



Policies and Procedures

This document outlines the policies and procedures of the September 11th Victim Compensation Fund (“VCF”). The document includes information on eligibility criteria, the methodology used to calculate economic and non-economic loss, payment procedures, appeals and hearings, claims for deceased individuals, and information for claimants who are represented by an attorney for their claim.

The document is intended to be used as a reference by individuals who are filing a claim, or by those who are interested in how the VCF operates. The document is written for a personal injury victim who is filing his or her own claim, so references to “you” or “your” should be read as “the victim” in those cases where a Personal Representative, parent, or guardian may be filing the claim on the victim’s behalf.

The document includes references to specific forms and additional resources. All forms and resources referenced in the document are available under “[Forms and Resources](#)” on the www.vcf.gov website. Hyperlinks are also included in the document for those who are using the document in an electronic format.

The VCF website includes several resources that provide more general information about the VCF. These include:

- A set of “[Frequently Asked Questions](#)” (“FAQs”) that provide additional information about various aspects of the VCF process.
- A “[VCF Overview](#)” presentation for individuals who are filing a claim, or those who are interested in how the VCF operates;
- The VCF “[Info Sheet](#)” with general information about the program, who can apply, and how to apply; and
- A VCF “[Fact vs. Myth](#)” document that dispels common myths about the VCF.

In addition to these materials, the website includes an overview of the VCF [Claim Review Process](#), which is included as page 3 of this document.

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1.0	September 2016	Original publication.
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Version	Date Published	Notes
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5.3	December 2019	<p>Noteworthy updates made to the following sections:</p> <ul style="list-style-type: none"> • 1.2 Registration and Claim Filing Deadlines • 1.6 Documentation of Presence • 1.6a) Affidavits in support of presence at site • 1.6c) When to submit presence documents • 1.8a) Preliminary Review • 1.9 Claims Filed on a Victim's Behalf • 1.9b) Parent or Guardian of a Minor Victim • 2.0b) Substantive Compensation Review and Calculation of Award • 2.1a) Valuation of non-economic loss • 2.1b) Special Master Authority to award non-economic loss above the statutory cap • 2.1c) Documentation of non-economic loss • 2.2 Economic Loss – Lost Earnings and Benefits • 2.2e) Loss of employment related benefits • 3.9 Expedite Process • 3.10 VCF Claimants who file claims with USVSST • 4.0 Appeals and Hearings • 4.1 Filing an Appeal • 4.2 Hearings Process • 5.0 Amendments • Appendix A – Instructions for Amending a Claim • Appendix C – When to Appeal vs. When to Amend



