart of Transformation is myVCF, the claims management system. Since our last update on March 29, 2024, the VCF has continued to make progress on the myVCF system development.

Implementing a system such as myVCF within the Federal Government is complicated and we are committed to deploying myVCF only when it delivers the functionality we have promised to the 9/11 community and our team. We will provide an updated schedule once we are confident in the timing and look forward to providing you with system demos and opportunities to provide feedback as myVCF development continues.

This change in timing for myVCF has no impact on VCF operations – it is business as usual. We continue to focus on ways to make the claim process trauma-informed and claimant friendly while speeding up claims processing, such as the recent changes we reviewed on this call and appreciate your continued focus on only submitting claims that are in good order. We will continue to track and report on our progress.

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

- 1. The criteria for establishing exposure hours appears to be more liberal with the WTC Health Program, than with the VCF. In instances where a victim is deceased or otherwise meets the exception criteria for the VCF Private Physician process, claim reviewers are using the VCF criteria for proof of presence to establish exposure hours. We're receiving denials on claims that would have been approved by the World Trade Center (WTC) Health Program.**

ANSWER: The WTC Health Program criteria for exposure has a different standard from the VCF proof of presence requirement. The WTC Health Program is looking at where, when, and how long a person was there to tie their exposure to eligible conditions to certify them for medical treatment. Documentation requirements for the WTC Health Program may appear to be less stringent because every enrollee has an in-person enrollment exam and interview that allows them to gather information, assess information, and ask follow-up questions to verify and confirm information. For deceased individuals or those who meet an exception to go through the VCF Private Physician Process, the VCF conducts both the exposure and presence review. The VCF requires independent documentation and verification that an individual was present at an eligible location within the requisite timeframe for proof of presence because we are a government program issuing monetary



awards based on the requirements of the governing statute and standards established by the Special Master. The VCF Private Physician Process exposure review follows the same guidelines established by the WTC Health Program to confirm exposure based on the location, dates and hours provided in the claim submission and supporting documentation. For more information regarding the Private Physician Process please review the [Private Physician](#) portion of our website.

2. What is the timeline for appeal determinations? Is it possible to provide updates during the process?

ANSWER: The amount of time it takes to determine an appeal varies, depending on a number of factors such as additional information needed after a hearing held and the time it takes to independently review the file after all paperwork has been submitted. We are currently issuing determinations about 11-12 months after the hearing date, and we are working to reduce this amount of time.

While our current system does not allow us to provide individual updates in the claim, we may be able to provide information on our website in the future. For complete information regarding the VCF Appeal Process please review [Policies and Procedures Section 4](#).

3. The VCF asks that law firms stop contacting certain entities where proof of presence documents are provided directly from the entity. Will the VCF allow more time to respond to missing information letters if the entity does not provide sufficient proof of presence?

ANSWER: For organizations like the Red Cross, you should always provide additional presence documentation. For other organizations, we will review our current practices and provide updates as necessary. For more information regarding presence for specific employers, please review [Policies and Procedures Section 1.9](#).

4. How are we supposed to address information in a feed if we don't have access to the response? Will the VCF provide access to the documents received from third party entities?

ANSWER: We have been asked this question before, and we understand why it is helpful for you to know the information has been received from third parties. Again, we are not allowed to make the responses available in our online system due to privacy concerns. In some instances, the information we receive contains the Personally identifiable information ("PII") of multiple individuals. If the documents were made visible on the VCF claim portal it would constitute a PII breach.

5. What if the documents are redacted?

ANSWER: The VCF currently does not have the capacity to redact records and doing so would slow down the processing of claims. The purpose of receiving documentation directly from third parties on behalf of claimants is to reduce the burden and speed up the process.

6. Claimants/Counsel will still need to contact third parties when proof is required for certification. Did the VCF consult with the WTC Health Program when they entered into their presence agreement with agencies and entities on proof of presence documentation?

ANSWER: The VCF will attempt to work with the WTC Health Program, but we are two separate programs and do not have the same agreements with third party entities.



7. Will the VCF accept proof of need and/or placement on a transplant list to consider increasing the compensation above the statutory cap or does the claimant need to have completed the procedure? The policy in the past also covered those in need, not just those that had them completed.

ANSWER:

1. Consideration of special circumstances will always require medical proof of the victim's condition.
 2. This change in policy is to allow a special circumstances request for an increase in Non-Economic Loss above the cap for a lung transplant(s) to be submitted with the initial claim application. It is no longer necessary to request an appeal hearing for such consideration by the Special Master.
 3. Other special circumstances requests may also be submitted in the initial claim application and will require specific indicia/documentation of why the Special Master should use her discretion to increase the award beyond the statutory cap. Additional guidance will be supplied in upcoming updates to the Policy and Procedures.
8. The VCF noted for claims requiring NYSLRS documents we must submit the original or certified copy of the unexpired letter of administration ("LOA"). When should we mail the LOA?

ANSWER: You should mail the LOA during compensation preliminary review when the missing information letter is issued. For more information regarding the NYSLRS feed please review [Policies and Procedures Section 2.2 \(h\)](#).