



1. I've heard the VCF is running out of money. What is the situation?

A. On February 15, 2019, the Special Master published the VCF's Seventh Annual Status Report and Third Annual Reassessment of Policies and Procedures. The Special Master is required by law to reassess the VCF's policies and procedures each year to ensure that the VCF does not pay out more money than the total amount of its funding. As explained in the report, after completing this year's reassessment, the Special Master determined that there is not sufficient funding to pay all pending and projected claims under current VCF policies and procedures. As a result, the Special Master is required to reduce awards to make sure that the VCF does not run out of money. These reductions take effect for any award letter that is dated on or after February 25, 2019. For details on these reductions, and to read the Special Master's message regarding the determination of funding insufficiency, please visit <https://www.vcf.gov/fundinginsufficiency.html> or call the VCF Helpline at 1-855-885-1555. The Department of Justice and the VCF also will work with the Administration and Congress to ensure every appropriate consideration is given to claims as soon as possible.

2. What does this mean for my claim?

A. The VCF does not have enough funding to continue to compensate all pending and projected claims in the same way in which awards are currently calculated. In determining what to do about this funding shortfall, the Special Master wanted to make sure of several things: (1) that funding be prioritized for awards for those with the most debilitating conditions; (2) that every individual suffering from a physical health condition as a result of the events of September 11th receive at least some compensation; and, (3) that at least some allowance was made for claimants who had already filed their claims. With these goals in mind, effective February 25, 2019, the VCF will be reducing awards by the following percentages:

- For any claim or amendment submitted on or before February 1, 2019, the calculated economic and non-economic loss amounts before subtraction of offsets will be reduced by 50%.
- For claims or amendments submitted on or after February 2, 2019, the calculated economic and non-economic loss amounts before subtraction of offsets will be reduced by 70%.

In both cases, collateral offsets, as required by law, will be subtracted at their full value.

3. What constitutes the filing of a claim or amendment for purposes of determining which percentage reduction will apply? (Added: March 21, 2019)

A. Consistent with the VCF's long-standing policy, a claim is considered filed once the complete claim form for eligibility and compensation has been submitted. An amendment is considered filed on the date the amendment was submitted. In cases where an amendment is filed but an initial determination has not yet been issued on the underlying claim, or there is a pending amendment with an earlier submit date, the VCF considers the date the underlying claim or prior amendment was submitted as the "controlling" date. For example, if a claimant submitted two compensation amendments – one in June 2018 and one in March 2019 – and the VCF has not issued a decision on the June 2018 amendment, the earlier June 2018 date will be used to determine which percentage reduction applies for both amendments; in this case, a 50% reduction.

4. Will I be able to appeal the decision?

A. Yes. As is our current process, you will still have the right to appeal a compensation decision as long as you do so within the required 30 days of receiving your award letter. Eligibility appeals and compensation appeals for economic loss will continue without change.

For appeals involving non-economic loss, because we must make the best use of our limited



resources, we will schedule appeal hearings only for claimants with the most debilitating conditions, including cancer, interstitial lung diseases, and sarcoidosis. This means that, for appeals involving non-economic loss awards for less severe conditions, the VCF will defer any requested appeal hearing until after December 18, 2020. Claimants whose hearings are deferred will not have to wait for their reduced value award – that will be paid as soon as the 30-day appeal window has closed. Detailed information about appeals and hearings is available in the VCF [Policies and Procedures](#) document, which can be found under “Forms and Resources” on the VCF website.

5. What if I have already filed my appeal and am waiting for a hearing?

A. Appeal determinations for appeals filed on award letters dated prior to February 25, 2019, will not be subject to a reduction, regardless of when the hearing is held. If changes are made to an award following an appeal hearing on these claims, they will be made using the unreduced value and calculations.

6. When do the changes go into effect?

A. Reductions made due to funding insufficiency are effective as to any award letters dated on or after February 25, 2019.

