



**MEMORANDUM**

February 19, 2016

**To:** Hon. Kirsten Gillibrand

**Subject: Reauthorization of the World Trade Center Health Program (WTCHP) and September 11<sup>th</sup> Victim Compensation Fund (VCF): Requested Materials**

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This memorandum is in response to your request for the following materials related to the reauthorization of the World Trade Center Health Program (WTCHP)<sup>1</sup> and the September 11<sup>th</sup> Victim Compensation Fund (VCF):<sup>2</sup>

- a side-by-side comparison of the provisions of the WTCHP and VCF in current law at the time of reauthorization (prior law) and the changes made by reauthorization legislation (current law);
- a section-by-section summary of the WTCHP and VCF reauthorization provisions as enacted; and
- a plain language summary of the changes to the WTCHP and VCF as enacted.

The side-by-side comparison of the WTCHP provisions is in **Table 1** and the comparison of the VCF provisions is in **Table 2**. The section-by-section summary and the plain language summary follow these tables. All references to “the Secretary” in this memorandum refer to the Secretary of Health and Human Services (HHS) and all references to “the Special Master” refer to the Special Master of the VCF.

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<sup>1</sup> Title III of Division O of P.L. 114-113, the Consolidated Appropriations Act, 2016.

<sup>2</sup> Title IV of Division O of P.L. 114-113.

**Table I. Comparison of World Trade Center Health Program (WTCHP) Provisions in Effect Prior to Reauthorization (Prior Law) and as Changed by P.L. 114-113 (Current Law)**

Prior Law	Current Law
Not applicable.	Sec. 301, <i>Short Title</i> . This title is cited as the “James Zadroga 9/11 Health and Compensation Reauthorization Act.”
<p><b>Public Health Service Act (PHSA) Sec. 3301</b> [42 USC 300mm] establishes the <i>World Trade Center Health Program (WTCHP)</i> within HHS to provide: (1) medical monitoring and treatment benefits to eligible emergency responders and recovery and clean-up workers (including federal employees) who responded to the terrorist attacks on the World Trade Center (WTC) in New York City (NYC) on September 11, 2001 (9/11); and (2) initial health evaluation, monitoring, and treatment benefits to eligible residents and other building occupants and area workers in NYC who were affected by such attacks. WTCHP components include:</p> <ul style="list-style-type: none"> <li>• <i>Medical monitoring for responders</i> (PHSA Sec. 3311);</li> <li>• <i>Initial health evaluation for survivors</i> (generally non-responders or members of the community, PHSA Sec. 3321);</li> <li>• <i>Follow-up monitoring, treatment and payment</i> for responders and survivors with a WTC-related health condition (PHSA Secs. 3312, 3322, and 3323);</li> <li>• <i>Outreach</i> to potentially eligible individuals concerning benefits to which they are entitled (PHSA Sec. 3303);</li> <li>• <i>Clinical data collection and analysis</i> (PHSA Secs. 3304 and 3342); and</li> <li>• <i>Research</i> on WTC-related health conditions (PHSA Secs. 3341 and 3342).</li> </ul> <p>The HHS Inspector General must implement fraud prevention measures and track administrative costs for the WTCHP. The WTCHP is considered a federal health care program and a health plan for the purposes of applying Secs. 1128 through 1128E of the Social Security Act (which exclude certain persons, such as convicted criminals, from the program, and addresses fraud, waste, and abuse).</p> <p>The WTCHP Administrator (the Administrator) must work with Clinical Centers of Excellence to establish a quality assurance program for medical monitoring and treatment services provided by the WTCHP.</p> <p>The Administrator must annually, not more than six months after the end of each fiscal year in which the WTCHP is in operation, report to Congress on program operations, including specified types of information regarding numbers of eligible program participants, WTC-related health conditions, health services provided, administrative costs, and other matters.</p> <p>The Secretary of HHS must promptly notify Congress if the number of enrollments of eligible WTC responders or the number of certifications for certified-eligible WTC survivors reaches 80% of the limits for either group, as established under PHSA Secs. 3311 or 3321, respectively.</p> <p>The Administrator must engage in ongoing outreach efforts regarding program implementation and improvements with relevant stakeholders, including the WTCHP Steering Committees and the Advisory Committee established under PHSA Sec. 3302.</p>	<p>Sec. 302(b), <i>GAO Studies; Regulations; Termination</i>, amends PHSA Sec. 3301, adding a new subsection (i) requiring the Comptroller General, within 18 months of enactment, to report on the effectiveness of:</p> <ul style="list-style-type: none"> <li>• The quality assurance program established under PHSA Sec. 3301(e);</li> <li>• Procedures to certify coverage of conditions as WTC-related health conditions; and</li> <li>• Any actions taken to ensure receipt of collateral sources of payment.</li> </ul> <p>In addition, within 6 years and 6 months of enactment, and every 5 years thereafter through FY2042, the Comptroller General is required to consult with and submit a report to Congress that assesses the WTC Program for this period including the objectives of the quality assurance program.</p> <p>Sec. 302(b) also amends PHSA Sec. 3301, adding a new subsection (j) to explicitly authorize the HHS Secretary to promulgate regulations as necessary to administer the WTCHP.</p> <p>Sec. 302(b) also amends PHSA Sec. 3301, adding a new subsection (k), stating that the WTC Program shall terminate on October 1, 2090.</p>

Prior Law	Current Law
<p><b>PHSA Sec. 3302</b> [42 USC 300mm–1] requires the Administrator to establish the WTCHP Scientific/Technical Advisory Committee (the Advisory Committee), subject to the Federal Advisory Committee Act, to review scientific and medical evidence and make recommendations to the Administrator on additional WTCHP eligibility criteria and additional WTC-related health conditions. This section also establishes committee membership, and requirements for meetings and public reporting. The Advisory Committee shall continue in operation during the period in which the WTCHP is in operation.</p> <p>The Administrator also is required to establish and consult with two WTCHP steering committees—the WTC Responders Steering Committee and the WTC Survivors Steering Committee—to facilitate the coordination of initial health evaluation, medical monitoring, and treatment programs for eligible WTC responders and survivors. For each committee, requirements and procedures are established for membership, and management of vacancies.</p>	<p>No amending language.</p>
<p><b>PHSA Sec. 3303</b> [42 USC 300mm–2] requires the Administrator to establish a program to provide education and outreach regarding services available under the WTCHP. The program shall include the development of a public website and phone information services, meetings with potentially eligible populations, and outreach materials. The education and outreach program must be conducted in a manner intended to reach all affected populations and include materials for culturally and linguistically diverse populations.</p>	<p>No amending language.</p>
<p><b>PHSA Sec. 3304</b> [42 USC 300mm–3] requires the Administrator to provide for the collection, analysis, and reporting of data (including claims data) on the prevalence of WTC-related health conditions and the identification of new WTC-related health conditions. Data must be collected for all persons receiving monitoring or treatment services regardless of residence or the location at which services are provided. Clinical Centers of Excellence must collect and report such data to the corresponding Data Center. The Administrator must provide for collaboration between the Data Centers and the WTC Health Registry described in PHSA Sec. 3342. Data collection and analysis must comply with applicable privacy laws and regulations, including the Health Insurance Portability and Accountability Act (HIPAA).</p>	<p>No amending language.</p>
<p><b>PHSA Sec. 3305</b> [42 USC 300mm–4] requires the Administrator to contract with Clinical Centers of Excellence and Data Centers. Specific Clinical Centers of Excellence and Data Centers are termed corresponding if they serve the same population. Contracts with Clinical Centers of Excellence and Data Centers may be specific with respect to one or more classes of enrolled WTC responders, screening-eligible WTC survivors, or certified-eligible WTC survivors.</p> <p>Clinical Centers of Excellence shall provide: monitoring, initial health evaluation, and treatment benefits; outreach activities and benefits counseling to eligible individuals; translational and interpretive services for eligible individuals, if needed; and collection and reporting of data (including claims data) pursuant to PHSA Sec. 3304. This section also specifies requirements the Clinical Centers of Excellence must meet, including requirements for contracts awarded by the Administrator.</p> <p>The Administrator must, to the maximum extent feasible, ensure continuity of care during transitions between services provided</p>	<p><i>Sec. 302(c)(1), Clinical Centers of Excellence and Data Centers</i>, amends PHSA Sec. 3305 to clarify that Clinical Centers of Excellence are contracted to, among other things, provide activities to retain individuals who are eligible for program benefits.</p> <p><i>Sec. 302(c)(2)</i> corrects the reference in current law to the privacy provisions (PHSA Sec. 3304(d)) in the contract requirements for Clinical Centers of Excellence.</p>

