



The following topics were discussed during a conference call held with law firms on June 16, 2021. The meeting covered important updates and reminders about the VCF.

- **General Announcements:** Despite all the challenges of 2020, the VCF ended the year having decided more claims and awarded more dollars than in any year in our history. We have maintained that momentum going into the first half of 2021.

At the same time, the VCF continues to experience very significant claim filing volume. In each of the last three months, the VCF has received nearly 1,000 claims, with an additional several hundred amendments also submitted. Our pending claims backlog, which was below 10,000 in the latter part of 2020, is once again nearing 13,000 claims, even as the number of claims we decide each month has increased. We have finally started to hit the target of deciding claims within 12 months of when they were filed, but we can only keep this momentum going if we receive claims that are complete when they are submitted. We need to avoid picking up claims multiple times, and we need timely responses to any requests for missing information, if we are going to continue our forward momentum.

- **July 29 Registration Deadline:** As we near the two-year anniversary of the Permanent Authorization being signed into law, we are nearing the end of the two-year registration deadline “grace period” that we announced in December 2019. The July 29, 2021, registration deadline was intended to address the concerns about claimants who missed prior deadlines because they did not know that the VCF existed or was open to them, did not know that their conditions (or the death of their loved one) was related to 9/11 exposure, or did not realize that they were eligible to file a VCF claim or that the VCF would remain open beyond the original 2020 end date. We said then that the grace period was a one-time-only chance afforded by the Permanent Authorization Act and it presented a tremendous opportunity to find every possible claimant and get them registered. Our registration and claim filing numbers continue to outpace expectations, and we can only assume that this is in part due to your efforts to get claimants registered and the increased media attention about the deadline.

As July 29, 2021, approaches, we are cognizant of the fact that the deadline has engendered a considerable amount of confusion about who it applies to and who it does not, and we know that there is some interest in extending it. The Special Master has considered these requests, but has determined that the July 29, 2021, deadline will **not** be extended. The VCF does not believe that it is necessary to do so, and the confusion that would be engendered by extending the grace period again is not worth the very minimal impact it might have. The July 29, 2021, deadline was intended to allow those with older certifications (before July 2019) who might have missed earlier deadlines to register. At this point, VCF registrations, which number close to 120,000, are nearly double the number of WTCHP-certified members; given those statistics, the number of those already certified who have not already registered is likely to be quite small. Moreover, as was the case prior to the creation of the “grace period,” the VCF will continue to review late-filed registrations, usually on appeal, to determine if there are extenuating circumstances that make it equitable to toll or waive the deadline in individual cases.

Although the Special Master is not extending the grace period, the VCF is making a change to the timeliness policies with respect to deceased claims to make it more analogous to the personal injury claim registration deadline. In keeping with the statutory language that requires claims to be filed within two years of when a claimant knows both that they have a 9/11-related condition and that they are eligible to file a claim, once the July 29, 2021, grace period ends, a deceased claim will be timely if it is registered within two years of the latest of the following dates:



- (1) The date of certification of the condition that caused the death, or
- (2) The date of death, or
- (3) If the condition was not certified, the date the condition is verified by the VCF as 9/11-related.

As has always been the case, a timely personal injury registration for the victim will make the deceased claim timely, regardless of when the deceased claim is registered.

- **Appeals Scheduling and Timing:** The VCF has transitioned to virtual hearings, and there is currently no plan for a return to in-person hearings. You should continue to instruct claimants that all eligibility hearings will be on video, and all compensation hearings will be by phone, with limited exceptions at the discretion of the VCF based on an unusually compelling circumstance. All hearings needing an interpreter will be by video, regardless of subject.

With regard to timing and scheduling of appeals, we continue to work through a significant backlog due to the pandemic. In the past several months, we have significantly increased the number of hearings held weekly, but a backlog remains. Please continue to set expectations for claimants that there will be a gap in time between submission of the appeal request and the hearing date. If your claimant's circumstances change while waiting for an appeal hearing to be scheduled such that expedited review may be warranted, please follow the procedures to request expedited status. The team continues to make all efforts to schedule expedited hearings as quickly as possible.