September 11th
Victim Compensation Fund

VCF Claim Review Process

ELIGIBILITY REVIEW		COMPENSATION REVIEW	
<p>START: Register and Submit Claim</p> <p>Register and submit your complete Claim Form online or in hard copy, including Eligibility and Compensation Information and required supporting documents.</p> <p>You will receive a letter confirming we have received your claim form.</p>	<p>STEP 1: Conduct Preliminary Review</p> <ul style="list-style-type: none"> Review claim to confirm receipt of documents required for processing: applicable Exhibits, Signature Page, presence documents, and documents required for Personal/Authorized Representatives (if applicable). Confirm we have received a complete Exhibit A – "Authorization for Release of Medical Records" by mail with original signatures. Once confirmed, we contact the WTC Health Program for information about your certified condition(s). If applicable, we request information from certain government entities, employers, and other third parties. <p>When we conduct our preliminary review, if we don't have the minimum documents required to process your claim, we mark your claim "inactive" while we await your documents. If there is no response after 60 days, the claim may be denied. You can amend your claim once you have the necessary documents.</p>	<p>STEP 2: Substantive Eligibility Review</p> <ul style="list-style-type: none"> Once we have all documents required for processing, we review the claim to determine if the victim is eligible for compensation. This includes: <ul style="list-style-type: none"> Verifying the claim was registered by the applicable deadline. Confirming the victim has an eligible 9/11-related physical condition. Verifying the victim's presence at site. Confirming timely resolution of any 9/11-related lawsuits. If applicable, we also validate the Personal or Authorized Representative. If the claim is missing documentation that we need in order to render an eligibility decision, you will receive a "Missing Information" letter. <p>Once your claim is under substantive review, if you don't respond to our missing information request after 30 days, we render a decision based on the information contained in your file at that time.</p>	<p>STEP 3: Render Eligibility Decision</p> <ul style="list-style-type: none"> Once a decision is rendered, we send a letter explaining the outcome of our review. If eligibility is approved, your claim moves to the next step: Compensation Review. If you are claiming non-economic loss only, we evaluate eligibility and compensation together. If eligibility is denied, the review of your claim stops at this step. Your eligibility decision letter explains how to appeal the decision and how to amend your claim in the future when you are able to provide additional information for consideration.
<p>Online Status*</p> <p>"Submitted" or "Submitted: Pending Preliminary Review"</p>	<p>"Preliminary Review" or "Inactive" or "Ready for Review": Pending Review"</p>	<p>"Under Review"</p>	<p>"Approved" or "Denied"</p>
<p>STEP 4: Conduct Initial Compensation Review</p> <ul style="list-style-type: none"> Once eligibility is approved, we begin initial review of your compensation information. This includes determining the types of loss being claimed. If you are claiming only non-economic loss, your claim moves to Step 5. If you are claiming economic loss, we contact third parties such as the SSA, FDNY, and NYPD to request information regarding pensions, disability, and/or earnings history if we have not already done so as part of our preliminary review (Step 1). If the claim is missing documentation that we need in order to render a decision, you will receive a "Missing Information" letter. <p>When we conduct our initial review, we notify you of any missing information via a letter. We wait 30 days for a response and then we render a decision based on the information contained in your file at that time.</p>	<p>STEP 5: Complete Compensation Review and Calculate Award</p> <ul style="list-style-type: none"> Each award is calculated individually, so claims that have more complex compensation information take more time to review. Our review includes: <ul style="list-style-type: none"> Determining non-economic loss, economic loss, and suffering, based on the severity of the physical harm. Calculating economic loss, including past and future lost earnings, if claimed. Confirming collateral offsets, including payments received from pension funds, life insurance, SSA, workers' compensation, and settlements from 9/11-related lawsuits. If we do not receive the documents necessary to calculate economic loss, or if the documents are not submitted in a timely manner, we may issue an award for non-economic loss only. 	<p>STEP 6: Issue Award Decision and Process Payment</p> <ul style="list-style-type: none"> Once the award is calculated, we send a letter explaining the breakdown of your award and an option to appeal the decision within 30 days, if you believe an error was made in the calculation. If you do not appeal, we authorize payment within 20 days of the end of the 30-day appeal period. If you do appeal, payment is authorized once a decision is rendered following your appeal. Once payment is authorized, it may take up to 3 weeks for the U.S. Treasury to disburse the money into the bank account designated on the payment authorization document you submitted to the VCF. Once Treasury confirms payment has been made, we send a letter confirming your payment has been issued. 	<p>"Submitted: Pending Preliminary Review" or "Preliminary Review" or "Ready for Review": Pending Review" or "Under Review"</p> <p>"Under Review" or "Special Master Review"</p> <p>"Determining Made: Processing" or "Comp. Determination Sent"</p>

* You can check the status of your claim in the online system at any time. A list of claim status definitions can be found [here](#), and is also posted on the www.vcf.gov website under "Forms and Resources."

You may amend a claim at any time to add a new condition, to claim a new loss, and/or to submit additional information that may be relevant to the claim.

March 2019



To go directly to a location in the document from the Table of Contents, simply click on the title of the section or the page number.