Prior Law	Current Law
<p>through a Clinical Center of Excellence and through the nationwide network.</p> <p>Clinical Centers of Excellence shall be reimbursed by the Administrator for fixed infrastructure costs at negotiated rates. Such costs are defined as costs incurred by the Center that are not reimbursable as health care services under PHSA Sec. 3312(c) for patient evaluation, monitoring, or treatment. Such costs include those for outreach or recruiting of participants, data collection and analysis, social services for counseling patients about assistance outside the WTCHP, and the development of treatment protocols. Infrastructure costs do not include costs for new construction or other capital costs.</p> <p>The Comptroller General shall, by July 1, 2011, report to Congress on whether Clinical Centers of Excellence given contracts under this section have financial systems that allow for the timely submission of claims data for purposes of this section and PHSA Sec. 3304. [See GAO-11-793R, published July 15, 2011.]</p> <p>Data Centers shall provide: data analysis and reporting to the Administrator; development of initial health evaluation, medical monitoring, and treatment protocols for WTC-related conditions; coordination of outreach activities; criteria for the credentialing of providers in the nationwide clinical network established under PHSA Sec. 3313; coordination and administration of the activities of the steering committees; and meeting periodically with the corresponding Clinical Centers of Excellence to obtain input on the analysis and reporting of data and the development of monitoring and treatment protocols.</p> <p>Credentialed medical providers in the national clinical network shall be selected by the Administrator based on their expertise diagnosing or treating medical conditions included in the list of identified WTC-related health conditions for responders and identified conditions for survivors.</p> <p>In developing evaluation, monitoring, and treatment protocols, Data Centers shall engage in discussions across the program to guide treatment approaches for individuals with WTC-related health and mental health conditions. Data Centers also must make any data collected and reported available to health researchers and others as per the CDC/ATSDR Policy on Releasing and Sharing Data.</p>	

Prior Law	Current Law
<p><b>PHSA Sec. 3306</b> [42 USC 300mm–5] provides definitions. Among them:</p> <p>The term <i>NYC disaster area</i> is defined as the area within NYC that is in Manhattan south of Houston St.; and any block in Brooklyn that is wholly or partially contained within a 1.5-mile radius of the former WTC site.</p> <p>The term <i>WTC Program Administrator</i> is defined as follows:</p> <ul style="list-style-type: none"> <li>• an HHS official designated by the Secretary of HHS for the purposes of enrollment of WTC responders; the payment for initial health evaluation, monitoring, and treatment; the determination or certification of screening-eligible or certified-eligible WTC responders; and the payor provisions of Part 3 of Subtitle B. However, the Secretary may not designate the Director of the National Institute for Occupational Safety and Health (NIOSH) or a designee of such director for the purposes of payment for initial health evaluation, monitoring, and treatment; and</li> <li>• the Director of NIOSH or a designee of such director for the purposes of all other provisions of Title I.</li> </ul> <p>The term <i>September 11, 2001 terrorist attacks</i> is defined as the terrorist attacks that occurred on September 11, 2001 in NYC; Shanksville, Pennsylvania; and the Pentagon, and the aftermath of such attacks.</p>	<p>No amending language.</p>
<p><b>PHSA Sec. 3311</b> [42 USC 300mm–21] defines eligibility criteria for WTC responders, provides an application and certification process, sets limits on the number of eligible participants, and describes available monitoring benefits.</p> <p>No person on a terrorist watch list maintained by the Department of Homeland Security (DHS) may qualify as a WTC responder.</p> <p>A currently identified responder is an individual who has been identified as eligible for medical monitoring under the arrangements between NIOSH and the consortium coordinated by Mt. Sinai hospital, or between NIOSH and the Fire Department of New York City (FDNY).</p> <p>The section establishes eligibility criteria for WTC responders, generally based on specified time ranges and specified locations, for the following groups:</p> <ul style="list-style-type: none"> <li>• FDNY personnel, and, under specified conditions, their surviving immediate family members;</li> <li>• Law enforcement, rescue, recovery, and clean-up workers; and</li> <li>• Responders to the Pentagon and Shanksville, Pennsylvania aircraft crash sites.</li> </ul> <p>The section also establishes modified eligibility criteria for individuals who performed rescue, recovery, or clean-up services in the NYC disaster area in response to the September 11, 2001 attacks on the WTC, regardless of whether such services were performed by a state or federal employee or member of the National Guard; and who meets eligibility criteria established by the Administrator in consultation with the Advisory Committee. No modifications of eligibility criteria may be made after the number of certifications for eligible responders has reached 80% of the limit established in PHSA Sec. 3311(a)(4) or after the number of certifications for certified-eligible survivors has reached 80% of the</p>	<p><i>Sec. 302(d), World Trade Center Responders</i>, amends PHSA Sec. 3311(a)(4), the authority that limits the number of eligible WTC responders, by striking “through the end of fiscal year 2020” in the direction to the Administrator to consider the sufficiency of funding when conducting enrollments.</p>