- **Hearing logistics:** Below are some tips and reminders that will help phone and video hearings run smoothly:
 - Remind all participants in the video hearings to change the name displayed in the Zoom room to their name. The VCF understands that the claimant and their witnesses may be on someone else's device, or that they may be unfamiliar with the technology. Before anyone is let into the hearing, the Hearings Panel confirms the attendees with the court reporter. If the individual is listed in the virtual waiting room as 'iPhone' or under someone else's name (for example, a spouse or child), we will not be able to let them in until we can confirm who it is. This is done for the privacy of the claimant so it is critical that we know exactly who is waiting to participate.
 - Continue to practice and test the technology for both the claimant and their witnesses in advance of the hearing. The VCF needs to be able to see and/or hear everyone clearly. Also remind your participants that they should be in a private location during the hearing. We understand that they are joining in the middle of their day, but logging in from the side of highway, in a car, or from a job site is distracting and risks compromising the claimant's privacy during the proceeding as well as the effectiveness of their testimony.
 - We recognize the challenges your claimants may have in virtual settings and want to be sensitive to the needs of our claimant population. Please notify us of any compelling issues for which some type of accommodation may be needed. Include any known issues and any requested accommodations in your appeals package. The VCF will review the request and reach out to discuss next steps. **Please note that requests for language interpretation must be made when you submit the appeal brief.** We cannot accommodate last minute requests for interpreters.



- While the VCF is not able to accept new exhibits during the hearing, you may use the screen sharing capability to have participants view, authenticate, and discuss documents previously submitted. The VCF will not be able to share those documents for you.
- Hearing Preparation: You should use the appeal brief preparation time to discuss with your client details relating to his or her presence so that you can identify all potential witnesses in the Pre-Hearing Questionnaire, include any affidavits from any “new” witnesses, and address any discrepancies between details provided in the claim form submission and information identified during your appeal brief preparation. This is also the time to attempt to obtain employer documentation, union records, residence records, etc., to support the appeal, if that was not pursued for initial claim submission. To the extent any new information provided with your appeal brief may “cure” the issues leading to denial, the VCF will convert the appeal to an amendment. For eligibility appeals, conversion of your appeal to amendment, in most cases, will not delay decision on the claim. To the contrary, because eligibility review is prioritized based on the compensation submit date, and given the current backlog in scheduling eligibility hearings, conversion of your appeal to amendment when there is new information available relating to presence may actually speed the decision on the claim.
- Hearing Witnesses. The VCF expects that all hearing participants will be identified and confirmed at least one week before the hearing. If witness availability changes or if there is a new witness that comes to light between the time you submit your brief and the hearing, submit an updated Pre-Hearing Questionnaire within at least one week of the hearing date. Do not contact the VCF to alert us to the addition of witnesses or the inability of previously identified witnesses to appear at hearing. It is an administrative burden on the VCF to field emails and phone calls about witnesses. The best way to notify us of changes to the witness line-up is to upload an updated Pre-Hearing Questionnaire with all participants (or potential participants) within a week of the hearing. You are also encouraged to provide a Witness Presence Statement for any new witnesses at that time, if you did not already do so. If someone you identified on the Pre-Hearing Questionnaire is unable to attend the hearing, you can inform the hearing panel of that fact at the start of the hearing.

The VCF strongly encourages you to make all affiants available to participate at presence hearings. Do not assume that the affidavits submitted with the claim were sufficient, and that testimony from those affiants would not be helpful to your client. If the claim was denied, it is important to come prepared to make the strongest argument possible. We understand that appearance by affiants at a hearing is ultimately outside of your control, but it is expected that you will do your best to make affiants available.

- Compensation appeals: If you are appealing the non-economic loss award, the explanation of appeal must contain a roadmap and argument regarding the use of medical records in determining severity of a condition. Providing several hundred pages of medical records without selecting relevant records and providing a roadmap will result in the VCF not reviewing those records as part of the appeal package.
- **Client Authorizations directing payment to Law Firm Account/Client Authorization Forms**: The VCF has always required a Client Authorization document from your firm with the claimant’s original signature authorizing payment on the claim to your law firm account. We are preparing to implement a new VCF Client Authorization form to be used in place of the individual law firm documents used to date. The benefits of standardizing this form include:



- Simplifying completion of an accurate form by requesting only the required information we need in order to process a payment.
- Simplifying our review of these documents for sufficiency as all forms will be uniform.
- Placing responsibility for data accuracy on the law firm. The form includes a section where a representative of the law firm will attest to the accuracy of the data on the form, including verification that it matches to the information in the online claims system – such as the spelling of the claimant’s name, and the correct SSN.
- Removing the requirement for the original version of the form to be sent to the VCF. As long as the law firm completes the attestation section – including attesting that the firm has the originally signed version on file – you will be able to upload a copy of the signed form to the online claim because the firm will now retain the physical document and be responsible for authentication of originality.

