



The following topics were discussed in the December 15, 2014 conference call with law firms representing VCF claimants.

- **Attorney Fee Disputes:** In response to your inquiries, VCF has evaluated multiple options and suggestions related to disputes over legal fees. We have concluded that the Special Master cannot accept a lien or otherwise hold money awarded to a claimant. Although the VCF will continue to remind claimants that if they sign an agreement related to attorney fees and then attempt to avoid paying the fees or seek to amend that agreement, the attorney may be able to sue the claimant to recover fees, the VCF cannot prohibit a claimant from changing or discontinuing his or her legal representation.

The Special Master will offer an opinion regarding the percentage of fees that the VCF presumes to accrue during each stage of claim processing. The guidance is not binding or case-specific but could be used when discussing potential disputes. The Special Master will be posting this guidance to the website in the near future.

The VCF will continue to notify law firms in writing if we receive a request to change payment instructions on a claim where the claimant previously authorized payment to the law firm account.

- **Update on WTC Health Program disability evaluation process:** As mentioned on last month's call, we have been working with NIOSH to implement a pilot program to test their disability evaluation process using a small number of claims. This is only an option for claimants already enrolled in the WTC Health Program who do not have a sufficient disability evaluation from some other source and they need to be evaluated for purposes of their VCF claim. NIOSH has requested that we start with claimants being treated at Mt. Sinai. We have identified the group of claims to use in the pilot and are confirming which claimants are being treated at Mt. Sinai. If one of your clients is eligible, you will receive a letter with instructions for making the appointment. We will keep you updated on the progress with the pilot program and the potential for broader implementation.
- **Update on policy on out-of-pocket medical expenses:** Last month, we discussed the new VCF Medical Expense Worksheet for law firms to use to present invoices and receipts documenting out-of-pocket medical expenses for the VCF's review. We have received – and continue to receive – claims with an overwhelming number of receipts for medical expenses without sufficient details connecting the receipt to an eligible condition, treatment, or reason for the out-of-pocket loss.

The VCF Medical Expense Worksheet, including instructions for completing it, is available online and **must** be submitted with any claim for which you are seeking reimbursement for past medical expenses. Please include only those expenses for which the claimant paid money out of pocket and has not been reimbursed by any source. If we receive a claim without the worksheet, we will not review it but will ask you to provide the worksheet as part of our missing information request. If we do not receive a timely response to our request, we will render a decision that does not include the past medical expenses. If this should happen, you can always amend the claim at a later date by submitting the completed worksheet and the supporting documentation. Please see the recently revised [FAQ #6.7](#) for additional details.

Our goal is to speed the overall processing of the claims by using the completed worksheet to focus attention on eligible expenses. You must still provide documentation supporting the expenses claimed in the worksheet.

- **Update on our publication of documentation required for certain union claims:** We have information on our website about the different unions and employers for whom we have the information needed specific to their pension program. We will be adding a large number of unions and employers to the list in the near future and will notify you when the updated list is published. We have completed the work of compiling all of the required information and documentation and have updated our loss calculation models to reflect the specifics of each pension plan. Thanks to all of you – especially Ben Chevat - who have been extremely helpful in getting the information to us. We were able to analyze the information, create a summary of each program for the Special Master's office to use, and then create the new loss models as we review claims for which a new model is needed. If you submitted claims for individuals employed by the unions and employers who are added to the list, we will identify the specific documents we need. If you already submitted those documents, we will move forward with the claim. If



you have not yet submitted them, please submit the documents so the claim is complete and we can process it as quickly as possible.