Prior Law	Current Law
<p>limit established in PHSA Sec. 3321(a)(3).</p> <p>The Administrator shall establish an application process for new enrollments of WTC responders. There will be no fee for this application; a decision on each application shall be made within 60 days of the date it was filed; and persons denied will have the right to appeal in a manner established by the Administrator.</p> <p>There is a numerical limit of 25,000 eligible WTC responders, of which no more than 2,500 may be certified based on modified eligibility criteria. (This limit excludes responders enrolled as of enactment.) The Administrator must limit certifications to ensure sufficient funds are available to provide treatment and monitoring for all individuals enrolled through the end of FY2020; and must provide priority in certifications based on the order in which a person applies.</p> <p>Monitoring benefits (which are available to eligible responders, but not to family members) are defined as initial health evaluation, clinical examinations, and long-term health monitoring and analysis, to be provided by the FDNY, the appropriate Clinical Center of Excellence, or other providers designated under PHSA Sec. 3313 for eligible individuals outside New York.</p>	
<p><b>PHSA Sec. 3312</b> [42 USC 300mm–22] provides procedures to determine (1) whether an eligible individual has a WTC-related health condition, (2) whether the condition is WTC-related for that individual, and (3) whether proposed treatments are medically necessary.</p> <p>This section defines WTC-related health conditions for which eligible responders may receive treatment, and how such determinations are to be made. These include conditions (including mental health conditions) that are substantially likely to have resulted or been aggravated from exposure to airborne toxins or other hazards arising from the 2001 terrorist attacks, including the conditions listed in PHSA Sec. 3312(a)(3). Eligible responders may receive treatment benefits for these conditions. Immediate family members of firefighters killed as a result of the attacks may only receive treatment benefits for mental health conditions.</p> <p>This section also describes the process to determine whether the 2001 terrorist attacks were substantially likely to have aggravated, contributed to, or caused an illness or health condition in an individual.</p> <p>The Administrator shall periodically determine if types of cancer should be included on the list of WTC-related conditions, based on review of published evidence. Additions to the list must be made by regulation. If it is determined that a type of cancer should not be added to the list, the Administrator shall publish an explanation in the Federal Register.</p> <p>This section specifies procedures for rulemaking to add, or decline to add, a condition to the list of WTC-related conditions, including consultation with the Advisory Committee, publication in the Federal Register, and pertinent deadlines. This section also specifies procedures for the Administrator to certify that an individual has a WTC-related health condition, or is otherwise eligible for benefits due to a health condition not on the list of WTC-related health conditions; or to provide a basis for denial of such certification and a means for appeal.</p> <p>The Administrator shall determine whether a specific treatment for a WTC-related health condition is medically necessary, in</p>	<p><i>Sec. 302(e), Addition of List of Health Conditions for WTC Responders</i>, amends current law for the process to add, or decline to add, a condition to the list of WTC-related conditions (PHSA Sec. 3312(a)(6)), as follows:</p> <p><i>Sec. 302(e)(1)(A)</i> changes the deadline for the Administrator to act on a petition to add a health condition to the list from 60 days to 90 days.</p> <p><i>Sec. 302(e)(1)(B)</i> changes the deadline for the Advisory Committee to provide a requested recommendation to the Administrator on a petition to add a health condition to the list from 60 days to 90 days.</p> <p><i>Sec. 302(e)(1)(B)</i> also changes the deadline for the Administrator to publish a decision on a recommendation by the Advisory Committee in the <i>Federal Register</i> from 60 days to 90 days.</p> <p><i>Sec. 302(e)(2)</i> requires that prior to taking any action on a petition to add a health condition to the list, the Administrator provide for an independent peer review of the scientific and technical evidence that would be the basis for such action.</p> <p><i>Sec. 302(e)(2)</i> also requires the Administrator, within one year of enactment, to ask the Advisory Committee to review and evaluate the policies and procedures used to determine whether sufficient evidence exists to support adding a health condition to the list.</p> <p><i>Sec. 302(e)(2)</i> also requires that prior to establishing any new policy or procedure to determine whether sufficient evidence exists to support adding a health condition to the list, the Administrator ask the Advisory Committee to review and evaluate such policy.</p> <p><i>Sec. 302(e)(2)</i> also requires that within one year of enactment and at least every two years thereafter the Administrator seek recommendations from the Advisory Committee on individuals to conduct peer reviews.</p>

Prior Law	Current Law
<p>accordance with regulations he or she establishes. Payment shall be withheld if the Administrator determines that a treatment is not medically necessary. The determination that a treatment or service is not medically necessary may be appealed through a process established by regulation. This section describes the types of health services that may be covered, including limited travel and transportation costs.</p> <p>This section establishes processes to set the costs for reimbursement of health benefits. In general, except for pharmaceuticals, the Administrator shall reimburse costs for medically necessary treatment for WTC-related health conditions according to the payment rates that would apply under the Federal Employees Compensation Act (FECA). The Administrator shall establish a program to pay for medically necessary outpatient prescription pharmaceuticals prescribed for WTC-related conditions through a specified competitive bidding process to award contracts to outside vendors. The Administrator may modify the amounts and methods for making payments for initial health evaluations, treatment, and monitoring if, taking into account utilization and quality data from the Clinical Centers, he or she determines that bundling, capitation, pay for performance, or other payment methodologies would better ensure high-quality and efficient delivery of services.</p> <p>The Data Centers shall develop medical treatment protocols for the treatment of WTC-related health conditions, and the Administrator shall review and approve the treatment protocols.</p>	
<p><b>PHSA Sec. 3313</b> [42 USC 300mm–23] requires the Administrator to establish a nationwide network of health providers to provide benefits to persons outside of the New York metropolitan area. To be included in this network, a provider must meet the criteria for credentialing established by the Data Centers, follow medical protocols established under PHSa Sec. 3305(a)(2)(A)(ii), collect and report data in accordance with PHSa Sec. 3304, and meet fraud and other requirements established by the Administrator. The Administrator may provide training and technical assistance to nationwide network providers.</p> <p>The Administrator may enter into an agreement with the Department of Veterans Affairs (VA) to provide services through VA facilities.</p>	<p>No amending language.</p>

Prior Law	Current Law
<p><b>PHSA Sec. 3321</b> [42 USC 300mm–31] defines eligibility criteria for eligible WTC survivors (generally non-responders or members of the community), provides an application and certification process, sets limits on the number of eligible participants, and describes available monitoring benefits.</p> <p>No person on a terrorist watch list maintained by DHS may qualify as an eligible WTC survivor.</p> <p>The section establishes eligibility criteria for WTC survivors, generally based on specified time ranges and specified locations.</p> <p>No modifications of eligibility criteria may be made after the number of certifications for eligible survivors has reached 80% of the limit established in PHSA Sec. 3321(a)(3) (noted below), or after the number of certifications for eligible responders has reached 80% of the limit established in PHSA Sec. 3311(a)(4).</p> <p>The Administrator shall establish an application process for new enrollments of WTC survivors. There will be no fee for this application; a decision on each application shall be made within 60 days of the date it was filed; and persons denied will have the right to appeal in a manner established by the Administrator.</p> <p>There is a numerical limit of 25,000 certified-eligible WTC survivors. (This limit excludes survivors enrolled as of enactment.) The Administrator must limit certifications to ensure sufficient funds are available to provide treatment and monitoring for all individuals enrolled through the end of FY2020, and must prioritize certifications based on the order in which a person applies.</p>	<p>Sec. 302(f), <i>World Trade Center Survivors</i>, amends PHSA Sec. 3321(a)(3), the authority that limits the number of eligible WTC survivors, by striking “through the end of fiscal year 2020” in directing the WTCHP Administrator to consider the sufficiency of funding when conducting enrollments.</p>
<p><b>PHSA Sec. 3322</b> [42 USC 300mm–32] states that the provisions of PHSA Secs. 3311 and 3312 shall apply to monitoring and treatment of WTC-related health conditions for certified-eligible WTC survivors in the same manner as such provisions apply to WTC responders.</p> <p>The list of WTC-related health conditions for survivors is the same as the list of WTC-related health conditions for responders provided in PHSA Sec 3312, except that musculoskeletal conditions are not included on the list for survivors. Conditions, including cancer, that are added to the list of WTC-related health conditions for responders are also added to the list of WTC-related health conditions for survivors.</p>	<p>No amending language.</p>
<p><b>PHSA Sec. 3323</b> [42 USC 300mm–33] establishes that treatment services shall be provided to individuals who are not certified as WTC responders or survivors if any such individual is diagnosed at a Clinical Center of Excellence with an identified WTC-related condition for WTC survivors. The Administrator shall limit the total amount of benefits provided to such individuals in a given fiscal year so that program payments for that year do not exceed \$5 million for the last calendar quarter of FY2011; \$20 million for FY2012; and, for subsequent fiscal years, the previous fiscal year’s amount increased by the annual percentage increase in the medical care component of the Consumer Price Index for all urban consumers.</p>	<p>No amending language.</p>
<p><b>PHSA Sec. 3331</b> [42 USC 300mm–41] provides that all costs of covered initial health evaluation, medical monitoring, and treatment benefits for eligible individuals shall be paid from the WTCHP Fund, except for any costs that are paid by a workers’ compensation program or health insurance plan.</p>	<p>Sec. 302(g), <i>Payment of Claims</i>, amends PHSA Sec. 3331(d) to extend the matching requirement for NYC to pay 10% of total WTCHP costs through FY2090, without any other modification of terms.</p>