Once these new forms are in use, the VCF will no longer call law firms to correct inaccuracies or incompleteness of the forms, but will instead send Missing Information letters if forms are insufficient.

We will notify you of this change in a general distribution email when the new PDF fillable form is ready for use, and the email and form will include instructions for locating the form on our website and properly completing it.

You will not need to submit this form for any claims for which you have already submitted a Client Authorization. If the VCF reviews the older authorizations and find deficiencies, we will still continue to call you to try and correct the data where possible given that we know the claimant has already signed the original version. But, once the new form is available, it **must** be used for any new client authorizations you submit going forward and we will stop accepting the individual law firm versions. We **do** require originals for any of the client authorizations you have or will submit before this new form is available.

- **Document “Misfiles” and protection of Personally Identifiable Information (PII):** Document misfiles continue to create significant problems that are highly visible within the Department of Justice and our Justice Security Operations Center. This includes documents uploaded to claims that either do not belong to that claim at all (referred to as “misfiles”), or belong to the claim BUT contain another claimant’s information in addition to information about the correct claimant.

We have had two incidents recently that are categorized by DOJ as PII breaches and both were caused by law firms. In the first, two affidavits were uploaded to a claim that were for another claim entirely. Both affidavits contained not just another victim’s information, but the personal information for the affiants, as well, including contact information and work history. ***Because the claimant to whose claim these were uploaded had online access to the claim, the individual was able to view these documents in their entirety.*** We were required to send letters to all involved individuals notifying them of the breach.

The second recent issue was a letter uploaded to a claim about that claimant’s hearing, which included information about a second claimant’s hearing as both are represented by the same firm. Again, the claimant had access to the claim and was able to see the letter.

Consider these important reminders:

- VCF claim numbers are considered by DOJ to be PII. As are names, SSNs, and dates of birth – a claim number alone is considered sensitive information.



- Many of your clients have online access to their claims, and if you upload something to the wrong claim, they will be able to see it if they log in and look. This is not an issue with their having access – this is an issue with what you are uploading to the claim.
- The online system requires you to review information and click an extra button every time you upload a document. By clicking “confirmed,” you are stating that you have confirmed the document belongs to the selected claim **AND** that it does not contain banking information or the personally identifiable information of an individual who is not associated with the claim. The expectation is that with every document you upload, you are reading the statement, confirming that the document is being properly uploaded, and only clicking “confirmed” when appropriate.

If you recognize that you have uploaded a document to the incorrect claim, or inadvertently included information that does not belong to the claim in which a document was uploaded – you need to CALL the VCF immediately upon realizing the mistake. DO NOT upload a letter to inform the VCF about the mistake. CALL our law firm liaisons or the Helpline.

We are taking several steps to resolve this problem:

- Going forward, if we identify an actual breach that was caused by your firm, we will be asking you to assist in notifying the impacted claimants (your clients) and explaining to them that your actions, not the VCF’s, caused the data to be exposed. You will need to confirm back to us in writing that this notification has occurred.
- In addition, we are now generating monthly reports identifying specific law firms and online system users who are uploading misfiled documents (as our team finds them during review of the claim). Starting later this summer, we will provide this data to firms on a monthly basis **and will cut off individual user access if we see repeat offenders. In addition, any new instances that occur after June 16, 2021 (any misfiles or breaches that are uploaded after June 16) will be immediately assessed – once found – for possible disabling of the user’s account.**

The VCF strongly recommends that each firm consider implementing standard document naming conventions that include the claim number to help reduce the risk of uploading a document to the wrong claim. If the document names includes the claim number and/or the victim’s name, then, when the confirm upload box appears, you will immediately be able to tell whether or not you are uploading the correct document to the correct claim.

We recognize that there may be certain circumstances where it is helpful to the determination of a claim for you to call the VCF’s attention to something that happened in a different claim. In those limited circumstances, please provide your letter or other documentation cross-referencing other claims to our law firm liaisons, and we will upload it to the correct claim for the VCF’s viewing but in a manner that will not be visible on the Claimant portal so as to protect the privacy interests of those referenced in the documents you provide.