- **Addition to loss calculation addendums:** By now you all should have received at least one letter with the new loss calculation addendum that provides the details underlying the loss calculation. In response to your requests, we will be adding a line to the addendum with the percentage of disability found by the Special Master to be attributed to the claimant's eligible condition. We are working on this update now and expect to have it reflected in letters shortly.
- **Reminder to review FAQs regarding economic loss methodology:** Some recent appeals have asserted that the VCF did not consider certain factors in the loss calculation and the factors are actually those used in our standard inputs. Although this has happened mainly with unrepresented claimants, we want to remind you that our standard methodology is on our website and includes the specific factors that are considered in each loss calculation. Please see [FAQ #6.18](#) for detailed information on the procedures for calculating economic loss. You may also find it helpful to review the broader information in Section 6 of our FAQs. Each hearing requires significant logistical planning and resources and we would like to avoid conducting hearings where the issues raised are components of our standard methodology. You should only appeal one of the standard components if you want to argue that we should vary one of the underlying assumptions.
- **Claims denied in the Private Physician process for unverified conditions:** If a claimant does not have a condition verified by the WTC Health Program or verifiable through the Private Physician process, the claim will be denied. Denial letters will include information on how to appeal the decision on the claim. If the claim also has other outstanding eligibility requirements, we will consolidate all of the eligibility issues for the claim into one appeal even if the denial was related only to the condition(s).
- **Submitting documents in advance of a hearing can save time and administrative costs:** We have had several situations where a claim reaches the point of a hearing and the documents that had been requested in the past finally get submitted. We would like to reduce the number of appeals and you can help by submitting documents earlier in the process. If you think you can obtain a requested document, please wait to schedule your hearing and submit the document once you have it available. It is much more efficient if we can avoid the hearing.
- **Missing Information tracking and updates to law firm status spreadsheets:** We have heard from attorneys that it can be hard to know whether they have correctly addressed a missing information request. In response to these concerns, we are adding a new document type to the claims system called "Missing Information Response" and ask that you use this document type for any document you are uploading in response to a Missing Information request. By choosing this document type, it alerts us that the document has been submitted. Once we review the document, we will change the Document Type to reflect the nature of the document, thus indicating to you that the document has been reviewed.

We are also making a change to the law firm status spreadsheets to identify claims that may not have been updated by the VCF since the claimant last submitted information. There are several instances in which a claim may not be under active review and being updated when new documents are received, including claims that are awaiting final review and claims that are missing information from a third party. We are adding a column to the spreadsheet to indicate when a claim is in such a status. Updated law firm spreadsheets were posted to the Drop Point on December 15, 2014.

We are also working on revamping the Missing Information requests to make them more specific to the individual circumstances of the claim.

- **PII breaches:** If you inadvertently upload a document to the wrong claimant file or include multiple claim numbers in a single cover letter that is uploaded to each listed claim, the Department of Justice considers that a potential breach of Personally Identifiable Information ("PII"). When we find these errors, we are required to report them and delete the file permanently from our system. DOJ has notified us that our rate for reporting these issues is too high and it has been traced directly to law firm uploads. Going forward, when these PII breaches occur, we will notify you in writing of the deleted file and the username of the individual in your firm who uploaded the file. If the same username has multiple breaches, that user's account may be deactivated.



We have discussed this on past calls and know you are aware of the severity of this issue. Please be diligent in maintaining each claimant's documents and ensure they do not get uploaded to the wrong file. Please do not list multiple claims in a single cover letter when uploading documents to a claim. As a reminder, you only need to include a cover letter when mailing or uploading documents if the contents need explaining.

- **Calls to Helpline from law firm representatives:** At some point in the past, each law firm provided a list to us of the attorneys and paralegals who are authorized to call the VCF Helpline and ask questions about your firm's claims. When someone calls and they are not on the list, our Helpline staff will ask that individual to fax a letter on law firm letterhead authorizing us to speak with that individual. We have implemented a process to enable Helpline staff to identify authorized callers more quickly, but if the caller is not authorized, we must receive authorization from the law firm before discussing any claims with them. If you believe we are using an outdated list of authorized callers from your firm, please provide us with a current list.
- **Partial compensation determinations:** You may see some loss calculations that do not include all of the loss components requested in the claim. This will happen when we are missing critical information for one of the components – for example, a claim with a pension issue where we need pension information but have everything else needed to calculate the loss. In these instances, we may issue a partial loss calculation so we can get the claim through the system and get payment to your client. You can then amend the claim to submit the additional information and we will calculate that portion of the loss and, if applicable, issue a second payment. The only instance in which we would hold a claim rather than issue a partial loss determination is if there is offset data missing that may end up reducing the total loss amount.

Information in response to questions asked during the call:

- **Can a private insurance company insert a lien on a VCF award?** No. Our program cannot honor liens for attorney fees or for anything a private insurer may be seeking. Any lien is considered a suit for funds in the possession of the federal government and is barred by sovereign immunity.