Prior Law	Current Law
<p>Payment for treatment of a WTC-related health condition that is work-related (as defined) shall be reduced or recouped by any amounts paid under a workers' compensation law or plan for such treatment. This provision does not apply to any workers' compensation or similar plan in which NYC is required to make payments if, in accordance with the terms of the contract specified in PHSA Sec. 3331(d), NYC has made full payment required for that quarter.</p> <p>For eligible beneficiaries who have health insurance coverage and have been diagnosed with a WTC-related condition that is not work-related, the WTC Program shall be a secondary payor of all uninsured costs (such as co-pays and deductibles) related to services covered by the WTC program, according to the authority used when Medicare is a secondary payor. This provision does not require an entity that provides monitoring and treatment under this title to seek reimbursement from a health plan with which it does not have a contract for reimbursement.</p> <p>No payment for monitoring or treatment may be made for any individual for any month, beginning with July 2014, in which he or she does not have the applicable minimum essential health coverage required under Sec. 5000A(a) of the Internal Revenue Code, as established by the Patient Protection and Affordable Care Act (ACA, P.L. 111-148, as amended).</p> <p>There is a required contribution (match) by NYC (Sec. 3331(d)). No funds may be disbursed from the WTCHP Fund under PHSA Sec. 3351 unless NYC has entered into a contract with the Administrator to pay the full contribution on a timely basis. The full contribution amount for the last calendar quarter in FY2011 and each calendar quarter of FYs 2012 through 2015 shall be equal to 10% of the expenditures in carrying out the WTCHP for the respective quarter. The full contribution amount for each calendar quarter of FY2016 shall be equal to 1/9 of the federal expenditures in carrying out Title I for the respective quarter. The NYC contribution may not be satisfied through any amount derived from federal sources, any amount paid before enactment, or any amount paid to satisfy a judgment as part of a settlement related to injuries or illnesses arising out of the September 11, 2001 attacks on the WTC. Payment deadlines and procedures for recovery of unpaid amounts are specified.</p>	
<p><b>PHSA Sec. 3332</b> [42 USC 300mm-42] authorizes the Administrator to enter into arrangements with other government agencies, insurance companies, or other third-party administrators to provide for timely and accurate processing of claims.</p>	<p>No amending language.</p>
<p><b>PHSA Sec. 3341</b> [42 USC 300mm-51] requires the Administrator, in consultation with the Advisory Committee, to conduct or support research on conditions that may be related to the WTC terrorist attacks; diagnoses of WTC-related health conditions for which there has been diagnostic uncertainty; and treatment of WTC-related health conditions for which there has been treatment uncertainty.</p> <p>The research on conditions that may be related to the September 11, 2001 terrorist attacks on the WTC must include epidemiologic or other research studies on WTC-related health conditions or emerging conditions among enrolled WTC responders and certified-eligible WTC survivors under treatment and in sampled populations outside of the NYC disaster area, as specified. Control</p>	<p>No amending language.</p>

Prior Law	Current Law
<p>groups must be used. This research must have privacy and human subject protections at least as strong as those applicable to research conducted or funded by HHS.</p>	
<p><b>PHSA Sec. 3342</b> [42 USC 300mm–52] requires the Administrator to ensure the operation of a registry of victims of the WTC attacks that is at least as comprehensive as the World Trade Center Health Registry in effect as of April 2009 with the NYC Department of Health and Mental Hygiene (DHMH).</p>	<p><i>Sec. 302(h), World Trade Center Health Registry</i>, revises the stated date in PHSA Sec. 3342 to require the Administrator to maintain a registry that is at least as comprehensive as the registry maintained by the NYC DHMH in effect as of January 1, 2015.</p>
<p><b>PHSA Sec. 3351</b> [42 USC 300mm–61] establishes a WTCHP Fund (the Fund) and deposits into the Fund from the Treasury for each of FYs 2012 through 2016 and the last calendar quarter of FY2011 an amount equal to the lesser of 90% of the expenditures in carrying out the WTCHP or the following amounts:</p> <ul style="list-style-type: none"> <li>• Last calendar quarter of FY2011: \$71 million;</li> <li>• FY2012: \$318 million;</li> <li>• FY2013: \$354 million;</li> <li>• FY2014: \$382 million;</li> <li>• FY2015: \$431 million;</li> <li>• FY2016: Any unexpended funds from previous fiscal years, provide that total federal spending does not exceed the sum of the maximum federal spending for FYs 2011 through 2015 (\$1.556 billion).</li> </ul> <p>No funds may be disbursed from the Fund unless NYC has entered into contract with the Administrator to pay its contribution. If NYC fails to pay its full contribution, the amount not paid is recoverable by the federal government. Such failure shall not affect the disbursement of amounts from the Fund, and the federal share shall not be increased by the amount not paid by NYC.</p> <p>The amounts deposited into the Fund shall be available, without further appropriation, to carry out the following activities:</p> <ul style="list-style-type: none"> <li>• Monitoring and treatment for WTC responders and survivors (PHSA Title XXXIII, Subtitle B);</li> <li>• The Advisory Committee (PHSA Sec. 3302(a));</li> <li>• Education and outreach (PHSA Sec. 3303);</li> <li>• Uniform data collection and analysis (PHSA Sec. 3304);</li> <li>• Data Centers (PHSA 3305(a)(2));</li> <li>• Research regarding WTC-related health conditions (PHSA Sec. 3341); and</li> <li>• The WTC Health Registry (PHS Sec. 3342).</li> </ul> <p>There is no federal obligation for payment of amounts in excess of amounts available from the Fund for such purpose and no authorization for appropriation of amounts in excess of amounts available from the Fund.</p> <p>There are specified spending limits for certain activities for FY2012. The limit for each subsequent fiscal year is the prior fiscal year amount increased by the percentage increase in the Consumer Price Index for all Urban Consumers (CPI-U), as estimated by the Secretary for the 12-month period ending with March of the previous year. The specified activities and FY2012 spending limits are as follows:</p> <ul style="list-style-type: none"> <li>• Services to FDNY family members, \$400,000;</li> </ul>	<p><i>Sec. 302(a)(1)(A)</i> requires deposits of federal funds into the Fund for FY2016 and all subsequent FYs through FY2090 in the following amounts:</p> <ul style="list-style-type: none"> <li>• FY2016: \$330 million;</li> <li>• FY2017: \$345.61 million;</li> <li>• FY2018: \$380 million;</li> <li>• FY2019: \$440 million;</li> <li>• FY2020: \$485 million;</li> <li>• FY2021: \$501 million;</li> <li>• FY2022: \$518 million;</li> <li>• FY2023: \$535 million;</li> <li>• FY2024: \$552 million;</li> <li>• FY2025: \$570 million; and</li> <li>• for each subsequent fiscal year through FY2090, the amount for the previous fiscal year increased by the percentage increase in the Consumer Price Index for all urban consumers (all items; United States city average) as estimated by the Secretary for the 12-month period ending with March of the previous year.</li> </ul> <p><i>Sec. 302(a)(1)(B)</i> eliminates the aggregate limit on funding.</p> <p><i>Sec. 302(a)(1)(B)</i> also provides that any funds deposited or identified for deposit into the Fund before enactment of the legislation and that were not expended shall remain in the fund or be deposited into the fund.</p> <p><i>Sec. 302(a)(1)(B)</i> also provides that any amounts deposited into the Fund remain available until expended through FY2090.</p> <p><i>Sec. 302(a)(2)</i> adds the following activities to the list of activities for which money deposited into the Fund may be used:</p> <ul style="list-style-type: none"> <li>• The quality assurance program for monitoring and treatment delivered by the Centers of Excellence and any other participating health care providers (PHSA Sec. 3301(e));</li> <li>• The WTCHP annual report (PHSA Sec. 3301(f));</li> <li>• The WTCHP steering committees (PHSA Sec. 3302(b)); and</li> <li>• Contracts with the Clinical Centers of Excellence (PHSA Sec. 3305(a)(1)).</li> </ul> <p><i>Sec. 302(a)(3)</i> adjusts the spending limits for certain</p>