- **Update to Public Statistics Reports:** The VCF is working on several new reports for our website to help explain to the public why the process can take longer than expected, which is a question we continue to be asked. The following reports will be added to the public reporting this summer:
 - Percentage of claims deactivated because the minimally required documents were not filed at claim submission. Almost 40% of claims are deactivated for this reason. Please do not submit a claim if these basic documents are not available and ready to upload or send in hard copy as required. The VCF recognizes that because we prioritize claim review based



on submission date, there is an incentive to submit an incomplete claim to lock in that date. Filing a claim before it is complete, however, diverts resources and slows down claim processing. You should not submit a claim until the minimally required documents are available – including the Exhibit A already in the mail to the VCF. If this problem does not improve, we will change our process to set the prioritization date based on when the VCF determines the claim is complete and not based on the date it is submitted.

- Percentage of claims placed on hold for Missing Information once in Substantive Review:
This report will only include claims placed on hold because we are waiting for information from you as a result of an incomplete or insufficient submission.

As part of these new statistics, but not to be made public, we will also have a breakdown by law firm and comparison by firm to the overall average across all firms. The public reporting will be aggregated across all claims, with a possible distinction between represented and unrepresented, but we will provide each firm with its statistics for comparison. We are also looking to generate reports showing the number of times your clients call our Helpline, although we will only do this if we can isolate the reason for the call – meaning that we are happy to take these calls as long as it is not because claimants cannot get an answer from you.

We are working to determine the best way to share this data publicly and with you, and will provide updates about when these statistics will be available.

We encourage you to look at the timeline published each month on our website that provides information about which claims are being picked up for review based on their compensation submit date. Use this information to get ahead of us by reviewing claims for sufficiency and completeness that have not yet come under review, including supporting documents, and fix any issues before we begin our review of the claim. You should only **submit new claims in the online system that are complete and sufficient**, meaning the claim form and the individual supporting documents are included.

- **Law Firm Training:** Beginning later this summer, the VCF will launch a series of comprehensive presentations based on the trainings our new claim reviewers receive when they join the VCF, but specifically tailored to attorneys representing claimants. The sessions are designed to set a baseline of knowledge for law firm staff, to help ensure that everyone at your firm who is involved in VCF claims understands all of the information required to submit a complete claim that has *everything* we need to process the claim from start to finish at one time.

The trainings will be presented by subject matter experts from across the VCF team, and will be interactive so there is ample opportunity for questions. Our hope is that this training will help speed up the claim review process by substantially reducing the number of missing information letters sent and the amount of time lost waiting for responses. It will also provide your staff with additional resources to help navigate the claims process as the subjects will range from basic documents required for claim submission to calculation of pension loss, and much more.

Information about timing for these trainings will be provided in the coming months.

- **Intake Backlog:** We are aware of some of the timing issues related to delays in processing incoming hard copy mail. Although we are processing mail each day, we are still doing so with limited staff in the office. As a result, we are experiencing delays in documents being scanned, uploaded, and made visible in the online claims system. This has resulted in letters requesting items we have already received, or delays in issuing letters acknowledging documents that were sent in a while ago. If you receive a Missing Information letter for something that you have already submitted,



please let our law firm liaisons know and they will follow-up accordingly. You can help minimize delays by uploading documents to your claim whenever possible, and only mailing those documents that the VCF requires to be originals.

- **Criteria for Expedited Claims:** Expedite requests are considered on an individual basis, and our expedite process is designed for those who are *imminently* terminally ill, or in truly *imminent* financial hardship. We have noticed that the number of expedite requests remains high, but the number of expedite requests that we are *approving* is dropping, which means that we are receiving many requests for expedition that are not warranted. Expediting a claim means it moves to the front of the line and takes precedence over all other claims, so the process should be reserved for those claims that truly require expedition. Please consider the following before you submit a request:
 - **Requests due to Terminal Illness:** Claims are not automatically expedited simply because there is a medical record that contains the words “metastatic” or “stage IV” as those terms are not always synonymous with a terminal diagnosis. While metastatic indicates that a cancer has spread to other parts of the body, and stage IV indicates that it has spread to distant parts of the body, these terms do not, in and of themselves, mean that the claimant has a terminal condition. The VCF expects to see a recent physician letter discussing the claimant’s prognosis and recent diagnostic records that support the physician’s opinion. We need more than a physician letter obtained solely for the expedite request; we also need supporting medical records.
 - **Requests based on Financial Hardship:** You must submit a complete picture of a claimant’s financial situation, including information and explanation about the claimant’s income, outstanding bills, overall financial circumstances, etc. The VCF considers the totality of the circumstances. It may be that evidence of eviction or foreclosure by itself is sufficient, but the fact that a claimant has and owes bills will generally not be sufficient. Often, submitting one utility shut off notice without any context or explanation is not going to warrant approval for expediting the claim.