Table of Contents

Section 1. Eligibility Criteria and Deadlines 8

- 1.1 Eligibility Criteria 8
- 1.2 Registration and Claim Filing Deadlines 8
- 1.3 9/11-Related Lawsuits 9
 - a. Waiver of right to file future lawsuits: 9
 - b. Permissible lawsuits: 9
 - c. If you withdrew or dismissed your lawsuit without settlement: 10
 - d. If you settled your lawsuit: 10
- 1.4 Eligible Conditions (WTC-Related Physical Health Conditions) 13
 - a. Presumptively covered conditions eligible for compensation: 13
 - b. Minimum and Maximum Time Intervals: 16
 - c. Additional Information about presumptively covered eligible conditions: 16
 - d. Certification and verification of conditions – WTC Health Program or Private Physician process: 17
 - e. Mental illness: 19
- 1.5 Presence at Site 20
 - a. Location: 20
 - b. Timeframe: 20
- 1.6 Documentation of Presence 21
 - a. Affidavits in support of presence at site: 22
 - b. Presence Information for specific employers or entities: 24
 - c. When to submit presence documents 28
- 1.7 VCF1 Claims 28
- 1.8 Eligibility Review and Determination 29
 - a. Preliminary Review 29
 - b. Substantive Eligibility Review 30
- 1.9 Claims Filed on a Victim's Behalf 30
 - a. Personal Representative of a Deceased Victim 30
 - b. Parent or Guardian of a Minor Victim (under 18 years of age at the time the claim is filed) 31
 - c. Guardian of a Non-Minor Victim 32

Section 2. Calculation of Loss (Compensation) 33

- a. Compensation Review Process 33
- b. Substantive Compensation Review and Calculation of Award 34
- 2.1 Non-Economic Loss 35
 - a. Valuation of non-economic loss: 35



- b. Special Master authority to award non-economic loss above the statutory cap 37
 - c. Documentation of non-economic loss: 37
 - 2.2 Economic Loss: Lost Earnings and Benefits 38
 - a. Documentation of earnings history: 39
 - b. Establishing discrete past lost earnings: 39
 - c. Establishing loss of future earnings/benefits as a result of a permanent disability: 40
 - d. Documents required to demonstrate disability: 42
 - e. Loss of employment-related benefits: 43
 - f. Documentation to support loss of earnings and pension benefits for FDNY claimants: 45
 - g. Documentation to support loss of earnings and pension benefits for NYPD Claimants: 47
 - h. Documentation to support loss of earnings and pension benefits for members of NYCERS: 47
 - i. Documentation to support loss of earnings and benefits for Federal Employees Including Military Personnel: 48
 - 2.3 Detailed Explanation of Methodology used to Calculate Future Lost Earnings 49
 - 2.3.1 Compensation for VCF1 Claimants Who Were Paid in VCF1 57
 - 2.4 Other Types of Economic Loss 58
 - a. Past out-of-pocket medical expenses: 58
 - I. When to File a Medical Expenses Claim. 58
 - II. Acceptable Medical Expenses Claims. 59
 - III. Documentation Required to Support a Medical Expenses Claim. 60
 - b. Replacement Services loss: 65
 - c. Burial or memorial service expenses: 66
 - d. Other out-of-pocket expenses: 66
 - 2.5 Collateral Source Offsets 66
 - a. Collateral offsets that are paid periodically: 69
 - b. Benefits that may be subject to liens: 69
 - c. Survivor benefits subject to adjustment or termination: 69
 - d. Public Safety Officers' Benefits ("PSOB"): 70
 - e. WTC Volunteer Fund administered by the New York State Workers' Compensation Board: 70
 - f. Obligation to notify the VCF of additional offsets: 71
 - 2.6 Withdrawing an Economic Loss Claim 71
- Section 3. Awards and Payment 72**
 - 3.1 Receiving your Payment 72
 - 3.2 Payment Instructions if you live in the U.S. 72
 - 3.3 Payment Instructions if you live outside the U.S. 72
 - 3.4 Instructions for Payments made to Law Firm escrow accounts on a Claimant's Behalf 73
 - 3.5 Changing your Payment Information 73
 - 3.6 Payment Instructions specific to claims for Deceased Victims 73