7. I received my award letter before the reductions became effective, i.e., before February 25, 2019. Will my decision be rescinded or reduced? (Updated: March 21, 2019)

A. No.

8. I received my award letter before February 25, 2019, but the letter stated that no payment could be issued until certain missing information was provided (the VCF refers to these letters as “Missing Information - Loss Calculation” letters). Will my award be reduced once I submit the necessary documents? (Added: March 21, 2019)

A. No. If you were notified in writing of your award amount and the letter was dated before February 25, 2019, that award will not be reduced even if the VCF issued a Missing Information - Loss Calculation Letter. Once the requested information/documentation has been submitted, the VCF will send you a more detailed award letter, but the amount of the award will not change.

9. What about claims that moved to “Determination Made: Processing” status in the online system before February 25, 2019, but the award letter was issued on or after February 25, 2019? Will that determination be reduced? (Added: March 21, 2019)

A. Generally, no. In fact, there will be a limited number of claims that move to “Determination Made: Processing” status on or after February 25, 2019, that will not be reduced. For example, claims that were approved for expedited processing *prior to* February 25, 2019, may not move to “Determination Made: Processing” status until February 25, 2019, or later, but these claims will not be reduced. It is possible, however, that in a limited number of situations, a claim that moved to “Determination Made: Processing” status prior to February 25, 2019, may be reduced. This might occur, for example, if the VCF is made aware of an offset that was not deducted from the award and the award needs to be recalculated. Every award letter issued after February 25, 2019, will include language that advises you whether or not the award has been subject to a reduction due to the Special Master’s determination of funding insufficiency. If you appeal an award that was not reduced due to the determination of funding insufficiency, as a general rule, if changes are made to the award following your hearing, they will be made using the unreduced value and calculations



10. What about claims that are already in the system and under review?

A. Claims filed on or before February 1, 2019, will be reduced, but they will be reduced at a lower rate (50%) than claims filed on or after February 2, 2019, which will be reduced by 70%. February 1, 2019 was the date identified in the Notice of Inquiry as the implementation date for any changes made due to a determination by the Special Master that funding would be insufficient.

11. If the VCF is reauthorized, will I be able to amend my claim for additional compensation?

A. Under current law, any amendment to your claim must be filed by December 18, 2020, which is the current statutory deadline to file any claim or amendment.

12. Will you tell me how much my award would have been if it was decided before these changes went into effect? (Updated: March 21, 2019)

A. No. The VCF will not communicate the calculated value of the award before the reduction. For economic loss awards, the loss detail addendum will include, as it currently does, the inputs used to calculate economic loss, including the earnings basis, the percentage of disability, and the start of loss date.

13. If you get more money will I get more money?

A. Under current law the VCF's funding is limited to \$7.375 billion. We cannot exceed that appropriated amount, and we cannot speculate about whether we will receive additional funding. The Department of Justice and the VCF will work with the Administration and Congress to ensure every appropriate consideration is given to claims as soon as possible.

14. Where can I get details about these reductions?

A. The best resource for additional information is the VCF website (<https://www.vcf.gov/fundinginsufficiency.html>). Information has been posted to our website that explains the reductions made due to the Special Master's determination of insufficiency of funding. You can also contact our Helpline at 1-855-885-1555 for any questions you have about your claim.

15. Are these reductions going to prolong the review process?

A. We don't expect any delays in issuing awards as a result of these changes. One of our primary objectives in designing these changes was to make sure that they would cause as little interruption to claim processing as possible. The VCF team is dedicated to moving claims through the process as quickly and efficiently as possible. You can help speed the processing of your claim by responding in a timely manner to our requests for missing information.

16. Other than the VCF not running out of money, is there any benefit to this plan?

A. Yes, there are two positive outcomes from this plan. As we studied how best to respond to the determination of funding insufficiency, one of our primary goals was to be sure that all claimants filing before the statutory deadline, December 18, 2020, will receive some compensation for their suffering, subject to applicable offsets, as required. This was very important to the Special Master, and the current plan takes this into account.

Also, the publication of the Notice of Inquiry prompted people who are suffering to file their claims, perhaps sooner than they otherwise might have. The deluge of new claims received in the last four months allows us to update projections to more accurately reflect the number of claims we can expect, and plan accordingly.