In addition, for all expedite requests, please pay attention to these reminders:

- Confirm that you are submitting a complete claim with your expedite request. Each expedite request is screened, and we will not consider the substance of a request if you have not submitted certain threshold documents: Exhibit A, Signature Page, presence documents (if the claim has not yet been found eligible), and Private Physician documents/medical records in those cases where a Private Physician exception request is also being submitted.
- If you are claiming lost earnings, make sure that with the expedite request you also submit an Exhibit 1, Exhibit B1 (if applicable), pension documents (if applicable), and any other documents related to disability benefits a claimant receives/received or is eligible to receive, is applying for, or may apply for in the future.
- You should not submit a request to expedite a lost earnings claim if a claimant has a pending disability application with Social Security or any other entities.
- If the expedite request is denied, the denial may be cured by submitting more documentation. When our Helpline calls to notify you that the expedite request has been denied, they will explain why and what is needed in order for the VCF to reconsider the request.



- **Proof of Presence:**

- **Employer or Third Party Verification:** If your client is claiming presence as a result of employment, and the employer is not one with whom the VCF has an agreement to share information on the claimant's behalf, the burden is on the law firm to send the [Third Party Verification Form](#) to the employer or entity and ask that they complete and return it to the VCF. If the employer sends information directly to the VCF, and it contains the level of detail needed – **meaning specific dates and locations** – it is usually sufficient to verify presence.

Given the logistical constraints with mailing letters in the current environment, we are not mailing third party verification letters to employers. The form and instructions are available on our website and we have set up an email address for employers to return the forms electronically, making it even easier for them to get the completed form to us. Employers can also submit letters to the VCF on official letterhead, but please be sure they understand all the details that must be included in order for the letter to be sufficient to prove presence.

You can save a lot of time and extra work, and speed the processing of the claim, by getting the employer to send the information directly to the VCF.

- **Witness Presence Statements:** The [Witness Presence Statement](#) form can help provide additional detail and information in support of a claimant's proof of presence ***in those instances when independent, third-party documents or verification are not available***. The VCF expects that you will continue to try and locate independent sources of presence and use this form only as a last resort.

This form is not required, but its use is strongly encouraged in appropriate circumstances. Although filling out the entire form does not guarantee sufficiency, it does provide valuable guidance in eliciting complete answers and the type of detailed information that can be important.

- **Affidavits from individuals who were minors at the time of 9/11:** In general, the VCF has used affidavits from witnesses who were under the age of 18 at the time of 9/11 to help support presence in combination with other documents, but has not generally viewed them as reliable on their own. For affiants who were in high school at the time, the VCF will consider Witness Presence Statements/affidavits on their own merit, but ***only if they are writing them on behalf of a fellow student at the time***. For claimants who claim presence based on being in a school in the zone, you should get the transcript from the school in support of presence rather than witness presence statements or affidavits. **The official transcript is the best proof of presence for these claims**, and is the **only** document needed to support presence.

- **9/11-Related Lawsuits:** When asking your clients about potential lawsuits, please include lawsuits such as those filed under JASTA and lawsuits against terrorists so that all known lawsuits are noted on the claim form, even if **not** prohibitive. The VCF is seeing more claims recently where the answer to the lawsuit question on the claim form is "No," but our own research uncovers a lawsuit (typically one that is **not** prohibitive).

The statute generally prohibits the VCF from compensating those who filed lawsuits for damages sustained as a result of the crashes or debris removal. This broad prohibition on lawsuits includes those claiming wrongful death as a result of medical malpractice where the victim died of a 9/11-related condition. Our claim form asks whether claimants have filed **any** lawsuits for damages related to 9/11-related conditions. We have found several claims, however, where the claimants



stated in their claim form that they did not have any relevant lawsuits, but we later discovered that they had filed wrongful death lawsuits claiming medical malpractice by a treating physician for a 9/11-related condition, and received settlements on these lawsuits. The statute requires the VCF to rescind eligibility on these claims.