Prior Law	Current Law
<ul style="list-style-type: none"> <li>• The Advisory Committee, \$100,000;</li> <li>• Education and outreach, \$2 million;</li> <li>• Uniform data collection, \$10 million;</li> <li>• Research regarding WTC-related health conditions, \$15 million; and</li> <li>• The WTC Health Registry, \$7 million.</li> </ul>	<p>activities as follows:</p> <ul style="list-style-type: none"> <li>• Services to FDNY family members: amount for FY2016 equal to amount in effect at enactment of the legislation;</li> <li>• The Advisory Committee: \$200,000 for FY2016;</li> <li>• Education and outreach: \$750,000 for FY2016 and each subsequent FY;</li> <li>• Uniform data collection: amount for FY2016 equal to amount in effect at enactment of the legislation; \$15 million for FY2017;</li> <li>• Research regarding WTC-related health conditions: amount for FY2016 equal to amount in effect at enactment of the legislation; and</li> <li>• The WTC Health Registry: amount for FY2016 equal to amount in effect at enactment of the legislation.</li> </ul>

**Source:** Prepared by the Congressional Research Service (CRS).

**Table 2. Comparison of September 11<sup>th</sup> Victim Compensation Fund (VCF) Provisions in Effect Prior to Reauthorization (Prior Law) and as Changed by P.L. 114-113 (Current Law)**

Prior Law	Current Law
<p><b>Air Transportation Safety and System Stabilization Act (ATSSSA) Sec. 401</b> [49 U.S.C. § 40101 note] provides the short title of the legislation.</p>	<p>No amending language.</p>
<p><b>ATSSSA Sec. 402</b> [49 U.S.C. § 40101 note] provides the definitions that apply to the legislation.</p>	<p><i>Sec. 402(a), Definitions</i>, adds the following definitions to ATSSSA Sec. 402:</p> <ul style="list-style-type: none"> <li>• <i>WTC Program Administrator</i> is defined to have the same meaning given such term in PHSA Sec. 3306;</li> <li>• <i>WTC-related physical health condition</i> is defined to have the same meaning given such term in PHSA Sec. 3312(a) including the conditions listed in PHSA Sec. 3322(b), but does not include: <ul style="list-style-type: none"> <li>• a mental health condition described in PHSA Secs. 3312(a)(1)(A)(ii) or 3312(a)(3)(B);</li> <li>• any mental health condition certified under PHSA Sec. 3312(b)(2)(B)(iii), including certifications under PHSA 3322(a);</li> <li>• a mental health condition described in PHSA Sec. 3322(b)(2); or</li> <li>• any other mental health condition.</li> </ul> </li> </ul> <p><i>Sec. 402(a)</i> also makes the following changes to the definitions in ATSSSA Sec. 402:</p> <ul style="list-style-type: none"> <li>• the definition of <i>economic loss</i> is changed to include “past out-of-pocket medical expense loss” and excludes “future medical expense loss;” and</li> <li>• one of the four definitions of <i>9/11 crash site</i> is changed from: <ul style="list-style-type: none"> <li>• “any area contiguous to a site of such crashes that the Special Master determines was sufficiently close to the site that there was a demonstrable risk of physical harm resulting from the impact of the aircraft or any subsequent fire, explosions, or building collapses (including the immediate area in which the impact occurred, fire occurred, portions of buildings fell, or debris fell upon and injured individuals);” to</li> <li>• the current definition provided in the VCF program regulations at 28 C.F.R. § 104.2(g), specifically, “the area in Manhattan that is south of the line that runs along Canal Street from the Hudson River to the intersection of Canal Street and East Broadway, north on East Broadway to Clinton Street, and east on Clinton Street to the East River.”</li> </ul> </li> </ul>
<p><b>ATSSSA Sec. 403</b> [49 U.S.C. § 40101 note] provides the following as the purpose of the VCF: “It is the purpose of this title to provide compensation to any individual (or relatives of a deceased individual) who was physically injured or killed as a result of the terrorist-related aircraft crashes of September 11, 2001.”</p>	<p><i>Sec. 402(b), Purpose</i>, changes the purpose of the VCF to include:</p> <ul style="list-style-type: none"> <li>• the provision of “full” compensation to covered persons; and</li> <li>• the provision of compensation to any person who was physically injured or killed as a result of the “rescue and recovery efforts during the immediate aftermath” of the September 11, 2001, aircraft crashes.</li> </ul>

Prior Law	Current Law
<p><b>ATSSSA Sec. 404</b> [49 U.S.C. § 40101 note] provides that the Attorney General, acting through his or her appointed Special Master of the VCF, shall administer the compensation program, promulgate program rules, and hire and supervise hearing officers and other necessary administrative staff. It authorizes the appropriation of such sums as may be necessary for the Special Master’s administrative costs.</p>	<p>No amending language.</p>
<p><b>ATSSSA Sec. 405(a)(1) and (2)</b> [49 U.S.C. § 40101 note] requires that a claimant file for compensation on a claim form developed by the Special Master and the requirements for this claim form.</p>	<p>No amending language.</p>
<p><b>ATSSSA Sec. 405(a)(3)</b> [49 U.S.C. § 40101 note] establishes deadlines for claimants to file claims, the latest deadline being five years from the publication of regulations revised to reflect an extended filing period, under specified circumstances.</p> <p><b>Note:</b> These regulations became effective October 3, 2011; hence the current filing deadline is October 3, 2016 (76 <i>Federal Register</i> 54112, August 31, 2011).</p>	<p>Sec. 402(c)(1), changes the current filing deadline of five years from the date the updated regulations were promulgated pursuant to P.L. 111-347, to five years from the date of enactment of the legislation.</p> <p>Sec. 402(c)(1) creates the following two new groups of claims:</p> <ul style="list-style-type: none"> <li>• Group A: the Special Master postmarks and transmits a final award determination (a letter indicating the total amount of compensation without regard to any ratable reduction) to the claimant before the date of enactment of the legislation.</li> <li>• Group B: all other claims.</li> </ul> <p>The Special Master would be required to establish a system to determine if a claim is considered to be in Group A or B.</p>
<p><b>ATSSSA Sec. 405(b)(1)-(5)</b> [49 U.S.C. § 40101 note] requires the Special Master to review claims submitted and determine whether the claimant is eligible; the extent of the harm to the claimant, including economic and noneconomic losses; and the amount of compensation to which the claimant is entitled, based on the harm to the claimant, the facts of the claim, and the individual circumstances of the claimant. The Special Master is prohibited from considering negligence or any other theory of liability and is required to complete a review, make a determination, and provide written notice to claimants no later than 120 days after the date on which the claim is filed. Claimants are provided the right to legal representation, the right to present evidence and other due process rights the Special Master determines are appropriate. Compensation amounts cannot include amounts for punitive damages.</p>	<p>Sec. 402(c)(2) provides the following limitations on Group B claims:</p> <ul style="list-style-type: none"> <li>• the total amount of compensation based on non-economic loss may not exceed: <ul style="list-style-type: none"> <li>• \$250,000 in the case of any type of cancer; and</li> <li>• \$90,000 if there is no type of cancer;</li> </ul> </li> <li>• the determination of economic loss shall be made using the applicable methodology described in current VCF program regulations (28 C.F.R. §§ 104.43 or 104.45) as in effect on the date of enactment of the legislation;</li> <li>• in considering annual gross income for the purposes of determining economic loss the Special Master shall for each year of loss limit the annual gross income of the claimant or decedent to \$200,000; and</li> <li>• for the purposes of considering annual gross income for the purposes of determining economic loss, the term gross income will have the same meaning as provided in Section 61 of the Internal Revenue Code.</li> </ul>
<p><b>ATSSSA Sec. 405(b)(6)</b> [49 U.S.C. § 40101 note] requires the Special Master to reduce compensation amounts by the amount of collateral source compensation a claimant received or was entitled to receive as a result of the terrorist-related aircraft crashes.</p>	<p>Sec. 402(c)(2) applies the collateral source reduction to payments made on Group B claims.</p>
<p><b>ATSSSA Sec. 405(c)(1) and (2)</b> [49 U.S.C. § 40101 note] provides general eligibility requirements for the VCF including references to the World Trade Center, Pentagon, and Pennsylvania sites and the requirement that a person have suffered physical harm or death as a result of the aircraft</p>	<p>No amending language.</p>