17. Were the comments you received from claimants and law firms on the Notice of Inquiry taken into consideration?

A. Absolutely. We were very grateful to receive significant input from claimants, from the general public, and from law firms that represent the vast majority of VCF claimants. And after thoroughly evaluating every potential available option, the Special Master *agreed* with the majority of those who responded to the Notice of Inquiry that the fairest way to implement the required reduction of awards is to do so across the board, applying a percentage reduction to all awards.

18. Do these reductions ensure that you will have enough funding for the rest of the claims you receive?

A. As required by statute, we will continue to periodically assess the number of claims coming in versus the amount of money left, and we will continue to advise the community if additional reductions are needed. The current reductions were calculated based on our recent projections (see Section 9 of the VCF's Seventh Annual Status Report), which show that all eligible pending claims, as well as those projected to be filed by December 18, 2020, will receive some compensation. We are required by law to do periodic reassessments and we will continue to do them on a regular basis to monitor our funding, as well as to see if the assumptions in our projections are holding true, or if changes are needed. The Department of Justice and the VCF also will work with the Administration and Congress to ensure every appropriate consideration is given to claims as soon as possible.

19. In the Notice of Inquiry it said that if a claim was filed before the announcement, it wouldn't be impacted by any changes. Has that changed?

A. Unfortunately, yes, that has changed. That was the VCF's intention at the time that we published the notice, but the dramatic increase in the number of claims that have been filed since that time, along with the number of pending claims, and updated projections data, has made that plan impossible.

Until September 2018, we were averaging about 700 new claims a month – that is roughly 8,400 claims per year. In January 2019 – a one *month* period – we received over 4,800 compensation forms. This followed much higher numbers in October, November, and December 2018 as well. In just four months – October 2018 through January 2019 – we received over 8,100 new claims, which is almost as much as we usually get in a year. While we are grateful that people who need compensation are coming forward, this influx of claims has had a dramatic impact on our projections, and therefore on just how far and across how many claims our limited funding can go.

We recognize that many of the over 8,100 claimants who filed their claims in the four months since the publication of the Notice of Inquiry did so under the impression that they would be unaffected by any changes. But the very fact that over 8,100 individuals *filed* claims in those four months has made that impossible.

20. How did this happen?

A. A lot of factors contributed to this situation. At the most basic level, the VCF was authorized with a limited amount of funding, but the population of potential claimants for that funding has always been an unknown variable. That is why, under the law, the Special Master is required to periodically reassess VCF policies and procedures to ensure two things: (1) that the VCF prioritizes compensation to those claimants who suffer with the most debilitating conditions, and (2) that the VCF does not exceed the amount of available appropriated funds.

As we make these reassessments, we have seen that, in the past two years, the number of claims has risen sharply, and the amount of associated awards has risen as well. This is because more severe illnesses are impacting the 9/11 community and because more people have become aware of the fund and the benefits that it can provide. At the same time, we have put claim review process



improvements in place that have sped up the rate of determinations, and thereby, the rate at which funds are being expended.

Thus, based on our ongoing assessments, in August 2018 we began talking about the *potential* of a funding insufficiency. There was a significant amount of press coverage, and in early October we published our Notice of Inquiry, seeking public comment on solutions to this potential problem. We have made every attempt to be as transparent and proactive as possible. But following the publication of the Notice of Inquiry, over 8,100 new claims were filed in just four months. For perspective, that is almost as many claims as we usually get in a year.

There was no way to anticipate these types of increases, but, by doing what we are required to do by statute – regularly looking at the data and consulting with the World Trade Center Health Program and other partners – we have recognized the situation and dealt with it as the law requires. The fact of the matter is, the VCF is doing what it is set up to do. We are getting compensation to those who need it. But because there is more need than was anticipated, and because we have been meeting those needs more quickly than was expected, we are going through the available funding faster than expected as well.