It is your responsibility as counsel to find out whether your clients are party to **any** lawsuits that may impact their eligibility, and report it to the VCF. Please take special care to ask about medical malpractice lawsuits relating to your clients' 9/11-related conditions.

- **Requesting Changes to SSA Disability Codes:** Please do not contact the Social Security Administration (SSA) to request that they change a disability code solely because a claimant's SSA disability code does not match their VCF eligible condition. This is not an appropriate use of SSA resources, and will delay processing of the VCF claim.

In addition, even if the SSA changes the disability determination to match a VCF eligible condition, the claim will be subject to heightened scrutiny and the VCF will not disregard the earlier ineligible SSA determination. The VCF must consider the entire history of the claim, to include all previous disability determinations.

The most efficient way to address an ineligible SSA determination is to present other evidence of disability for the claimant's eligible condition(s), or other evidence that the eligible condition has caused a loss of earnings that is distinct from any loss of earnings due to an ineligible condition.

- **Medical Expense Reimbursement:** In December 2019, we notified you by email of several updates to our Policies and Procedures, one of which was an update to our policy on medical expense reimbursement. As a reminder, in addition to the requirements already in place for these claims, we updated the criteria to now include that we will only reimburse medical expenses if they were paid prior to the date the WTC Health Program certified the applicable condition as eligible for treatment ("applicable condition" refers to the specific condition for which the expenses were incurred). Because a claimant is eligible for treatment and medications once the condition is certified, the VCF will not reimburse for expenses incurred after the condition is certified if a claimant decides to be treated by a non-WTC Health Program physician, or to have prescriptions filled by an unaffiliated pharmacy.

We also updated our prior guidance for deceased claims to require medical expenses to be submitted with the initial claim.

Additional information specific to the full set of criteria that must be met in order to be considered for reimbursement of medical expenses can be found in [Section 2.4.a](#) of our Policies and Procedures.

- **Email and Website Updates:** The emails sent to you via our law firm distribution list, and updates to our website, are the main mechanism for alerting you to important updates to our policies and procedures. We expect all law firm staff who work VCF claims to remain current on the information in these emails and updates to the website. The emails come for the "VCF Communications" address. If you are unsure whether you are on the email distribution list, please contact our law firm liaisons. And as a reminder, when using an official VCF form, be sure that you are using the version from our website and not a saved/stored version. This helps to ensure you are always using the most current version of the form.



- **Questions and Answers:** The questions below were asked prior to or during the call, and were answered on the call.

1. **We notice that the most recent “Fact vs. Myth” publication placed the highest value on documentation and indicated that Witness Presence Statements are the least preferred proof. As we move further from the exposure period, that variety of proof will be less accessible. Does the VCF have any recommendations, connections, or resources for obtaining those documents?**

ANSWER: Contemporaneous documentation is definitely favored over witness affidavits. We recognize that it can be difficult to find this type of proof that a claimant was present for a variety of reasons – including the passage of time, people changing jobs, moving away, or just losing touch with former colleagues. We have agreements with certain employers and unions to provide information about presence in support of VCF claims and we continue to work on developing more relationships to get information directly from employers. Information describing these relationships, the specific information provided, and what more the claimant is required to provide is on our website. We are also working to try and organize our presentation of this information in a more useful way. In the meantime, we encourage you to review [Section 1.7](#) of the Policies and Procedures for this information. Additionally, you should have your clients go through their old files and records to see what documents they may have from that time and submit anything that might be helpful. Because presence is assessed based on all of the evidence in the records as a whole, even documents that are not themselves sufficient can be extremely helpful to our evaluation of the claim.