Prior Law	Current Law
crashes or debris removal.	
<p><b>ATSSSA Sec. 405(c)(3)(A)(i)</b> [49 U.S.C. § 40101 note] provides the following filing periods for the VCF:</p> <ul style="list-style-type: none"> <li>if the individual knew or reasonably should have known that he or she suffered physical harm at a 9/11 crash site before October 3, 2011, and knew or should have known that he or she was eligible for the VCF before October 3, 2011, the claim must be filed within two years of October 3, 2011; and</li> <li>if the individual first knew or reasonably should have known on or after October 3, 2011, that he or she suffered physical harm at a 9/11 crash site or first knew or should have known that he or she was eligible for the VCF on or after October 3, 2011, then the claim must be filed within two years of the date the Special Master determines that the person first knew or reasonably should have known that he or she suffered physical harm and was eligible for the VCF.</li> </ul>	<p>Sec. 402(c)(3) changes the reference date from the date of the initial VCF regulations to the date regulations were updated pursuant to P.L. 111-347 to correct an apparent drafting error in current law.</p>
<p><b>ATSSSA Sec. 405(c)(3)(A)(ii)</b> [49 U.S.C. § 40101 note] requires that to be eligible for the VCF a person must have been treated by a medical professional for his or her injury within a reasonable time of discovering such injury.</p>	<p>Sec. 402(c)(3) applies this provision to Group A claims.</p>
<p>No provision.</p>	<p>Sec. 402(c)(3) adds the following requirements for the payment of Group B claims:</p> <ul style="list-style-type: none"> <li>the Special Master with assistance from the WTC Program Administrator as necessary, must determine based on the evidence presented that a claimant has a WTC-related physical health condition; and</li> <li>the Special Master, with assistance from the WTC Program Administrator as necessary, must determine based on evidence presented that a decedent suffered from a condition that was or would have been determined to be a WTC-related physical health condition.</li> </ul>
<p><b>ATSSSA Sec. 405(c)(3)(B)</b> [49 U.S.C. § 40101 note] provides that only one claim may be filed by or on behalf of any person.</p>	<p>No amending language.</p>
<p><b>ATSSSA Sec. 405(c)(3)(C)</b> [49 U.S.C. § 40101 note] provides the following regarding civil actions filed by VCF beneficiaries related to the September 11, 2001, aircraft crashes:</p> <ul style="list-style-type: none"> <li>upon submission of a VCF claim, a person waives the right to bring any civil action related to the September 11, 2001, aircraft crashes in any federal or state court, except for against to recover collateral source obligations or against the participants in the hijackings;</li> <li>no person may submit a VCF claim unless he or she withdraws from any such civil action within 90 days of the promulgation of the original or updated VCF regulations; and</li> <li>in the case of a settled civil action, no person may file a VCF claim unless the civil action commenced prior to December 22, 2003, and all claims were released prior</li> </ul>	<p>No amending language.</p>

Prior Law	Current Law
to the enactment of P.L. 111-347.	
<p><b>ATSSSA Sec. 406(a)-(d)</b> [49 U.S.C. § 40101 note] provides the general payment authority (budget authority in advance of appropriations acts) for the VCF and limits the amount of federal funds paid for VCF compensation for claims filed after the promulgation of the updated regulations to \$2.775 billion of which not more than \$875 million shall be available to pay claims in the first five years with the remainder to be paid in the sixth year.</p> <p>The Special Master must ratably reduce the amount of VCF compensation due claimants during the first five years so that all persons eligible for compensation receive some compensation and the total amount paid does not exceed the limit of \$875 million. In the sixth year the Special Master must pay each claimant the balance of his or her award.</p> <p>Upon completion of all payments the VCF shall be permanently closed.</p>	<p><i>Sec. 402(d), Payments to Eligible Individuals</i>, provides that the payment authority provided in ATSSSA Sec. 406(b) only applies to Group A claims.</p> <p><i>Sec. 402(d)</i> also provides the following payment processes for Group A and B claims:</p> <ul style="list-style-type: none"> <li>• Group A: <ul style="list-style-type: none"> <li>• The total amount of federal funds available for Group A claims is \$2.775 billion; and</li> <li>• In the case of a claim that was ratably reduced, the Special Master shall as soon as practicable after enactment of the legislation, pay the difference between the amount the claimant would have been paid without regard to the reduction and the amount actually paid; and</li> </ul> </li> <li>• Group B: <ul style="list-style-type: none"> <li>• The total amount of federal funds available for Group B claims shall not exceed the amount deposited into the Victims Compensation Fund;</li> <li>• The Special Master shall establish a payment system for Group B claims in accordance with the limitations in ATSSSA Sec. 405(b)(7) as established by Sec. 3(c)(2) of the legislation;</li> <li>• Within 30 days of enactment of the legislation, the Special Master shall develop procedures for providing compensation for Group B claims, including policies and procedures for presumptive award schedules, administrative expenses, and related internal memoranda;</li> <li>• Such procedures must ensure that total compensation and administrative expenses do not exceed the amount in the Victims Compensation Fund and give priority to claimants who are determined by the Special Master to be suffering from the most debilitating conditions to ensure that such claimants are not unduly burdened by such policies or procedures.</li> <li>• Within one year of enactment of the legislation and each year thereafter the Special Master shall reassess the agency policies and procedures and take any actions necessary to modify such policies and procedures.</li> </ul> </li> </ul>
<p><b>ATSSSA Sec. 406(e)</b> [49 U.S.C. § 40101 note] caps attorneys' fees at not more than 10% of an award made for a claim filed under the VCF, with specified exception. The Special Master may award a legal fee of less than 10% if he or she finds that the fee being charged in connection with a VCF claim is excessive.</p>	<p>No amending language.</p>
<p><b>ATSSSA Sec. 407</b> [49 U.S.C. § 40101 note] requires the Special Master to promulgate regulations within 90 days after enactment of the ATSSSA and to update these regulations within 180 days of enactment of P.L. 111-347.</p>	<p><i>Sec. 402(e), Regulations</i>, requires the Special Master to update program regulations within 180 days of enactment of the legislation.</p>