3.7 Payment Instructions specific to claims for Minor Victims 74

3.8 Split Payments 74

3.9 Additional information regarding VCF Awards and Payments..... 74

3.10 VCF claimants who file claims with the U.S. Victims of State Sponsored Terrorism Fund (“USVSST”) 76

Section 4. Appeals and Hearings 76

4.1 Filing an Appeal..... 77

4.2 Hearings Process 78

Section 5. Amendments 80

5.1 Personal Injury Claims 80

5.2 Deceased Claims..... 80

Section 6. Deceased Victims 82

6.1 Victims who pass away after Filing a Personal Injury Claim..... 82

6.2 Calculation of Deceased Claims 83

a. Economic Loss: 83

b. Non-Economic Loss: 84

6.3 Application of Offsets in Personal Injury and Deceased Claims..... 84

6.4 Personal Representatives 86

a. Court appointment of a Personal Representative:..... 86

b. Original documents: 88

6.5 Multiple Personal Representatives 88

6.6 Special Master Appointment of a Personal Representative 89

6.7 List of claims filed on behalf of Decedents 89

6.8 Payment Instructions specific to Deceased Victim Claims 89

Section 7. Information for Individuals with Attorneys..... 89

7.1 Attorney’s Fees 89

a. “Non-routine” expenses:..... 90

7.2 Changing, Adding, or Removing an Attorney 91

7.3 Changing who Receives Payment..... 91

7.4 Online Access to your Claim 91

Section 8. Appendix 92

Appendix A – Instructions for Amending a Claim 92

Appendix B – What is the WTC Health Program Disability Evaluation Process?..... 98

Appendix C – When to Appeal vs. When to Amend..... 101

Appendix D – Information and Instructions: Steps to take if a personal injury claimant passes away after filing the claim..... 105

Appendix E – Instructions for Letters of Administration with Limitations 108



Appendix F – Information on appointment of a Personal Representative 110
Appendix G – Required Documents to Support Lost Earnings for Certain Unions and Employers 112



Section 1. Eligibility Criteria and Deadlines

1.1 Eligibility Criteria

To be eligible for an award from the September 11th Victim Compensation Fund (“VCF”), you must meet the following criteria:

- Register your claim by the July 29, 2021, or other applicable deadline, and submit your complete claim no later than October 1, 2090.
- Dismiss, withdraw, and/or settle any 9/11-related lawsuits by the appropriate deadline.
- Show that you have a 9/11-related physical injury or condition that is certified for treatment by the World Trade Center (“WTC”) Health Program or, in limited circumstances, that you have a physical injury or condition that was treated by your private physician and verified as 9/11-related through the VCF’s [Private Physician process](#).
- Show that you were present at one of the attack sites, within the New York City Exposure Zone, or along the routes of debris removal at some point during the period beginning September 11, 2001, through May 30, 2002.
- If you received an award from the original September 11th Victim Compensation Fund that operated from 2001-2004 (“VCF1”), you must show that the condition has worsened, that the WTC Health Program has certified you for a condition not previously certified, that you have been diagnosed with a new 9/11-related injury or condition that qualifies for verification through the Private Physician process, or that you have a new loss associated with a previously eligible condition.
- If you are filing a claim on the victim’s behalf (i.e., as a Personal Representative for a deceased victim, for a minor, or for an incapacitated adult), you must show that you have the legal authority to do so. See [Section 1.9](#) for specific information on demonstrating you have the proper authority to file the claim.

1.2 Registration and Claim Filing Deadlines

There are two steps in the VCF claim filing process, each of which has a separate deadline:

Step 1: Register by July 29, 2021: Registration preserves your right to file a claim in the future. By registering with the VCF, you do not waive any legal rights, and there is no obligation to file a claim in the future. To register with the VCF you must do one of the following:

- Use the [online system](#) to submit your Registration Form.
- Call the VCF Helpline at 1-855-885-1555 to register by phone.

The VCF will consider all claims timely if registered within two years of July 29, 2019, the date of enactment of the Never Forget the Heroes, James Zadroga, Ray Pfeifer, and Luis Alvarez Permanent Authorization of the September 11th Victim Compensation Fund Act (“VCF Permanent Authorization Act”), which extended the VCF’s claim filing deadline. This means that every claim already registered with the VCF is timely, and all claims registered prior to **July 29, 2021**, will be timely. Claims registered after July 29, 2021, may be timely depending on the individual circumstances.

Step 2: Complete and submit your claim form and all supporting documents by October 1, 2090: Although you may register with the VCF at any time prior to July 29, 2021, you should wait to file your claim until you have been certified for treatment by the WTC Health Program for a 9/11-related physical condition. The deadline for all claims and supporting documents to be submitted is October 1, 2090.