2. **Does the VCF plan to halt MI Letters and Pre-Screen Denials for required forms given the pandemic-related delays in processing?**

ANSWER: No. We know the delays in the processing of incoming mail have resulted in some Missing Information letters being sent for documents you have already submitted. If you receive a Missing Information letter for something that you have already submitted, please let our law firm liaisons know and they will follow-up accordingly. As for the Pre-Screen Denials, the team is aware of the hard copy mail backlog and has built time into their process to account for this before denying a claim. As a reminder, a Pre-Screen Denial only comes about following a Pre-Screen Missing Information letter – which means you did not submit the minimal required documents with the claim. At the point of Pre-Screen Denial, the VCF has already waited 60 days before picking up the claim for pre-screen review, and then another 60 days following the issuance of the Missing Information letter. If you cannot get us the basic documents in that timeframe, then the correct next step is to deny the claim. If the claim is pre-screen denied, all you have to do is submit the requested document and the claim will be reactivated.

3. **We noticed that some claims were unilaterally converted from an appeal to an amendment and ultimately denied. Is there any recourse for a claimant who knew they needed an appeal hearing and had their claim converted? Or will they be subjected to restarting the appeal process and timeline?**

ANSWER: If a claim was converted to an amendment by the VCF during the appeals process, it is because we believe it was best to process the claim that way. The VCF will not unilaterally convert an appeal to an amendment if testimony is still needed. If an appeal is converted to an amendment and it results in a second denial, and you want to appeal again, we will re-activate the appeal and schedule it based on the original appeal date. You do not need to submit a new appeal request form. Please upload a letter to your claim asking the VCF to continue processing



the claim as an appeal. If you have a specific claim that falls into this scenario and you have concerns, please contact our law firm liaisons.

- 4. With respect to attorney fees – our firm represented personal injury plaintiffs in the WTC lawsuits and obtained settlements for them. If a lawsuit plaintiff dies, and if our firm represents the family in the VCF and files a wrongful death claim, would our firm be able to collect attorney fees? We do not think this issue is addressed in the current policy and the FAQ.**

ANSWER: The statute provides that in the case of “an individual who was charged a legal fee in connection with the settlement of a civil action,” no additional legal fee may be charged by the same attorney for services rendered in connection with the VCF claim. Because the client in a deceased claim is not the same as the client represented in the litigation, i.e., the individual who was charged the original fee, the Special Master does not believe that the statute precludes the collection of a fee on the new work being done for the deceased claim if the personal injury client subsequently passes away. The prohibition on fees for claimants represented by the same attorney in both the litigation and in VCF claim was intended to prevent duplicative fees being collected for what Congress believed was essentially the same work. Representing the family in a deceased claim if the original client passes away is a different claim and is different work done for a different client.

- 5. Specific to the comments related to PII and documents uploaded to claims that include a different individual’s claim number, the VCF Witness Presence Statement asks the individual (the “affiant”) for their VCF claim number if they have one. Are we not supposed to include that number when uploading the document to the claim for which the individual is providing support for presence?**

ANSWER: This scenario is not considered a PII breach or a document misfile because the affiant’s signature on the form providing this information is deemed to be consent to share the information in the form with the Claimant or others who have access to the claim. We are updating the Witness Presence Statement form to make this clear. In addition, having the affiant’s claim number, if he or she has one, is helpful to the processing of the claim for which he or she is the affiant. As noted above, we recognize that there may be certain circumstances where it is helpful to the determination of a claim for you to call the VCF’s attention to something that happened in a different claim. In those limited circumstances, please provide your letter or other documentation cross-referencing other claims to our law firm liaisons, and we will upload it to the correct claim for the VCF’s viewing but in a manner that will not be visible on the Claimant portal so as to protect the privacy interests of those referenced in the documents you provide.

- 6. You said that claims for medical expenses on wrongful death claims should be filed with the original WD claim. However, the online system does not allow you to file the claim for medical expenses until after the claim is submitted. The area on the claim form is still grayed out during initial submission.**

ANSWER: This is correct. The workaround is to submit the initial claim and then immediately submit the medical expense amendment. The goal is for us to pick the claim up only one time, for all claimed losses, so the important thing to keep in mind is that we need the medical expense amendment before we begin preliminary review of the claim.

- 7. What is the expected timing for the notification letters mentioned in the April 21, 2021, email to law firms explaining correspondence changes and the new appeal window for claimants who were waiting for their hard copy letter?**



ANSWER: We are in the process of finalizing the agreement with the mailing vendor and hope to begin sending the “generic notification” letters in the next month. Once we have a confirmed date to begin the mailings, we will send an email to law firms with a reminder about the letters and the process for appealing previously-generated letters. At that time, we will also determine if the September 30, 2021, date noted in the April email will remain as is or will be extended.