Prior Law	Current Law
No provision.	<p data-bbox="823 283 1435 388"><i>Sec. 402(f), Victims Compensation Fund</i>, establishes a new ATSSSA Sec. 410, creating a Victims Compensation Fund for the purposes of paying Group B claims and costs, consisting of the following amounts:</p> <ul data-bbox="823 403 1435 520" style="list-style-type: none"> <li data-bbox="823 403 1435 478">• Beginning on the day after the date in which all Group A claims have been paid in full, any money remaining from the \$2.775 billion allocated for such claims; and</li> <li data-bbox="823 493 1435 520">• Amounts appropriated to the fund.</li> </ul> <p data-bbox="823 531 1435 583"><i>Sec. 402(f)</i> appropriates for FY2017 \$4.6 billion to the Victims Compensation Fund to remain available until expended.</p> <p data-bbox="823 594 1435 644">Upon completion of all VCF payments, the Victims Compensation Fund will be permanently closed.</p>

**Source:** Prepared by the Congressional Research Service (CRS).

# Section-by-Section Summary of WTCHP and VCF Reauthorization Provisions

## WTCHP Reauthorization

### Section 301 of Division O of P.L. 114-113

*Section 301* provides that Title III of Division O of P.L. 114-113 shall be cited as the “James Zadroga 9/11 Health and Compensation Reauthorization Act.”

### Section 302 of Division O of P.L. 114-113

*Section 302(a)(1)(A)* requires deposits of federal funds into the WTCHP Fund for FY2016 and all subsequent FYs through FY2090 in the following amounts:

- FY2016: \$330 million;
- FY2017: \$345.61 million;
- FY2018: \$380 million;
- FY2019: \$440 million;
- FY2020: \$485 million;
- FY2021: \$501 million;
- FY2022: \$518 million;
- FY2023: \$535 million;
- FY2024: \$552 million;
- FY2025: \$570 million; and
- for each subsequent fiscal year through FY2090, the amount for the previous fiscal year increased by the percentage increase in the Consumer Price Index for all urban consumers (all items; United States city average) as estimated by the Secretary for the 12-month period ending with March of the previous year.

*Section 302(a)(1)(B)* eliminates the aggregate limit on WTCHP funding; provides that any funds deposited or identified for deposit into the fund before enactment of the legislation and that were not expended shall remain in the WTCHP Fund or be deposited into the WTCHP Fund; and provides that any amounts deposited into the WTCHP Fund remain available until expended through FY2090.

*Section 302(a)(2)* adds the following activities to the list of activities for which money deposited into the Fund may be used:

- The quality assurance program for monitoring and treatment delivered by the Centers of Excellence and any other participating health care providers (Public Health Service Act (PHSA) Sec. 3301(e));
- The WTCHP annual report (PHSA Sec. 3301(f));
- The WTCHP steering committees (PHSA Sec. 3302(b)); and
- Contracts with the Clinical Centers of Excellence (PHSA Sec. 3305(a)(1)).

*Section 302(a)(3)* adjusts the spending limits for certain activities as follows:

- Services to FDNY family members: amount for FY2016 equal to amount in effect at enactment of the legislation;
- The Advisory Committee: \$200,000 for FY2016;
- Education and outreach: \$750,000 for FY2016 and each subsequent fiscal year;
- Uniform data collection: amount for FY2016 equal to amount in effect at enactment of the legislation; \$15 million for FY2017;
- Research regarding WTC-related health conditions: amount for FY2016 equal to amount in effect at enactment of the legislation; and
- The WTC Health Registry: amount for FY2016 equal to amount in effect at enactment of the legislation.

*Section 302(b)* amends PHSA Sec. 3301, adding a new subsection (i) requiring the Comptroller General, within 18 months of enactment, to report on the effectiveness of:

- The quality assurance program established under PHSA Sec. 3301(e);
- Procedures to certify coverage of conditions as WTC-related health conditions; and
- Any actions taken to ensure receipt of collateral sources of payment.

In addition, within six years and six months of enactment, and every five years thereafter through FY2042, the Comptroller General is required to consult with and submit a report to Congress that assesses the WTC Program for this period including the objectives of the quality assurance program.

In addition this section amends PHSA Sec. 3301 by adding a new subsection (j) to explicitly authorize the HHS Secretary to promulgate regulations as necessary to administer the WTCHP; and a new subsection (k) stating that the WTCHP shall terminate on October 1, 2090.

*Section 302(c)(1)* amends PHSA Sec. 3305 to clarify that Clinical Centers of Excellence are contracted to, among other things, provide activities to retain individuals who are eligible for program benefits.

*Section 302(c)(2)* corrects the reference in current law to the privacy provisions (PHSA Sec. 3304(d)) in the contract requirements for Clinical Centers of Excellence.

*Section 302(d)* amends PHSA Sec. 3311(a)(4), the authority that limits the number of eligible World Trade Center (WTC) responders, by striking “through the end of fiscal year 2020” in the direction to the WTCHP Administrator to consider the sufficiency of funding when conducting enrollments.

*Section 302(3)(e)* amends current law for the process to add, or decline to add, a condition to the list of WTC-related conditions (PHSA Sec. 3312(a)(6)) as follows:

- *Section 302(e)(1)(A)* changes the deadline for the Administrator to act on a petition to add a health condition to the list from 60 days to 90 days.
- *Section 302(e)(1)(B)* changes the deadline for the Advisory Committee to provide a requested recommendation to the Administrator on a petition to add a health condition to the list from 60 days to 90 days.
- *Section 302(e)(1)(B)* also changes the deadline for the Administrator to publish a decision on a recommendation by the Advisory Committee in the *Federal Register* from 60 days to 90 days.
- *Section 302(e)(2)* requires that prior to taking any action on a petition to add a health condition to the list, the Administrator provide for an independent peer review of the scientific and technical evidence that would be the basis for such action.

- *Section 302(e)(2)* also requires the Administrator, within one year of enactment, to ask the Advisory Committee to review and evaluate the policies and procedures used to determine whether sufficient evidence exists to support adding a health condition to the list.
- *Section 302(e)(2)* also requires that prior to establishing any new policy or procedure to determine whether sufficient evidence exists to support adding a health condition to the list, the Administrator ask the Advisory Committee to review and evaluate such policy.
- *Section 302(e)(2)* also requires that within one year of enactment and at least every two years thereafter the Administrator seek recommendations from the Advisory Committee on individuals to conduct peer reviews.

*Section 303(f)* amends PHSA Sec. 3321(a)(3), the authority that limits the number of eligible WTC survivors, by striking “through the end of fiscal year 2020” in directing the Administrator to consider the sufficiency of funding when conducting enrollments.

*Section 302(g)* amends PHSA Sec. 3331(d) to extend the matching requirement for New York City to pay 10% of total WTCHP costs through FY2090 without any other modification of terms.

*Section 302(h)* revises the stated date in PHSA Sec. 3342 to require the Administrator to maintain a registry of victims of the WTC attacks that is at least as comprehensive as the registry maintained by the New York City Department of Health and Mental Hygiene in effect as of January 1, 2015.