1.3 9/11-Related Lawsuits

As a general rule, you cannot have an active 9/11-related lawsuit at the time you submit your VCF claim or amend your claim to add a new eligible condition. There are specific requirements for the date on which your 9/11-related lawsuit must have been filed, withdrawn, dismissed, or settled and released in order to be eligible for compensation from the VCF. The statute that created the VCF provides that you may either seek compensation from the VCF or you may file a lawsuit, but you cannot do both except under certain circumstances as explained below.

a. **Waiver of right to file future lawsuits:**

When you submit a VCF claim, you waive your right to file a civil action (or to be a party to an action) in any federal or state court for damages sustained as a result of the terrorist-related aircraft crashes of 9/11, or for damages arising from or related to debris removal. This means that you waive your right to be party to a future lawsuit even before the VCF determines whether or not you are entitled to compensation. For deceased individuals, the Personal Representative will waive his/her rights to file any future action seeking compensation for the decedent's death. The statute may be interpreted to mean that the submission of a claim for a deceased individual will waive the rights of others who may claim the right to file a wrongful death action.

There are two exceptions to this general "waiver" rule – that is, there are two types of permissible lawsuits that you can pursue and still file a claim with the VCF:

- A civil action to recover collateral source obligations.
- A civil action against any person who is a "knowing participant in any conspiracy to hijack any aircraft or commit any terrorist act." This includes lawsuits based on theories of aiding and abetting or assisting an attempt to commit a terrorist act.

b. **Permissible lawsuits:**

As noted above, there are two types of 9/11-related lawsuits that you can pursue and still file a claim with the VCF. First, you may pursue a civil action to recover collateral source obligations. Collateral sources are defined by the statute to mean all sources, including 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 terrorist-related aircraft crashes of September 11, 2001, or debris removal. Second, you may pursue a civil action against any person who is a "knowing participant in any conspiracy to hijack any aircraft or commit any terrorist act." This includes lawsuits based on theories of aiding and abetting or assisting an attempt to commit a terrorist act. Examples of lawsuits that fall into this category include (but are not limited to) the following lawsuits filed in the United States District Court for the Southern District of New York:

- *Gallop v. Riggs National Corp., et al.* (Docket No. 1:04-cv-07281-GBD-FM)
- *Burnett, et al v. Al Baraka Investment* (Docket No. 1:03-cv-05738-GBD)
- *Ashton, et al v. Al Qaeda Islamic, et al.* (Docket No. 1:02-cv-06977-GBD-FM)

Claimants who participate in a lawsuit under the Justice Against Sponsors of Terrorism Act ("JASTA"), Pub. Law No. 114-222, may still file a VCF claim. See Zadroga Act, Pub. Law No 107-42, as amended by Pub. Law No. 107-71, Section 405(c)(3)(C)(i). Any compensation awarded by the court in the lawsuit or obtained in a settlement of litigation will be treated as an offset and deducted from your VCF award.



c. If you withdrew or dismissed your lawsuit without settlement:

If you had filed a 9/11-related lawsuit at any time prior to submitting a VCF claim, there are specific dates by which you must have withdrawn or dismissed that lawsuit in order to be eligible for compensation from the VCF.

Under 28 C.F.R. § 104.61, any person who has filed or is a party to a lawsuit seeking damages for injuries “sustained as a result of the terrorist-related aircraft crashes of September 11, 2001, or for damages arising from or related to debris removal” may not “file a claim with the Special Master unless they withdraw from such action not later than January 2, 2012.”

Required documentation for withdrawn 9/11-related lawsuits: You must submit proof of timely withdrawal of your lawsuit with your claim. You may submit either a court order establishing that the action has been discontinued and/or dismissed, dated on or before January 2, 2012, or a notice/letter of withdrawal filed on the Electronic Case Files (“ECF”) system in the relevant docket on or before January 2, 2012. You must also submit the final order of the court confirming the withdrawal or dismissal of all claims. That order may be dated after January 2, 2012, only if you have provided proof that you filed a notice of withdrawal on the ECF system in the relevant docket on or before January 2, 2012.

