



The following topics were discussed during the conference call held with law firms on July 31, 2019. The meeting covered important updates and reminders about the VCF.

- **Passage of Legislation**

The July 29th event at the White House, and the signing of the “Never Forget the Heroes, James Zadroga, Ray Pfeifer, and Luis Alvarez Permanent Authorization of the September 11th Victim Compensation Fund Act” was momentous, and marks a milestone that is both humbling, and a bit daunting. But we are reassured by the clear vote of confidence – in our process and our administration of the fund – that the legislation represents. The VCF has earned a reputation for being faithful to our statute, fair to our claimants, and defensible to the taxpayers. As we enter this new phase, we fully intend to continue in this same vein, serving as trusted and fiscally responsible stewards of this funding and ensuring that it is properly directed to its intended use. Over the next few months, we will be considering what changes make sense now that we are an effectively permanent program. But, for now, we are continuing to process and award claims as we have been doing, applying the same policies and methodology.

There is, of course, one very important, short-term exception: In addition to securing the future and financial solvency of the VCF, the new Act reverses the reductions made necessary by the prior determination of insufficient funds, and restores VCF awards to what they would have been if the reductions had not been implemented.

Under the Act, the VCF is required to issue payments to anyone whose award was reduced in the amount of the difference between the reduced award and the unreduced award. These payments are required by statute to be paid “*in the first fiscal year beginning after enactment of the VCF Permanent Authorization Act*” – in other words, the government’s fiscal year 2020, which **begins** on October 1, 2019. But, recognizing the urgent needs of this community – and thanks to the forward-looking process we put in place at the beginning of the reductions in which we clearly identified any claims that were impacted - we have already begun this process, taking the steps necessary to notify each of the nearly 1,700 affected individuals of their unreduced award. We are committed to sending all of these notification letters *prior to this year’s September 11th anniversary*. The VCF will begin processing the additional payment immediately following that notification, assuming we have the documentation required to pay the claim. We recognize that this is an ambitious timeframe, but we felt that it was important that those impacted by the reductions should not have to wait, and our team is poised and eager to get the unreduced awards out the door as quickly as possible.

Keep in mind, however, that this is a dynamic process. We ask for your patience. We continued to process claims as the legislation entered its final stages – and, therefore, there will be some claims that get a notification of a reduced award because it was the fastest way to get the decision, and at least some payment, to the claimant without additional delays. In addition, any claim already in the payment process for the reduced award amount is continuing through the payment process – again, so we can get money to the claimant faster.

Please, do not call us about every reduced award as soon as you get it. It is not a mistake, it was just ahead of the process. Bear with us as we sort through the different nuances of these claims, while also keeping a focus on issuing new, unreduced awards to those who have not yet received any award determination.

Be assured, we are processing these notifications and payments in an order that makes sense operationally, is simplest to implement, and is fair to all the claimants impacted. We will start with claims that were expedited, and end with those that have already received a payment on their



reduced award. As a reminder, our commitment is to see that every claimant impacted by the reductions will receive notification of their unreduced award before September 11, 2019. This is nearly a month before we are required to even *start* the process.

In terms of next steps, one of our main goals when we began implementing the reductions in February was to minimize the burden on impacted claimants in the event additional funding was received, and also to minimize operational disruptions.

You do not need to take any action in order to receive the unreduced award for your claimants unless we have notified you of missing information that is necessary for us to process the additional amount, or if any relevant information about the claim or claimant has changed, including if the victim has passed away since the reduced award payment was made. If your firm's payment information has changed, you must notify us immediately.

We do not expect any delays in issuing new awards. Claims that have not yet had award decisions issued will continue to be reviewed in first-in, first-out order based on the date the compensation form was submitted. Claims that are in any stage of the compensation review process will be issued a full award as the reductions no longer apply. You can speed the processing of claims by responding in a timely manner to our requests for missing information.

As you begin receiving award letters – either initial awards or for the unreduced awards – please pay attention to the language in the letters. We are making updates to our letters to explain the individual circumstances and to outline what will happen next on the claim in terms of any appeal right and payment.

### **Appeals**

Except in very limited circumstances when the *reduced* award was previously appealed, the letters that are sent notifying claimants of their unreduced award will not include the option to appeal the unreduced award amount. There is no basis for an appeal if the reduced award was not previously appealed.

We have identified the following scenarios involving claims in the appeals process:

If the claimant appealed the reduced award and the hearing has been scheduled but not yet held, the hearing will proceed as planned. The VCF will send the letter notifying the claimant of the unreduced award prior to the scheduled hearing – and we will prioritize those award letters in light of the time sensitivity. If the claimant decides after receiving the letter that he or she no longer wants to appeal the award, you should contact the VCF to cancel the hearing.

If the claimant appealed the reduced award and you are waiting for the hearing to be scheduled, the VCF will contact you to schedule the hearing. But first, we will send the letter notifying the claimant of the unreduced award. If the claimant decides after receiving the unreduced award letter that he or she no longer wants to appeal the award, you should contact the VCF. Otherwise, we will contact you to discuss the appropriate timeframe for scheduling the hearing.

If the claimant appealed the reduced award and the VCF notified you that the hearing would be deferred, we have now cancelled the deferred hearing. The letter notifying the claimant of the unreduced award amount will include a new, 30-day appeal period. If the claimant chooses to appeal the unreduced award, we will schedule the hearing following normal procedures.

If the claimant appealed a reduced award and the hearing has already been held, the Special Master will determine the amount of the full, unreduced award, and any other adjustments made as a result of the appeal hearing, when rendering the decision on the appeal. Once the appeal is decided, the



VCF will send a letter reflecting any changes made as a result of the hearing, as well as the unreduced award amount.

If your client received a reduced award letter and is still in the 30-day appeal period, the next steps depend on whether or not the award is appealed. If the claimant appeals, the hearing will be scheduled following our normal procedures, the hearing will be held in the normal course, and the post-appeal determination will include the full, unreduced award. If the claimant does not appeal the reduced award, we will immediately begin issuing payment on the reduced amount and the claimant will then receive the notification of the unreduced award.

- **Amendments**

Claims with reduced awards that have amendments pending review will receive notification of their unreduced awards, and payment of any difference between the reduced and unreduced amounts. We will not be reviewing those pending amendments out of order and evaluating them before issuing the unreduced award. The unreduced award letter will include language indicating that the pending amendment has not yet been reviewed.

Before filing any amendment, please consider whether the amendment is appropriate and merits additional compensation. The new legislation is not an invitation to reopen previously decided claims simply because we have more funding. We trust that you will exercise sound discretion and counsel your clients accordingly as to when it is, and is not, appropriate to amend.

- **Closing Remarks**

In the weeks and months ahead, there will be updates and some changes in how the VCF operates as we transition to an effectively “permanent” program. We will share these changes publicly as soon as they are made. We remain committed to our tradition of refining and clarifying our existing policies when it makes sense to do so in order to ensure that the VCF is operating consistent with our guiding principles, i.e., in a manner that is consistent with the law, fair to claimants, and accountable to taxpayers.

There is a Q&A posted to the VCF website ([www.vcf.gov](http://www.vcf.gov)) that addresses the basics of the impact of the permanent authorization. Additional questions can be directed to the VCF Law Firm Liaisons.