## VCF Reauthorization

### Section 402 of Division O of P.L. 114-113

*Section 402(a)* adds the following definitions to Air Transportation Safety and System Stabilization Act (ATSSSA) Sec. 402:

- *WTC Program Administrator* is defined to have the same meaning given such term in PHSA Sec. 3306;
- *WTC-related physical health condition* is defined to have the same meaning given such term in PHSA Sec. 3312(a) including the conditions listed in PHSA Sec. 3322(b), but does not include:
  - a mental health condition described in PHSA Secs. 3312(a)(1)(A)(ii) or 3312(a)(3)(B);
  - any mental health condition certified under PHSA Sec. 3312(b)(2)(B)(iii), including certifications under PHSA 3322(a);
  - a mental health condition described in PHSA Sec. 3322(b)(2); or
  - any other mental health condition.

In addition, this section makes the following changes to the definitions provided in ATSSSA Sec. 402:

- the definition of *economic loss* is changed to include “past out-of-pocket medical expense loss” and excludes “future medical expense loss;” and
- one of the four definitions of *9/11 crash site* is changed from:
  - “any area contiguous to a site of such crashes that the Special Master determines was sufficiently close to the site that there was a demonstrable risk of physical harm resulting from the impact of the aircraft or any subsequent fire, explosions, or

- building collapses (including the immediate area in which the impact occurred, fire occurred, portions of buildings fell, or debris fell upon and injured individuals);” to
- the current definition provided in the VCF program regulations at 28 C.F.R. § 104.2(g), specifically, “the area in Manhattan that is south of the line that runs along Canal Street from the Hudson River to the intersection of Canal Street and East Broadway, north on East Broadway to Clinton Street, and east on Clinton Street to the East River.”

*Section 402(b)* changes the purpose of the VCF to include:

- the provision of “full” compensation to covered persons; and
- the provision of compensation to any person who was physically injured or killed as a result of the “rescue and recovery efforts during the immediate aftermath” of the September 11, 2001, aircraft crashes.

*Section 402(c)(1)* changes the current filing deadline of five years from the date the updated VCF program regulations were promulgated pursuant to P.L. 111-347, to five years from the date of enactment of the legislation; and creates the following two new groups of VCF claims as determined by a system developed by the Special Master:

- Group A: the Special Master postmarks and transmits a final award determination (a letter indicating the total amount of compensation without regard to any ratable reduction) to the claimant before the date of enactment of the legislation.
- Group B: all other claims.

*Section 402(c)(2)* provides the following limitation on Group B claims:

- the total amount of compensation based on non-economic loss may not exceed:
  - \$250,000 in the case of any type of cancer; and
  - \$90,000 if there is no type of cancer;
- the determination of economic loss shall be made using the applicable methodology described in current VCF program regulations (28 C.F.R. §§ 104.43 or 104.45) as in effect on the date of enactment of the legislation;
- in considering annual gross income for the purposes of determining economic loss the Special Master shall for each year of loss limit the annual gross income of the claimant or decedent to \$200,000;
- for the purposes of considering annual gross income for the purposes of determining economic loss, the term gross income will have the same meaning as provided in Section 61 of the Internal Revenue Code; and
- applies the collateral source reduction to payments made on Group B claims.

*Section 402(c)(3)(A)(i)*: applies the provision that in order to be eligible for the VCF a person must have been treated by a medical professional for his or her injury within a reasonable time to Group A claims.

*Section 402(c)(3)(A)(ii)* changes the reference date for the VCF filing periods from the date of the initial VCF regulations to the date regulations were updated pursuant to P.L. 111-347 to correct an apparent drafting error in current law.

*Section 402(c)(3)(A)(iii)* adds the following requirements for the payment of Group B claims:

- the Special Master, with assistance from the WTC Administrator as necessary, must determine based on the evidence presented that a claimant has a WTC-related physical health condition under the WTCHP; and
- the Special Master, with assistance from the WTC Administrator as necessary, must determine based on the evidence presented that a decedent suffered from a condition that was or would have been determined to be a WTC-related physical health condition under the WTCHP.

*Section 404(d)(1)* provides that the payment authority (budget authority in advance of appropriations acts capped at \$2.775 billion) provided in ATSSSA Sec. 406A(b) only applies to Group A claims.

*Section 404(d)(2)* provides the following payment processes for Group A and B claims:

- Group A:
  - The total amount of federal funds available for Group A claims is \$2.775 billion; and
  - In the case of a claim that was ratably reduced, the Special Master shall as soon as practicable after enactment of the legislation, pay the difference between the amount the claimant would have been paid without regard to the reduction and the amount actually paid; and
- Group B:
  - The total amount of federal funds available for Group B claims shall not exceed the amount deposited into the Victims Compensation Fund;
  - The Special Master shall establish a payment system for Group B claims in accordance with the limitations in ATSSSA Sec. 405(b)(7) as established by Sec. 3(c)(2) of the legislation;
  - Within 30 days of enactment of the legislation, the Special Master shall develop procedures for providing compensation for Group B claims, including policies and procedures for presumptive award schedules, administrative expenses, and related internal memoranda;
  - Such procedures must ensure that total compensation and administrative expenses do not exceed the amount in the Victims Compensation Fund and give priority to claimants who are determined by the Special Master to be suffering from the most debilitating conditions to ensure that such claimants are not unduly burdened by such policies or procedures.
  - Within one year of enactment of the legislation and each year thereafter the Special Master shall reassess the agency policies and procedures and take any actions necessary to modify such policies and procedures.

*Section 402(e)* requires the Special Master to update program regulations within 180 days of enactment of the legislation.

*Section 402(f)* establishes a new ATSSSA Sec. 410, creating a Victims Compensation Fund for the purposes of paying Group B claims and costs, consisting of the following amounts:

- beginning on the day after the date in which all Group A claims have been paid in full, any money remaining from the \$2.775 billion allocated for such claims; and
- amounts appropriated to the fund.

This section appropriates for FY2017 \$4.6 billion to the Victims Compensation Fund to remain available until expended with the fund to permanently close upon completion of all payments.

# Plain Language Summary of WTCHP and VCF Reauthorization Provisions

## WTCHP Reauthorization

P.L. 114-113 reauthorizes the WTCHP through the end of FY2090, keeping the current funding structure in which the federal government contributes 90% of program costs with 10% contributed by New York City. Prior to reauthorization, the WTCHP was authorized through FY2016. Increasing federal funding levels for fiscal years through 2025 are provided with a cost of living adjustment to funding levels for fiscal years after 2025. In addition, the process used by the WTCHP Administrator to determine if additional medical conditions should be covered by the program is changed, with the addition of a new requirement that, prior to adding a health condition to the list of covered conditions, the Administrator must provide for an independent peer review of the evidence supporting such a decision.

## VCF Reauthorization

P.L. 114-113 reauthorizes the September 11<sup>th</sup> VCF such that the deadline for submitting claims is extended through December 18, 2020, from the previous deadline of October 3, 2016. Claims will be divided into two groups: Group A claims will consist of those in which a determination was made before enactment of P.L. 114-113; Group B claims will consist of all future claims. For Group A claims, there will be no changes to the VCF eligibility rules and these claims and associated expenses will be paid from the \$2.775 billion originally allocated for the VCF.

Eligibility for Group B claims will be limited to those with medical conditions on the list of conditions covered by the WTCHP. In addition, when determining the amount of benefits for Group B claimants, economic losses will be capped at the lesser of the annual income of the person or \$200,000 and non-economic losses will be capped at \$250,000 for cancer cases and \$90,000 for other cases. P.L. 114-113 appropriates \$4.6 billion to pay for Group B claims and associated expenses.