Rule for Newly Covered Conditions and Lawsuits Filed Before November 2016:¹ If the condition for which you are seeking compensation from the VCF was added to the list of qualified injuries after January 2, 2012, your proof of timely withdrawal or dismissal from any lawsuit must be dated no later than the date you submit your claim or amendment seeking compensation for that condition. The court order establishing that the action has been discontinued and/or dismissed, or the notice/letter of withdrawal filed on the ECF system in the relevant docket, must be dated on or before the date you submit your claim or amendment. In cases meeting these criteria, where withdrawal or dismissal occurred after January 2, 2012, only newly covered conditions will be considered eligible for compensation. This means that even if you have other certified or verified conditions, regardless of when they were certified or verified, they will not be eligible for compensation unless they were added to the list of qualified injuries after January 2, 2012, and you withdrew or dismissed your lawsuit prior to filing your claim or amendment.

d. If you settled your lawsuit:

If you had filed a 9/11-related lawsuit prior to submitting a VCF claim and settled any of the claims set forth in the lawsuit, there are specific dates by which you must have tendered a release of the settled claims and dismissed any remaining unsettled claims.

The VCF will accept claims with settled 9/11-related lawsuits if you meet the following conditions:

- (1) The lawsuit was commenced after December 22, 2003, and a release of claims in such lawsuit was tendered by the individual, or by the individual's attorney (provided the attorney has authority to tender the release) prior to January 2, 2011; **and**
- (2) You dismissed any claims that were not settled on or before January 2, 2012.

You may have settled all your claims and, in that case, as long as the lawsuit was commenced after December 22, 2003, and the release was tendered by January 2, 2011, you can submit a

¹ The VCF clarified the rule regarding lawsuit dismissals and newly covered conditions in November 2016. Lawsuits filed after November 2016 are prohibited by the general statutory requirement that a claimant cannot have an active 9/11-related lawsuit at the same time as a VCF claim, and filing a lawsuit after November 2016 waives your right to file a claim with the VCF.



claim to the VCF. *The Zadroga Act states that if an individual tendered a release after the Zadroga Act was enacted on January 2, 2011, the individual is not eligible for the VCF.*

Note: The VCF cannot provide information about private settlements. The VCF is a Federal Government program and is separate from the lawsuits between individuals and the Port Authority, the Captive Insurer, and others. Individuals with questions about those settlements should contact their lawyers.

The Zadroga Act provides that the award from settlements in civil suits regarding injuries related to 9/11 will be counted as a collateral source offset. Therefore, settlement payments from lawsuits will be deducted from VCF awards.

Required documentation for settled lawsuits:

You must certify on your claim form that you have satisfied the requirements for settling your lawsuit. In many cases, the VCF can obtain additional information from third parties. If the VCF is unable to obtain the required settlement information from third parties, we will contact you and you will be required to provide the settlement information before we can continue processing your claim.

If you were represented by Douglas & London or Napoli, Bern, Ripka, Shkolnik (“Napoli Bern”) in your lawsuit, you generally do not need to submit additional documents related to your settlement because the VCF may be able to get the necessary information from Douglas & London or Napoli Bern. If you were represented by Sullivan Papain Block McGrath and Cannavo (“Sullivan Papain”) in both your lawsuit and your VCF claim, the VCF may be able to get the necessary information from Sullivan Papain. The VCF will notify you if you need to submit any additional documents.

For all other individuals, the VCF generally needs proof documenting the amount of your settlement and the dates of commencement and release of all claims in the lawsuit. If an attorney signed and submitted the release on behalf of the individual or the individual's dependent, spouse, or beneficiary, a copy of the retainer agreement with the attorney in the settled lawsuit must be submitted as proof that the attorney was authorized to sign the release. If you do not have any of these documents, you may still submit your claim form because the VCF may be able to obtain them from third parties. The VCF will notify you if additional information is needed.

All Claimants who received coverage for certain cancers under a Critical Injury Insurance policy through Metropolitan Life Insurance Company (MetLife) as part of their 9/11-related lawsuit settlement are required to provide the VCF with a copy of their policy document and the amount of any payment received under the policy.