21. I heard you were also making other changes that are unrelated to the funding insufficiency. What are those changes?

A. In addition to adopting the reductions due to insufficient funding to compensate all pending and projected claims, the VCF is also making several policy changes that we have determined constitute better, sounder, policy. These changes are not made due to the determination of funding insufficiency, but are done in continuation of the VCF's long tradition of refining and clarifying our existing policies to make sure that the VCF is operating consistent with our guiding principles, i.e., in a manner that is fair to claimants, consistent with law, and accountable to the taxpayers. Details on the policy changes can be found in the VCF's Policies and Procedures document.

22. Are there any types of loss that will not be impacted by the reductions? (Added: March 21, 2019)

A. Yes. There are certain types of losses that are not subject to reductions. First, on wrongful death claims, the \$250,000 non-economic loss for the victim's eligible death and the \$100,000 awarded on account of the victim's spouse and any dependents, which are amounts specified in the VCF's regulations, will not be reduced. In addition, reimbursement for out-of-pocket costs, such as burial expenses and medical expenses (where reimbursement is otherwise consistent with VCF policy), will not be reduced.

23. Why is the VCF subtracting the full value of collateral source offsets when calculating the reduced award, rather than a proportionate amount? (Added: March 21, 2019)

A. By statute, the VCF is required to offset (that is, subtract) from the calculated loss the amount of compensation that you have received, or are entitled to receive, from certain collateral sources as a result of the injury or condition that is eligible for compensation. Collateral sources may include life insurance, pension funds, death benefit programs, settlement payments from September 11th-related lawsuits, and payments by federal, state, or local governments related to the eligible injury or condition. Because the VCF is required by law to offset all collateral benefits received, it cannot reduce the value of the offsets, even if the calculated economic and non-economic loss values are being reduced.

The VCF recognizes that subtracting the full amount of the applicable offset may result in an effective reduction percentage greater than 50% or 70%, depending on when the claim or amendment is filed. It is important to note that not all offsets apply to all awards; instead, offsets differ depending on the type of loss being awarded. For example, if an individual is claiming only non-economic loss, any disability payments related to an eligible condition that the individual is receiving or is entitled to receive



will not be offset because they only apply if lost earnings are being awarded. Section 2.5 of the VCF “Policies and Procedures” document explains how and when offsets are applied to an award. The Special Master also has discretion to issue an unreduced award in limited cases where the circumstances warrant an exception to the standard reductions.

Below are two hypothetical examples of how offsets would be applied to an award that has been impacted by the reductions due to insufficient funding. The first example is a personal injury non-economic loss only claim where the claimant settled a 9/11-related lawsuit. The second example is a personal injury claim with a future lost earnings award where the claimant is receiving SSA disability benefits.

Example 1:

PERSONAL INJURY NON-ECONOMIC LOSS AWARD – no reduction

Calculated Non-Economic Loss (based on severity of the conditions)	\$90,000.00
Lawsuit Settlement Offset	- (\$35,000.00)
TOTAL Award	\$55,000.00

PERSONAL INJURY NON-ECONOMIC LOSS AWARD – with 50% reduction

Calculated Non-Economic Loss (based on severity of the conditions)	\$45,000.00
Lawsuit Settlement Offset	- (\$35,000.00)
TOTAL Award	\$10,000.00

Example 2:

PERSONAL INJURY ECONOMIC LOSS AWARD – no reduction

Calculated Economic Loss	\$124,500.00
Lost Earnings-Related Offsets (e.g. Social Security Disability)	- (\$62,000.00)
Calculated Non-Economic Loss (based on severity of the conditions)	\$90,000.00
Lawsuit Settlement Offset	- (\$35,000.00)
TOTAL Award	\$117,500.00

PERSONAL INJURY ECONOMIC LOSS AWARD – with 50% reduction

Calculated Economic Loss	\$62,250.00
Lost Earnings-Related Offsets (e.g. Social Security Disability)	- (\$62,000.00)
Calculated Non-Economic Loss (based on severity of the conditions)	\$45,000.00
Lawsuit Settlement Offset	- (\$35,000.00)
TOTAL Award	\$10,250.00