Rule for Newly Covered Conditions and Lawsuits Filed Before November 16, 2016:² If the condition for which you are seeking compensation from the VCF was added to the list of qualified injuries after January 2, 2012, you must meet the following requirements in order to be eligible for compensation from the VCF:

- (1) Your acceptance of settlement and release of claims must have been tendered on or before the date on which the condition for which you are seeking compensation was added to the list of qualified injuries by the World Trade Center Health Program.

² The VCF clarified the rule regarding lawsuit settlements and newly covered conditions on November 16, 2016. Lawsuits filed after November 16, 2016, are prohibited by the general statutory requirement that a claimant cannot have an active 9/11-related lawsuit at the same time as a VCF claim, and filing such a lawsuit waives your right to file a claim with the VCF.



- (2) Your proof of timely withdrawal or dismissal of any remaining claims must be dated no later than the date you submit your claim or amendment seeking compensation for that condition. The court order establishing that the action has been discontinued and/or dismissed, or the notice/letter of withdrawal filed on the ECF system in the relevant docket, must be dated on or before the date you submit your claim or amendment.

In cases meeting these criteria, where settlement occurred after January 2, 2011, only newly covered conditions will be considered eligible for compensation. This means that even if you have other certified or verified conditions, regardless of when they were certified or verified, they will not be eligible for compensation unless they were added to the list of qualified injuries after January 2, 2012, you settled and released your lawsuit prior to the date the specific condition was added to the list of qualified injuries, and you properly withdrew or dismissed any remaining lawsuits prior to filing your claim or amendment.

The chart below outlines the litigation settlement, withdrawal, and dismissal rules for filing a VCF claim.

Chart of Litigation Settlement/Dismissal Rules

Settlement and/or Dismissal?	Lawsuit Filing Date	Date by which lawsuit must be Dismissed/Withdrawn/Settled
Settlement of all Claims	After 12/22/2003 and before November 16, 2016	<p>For conditions on original WTC Health Program list or traumatic injuries:</p> <ul style="list-style-type: none"> Settled fully and release tendered on or before January 2, 2011. <p>For newly covered conditions:</p> <ul style="list-style-type: none"> Settled fully and release tendered on or before the date on which NIOSH added the individual's eligible condition to the list of qualified physical injuries. Those dates are: <ul style="list-style-type: none"> October 12, 2012, for the various cancers identified in the WTC Health Program rule of the same date October 21, 2013, for Prostate Cancer February 18, 2014, for Rare Cancers that meet the definition as explained by the WTC Health Program on the same date August 4, 2016, for New-Onset COPD <p><i>This is condition specific – that is, timely settlement/ release based on specific conditions does not render earlier conditions for which an individual may be certified or verified (on which a lawsuit was not timely settled/released) eligible for compensation. This is true regardless of the date on which the earlier condition is certified or verified.</i></p>
Settlement + Dismissal: Lawsuit Partially Settled and Unsettled Claims Dismissed	After 12/22/2003 and before November 16, 2016	<p>For conditions on original WTC Health Program list or traumatic injuries:</p> <ul style="list-style-type: none"> Release tendered on or before January 2, 2011. Unsettled claims withdrawn/dissmissed on or before January 2, 2012. <p>For newly covered conditions:</p> <ul style="list-style-type: none"> Release tendered before the date on which the WTC Health Program added the individual's eligible condition to the list of qualified physical injuries. Unsettled claims withdrawn/dissmissed before submitting the VCF claim form or amendment. <p><i>This is condition specific – that is, timely settlement/release/dissmissal based on specific conditions does not render earlier conditions for which an individual may be certified or verified (on which a lawsuit was not timely settled/released/dissmissed) eligible for compensation. This is true regardless of the date on which the earlier condition is certified or verified.</i></p>



Dismissal: Lawsuit Fully Dismissed or Withdrawn (no settlement)	Before November 16, 2016	<p>For conditions on original WTC Health Program list or traumatic injuries:</p> <ul style="list-style-type: none"> Dismissal/withdrawal before January 2, 2012 (notice of withdrawal will suffice). <p>For newly covered conditions:</p> <ul style="list-style-type: none"> Dismissal/withdrawal before submitting the VCF claim or amendment (notice of withdrawal will suffice). <p><i>This is condition specific – that is, timely dismissal based on specific conditions does not render earlier conditions for which an individual may be certified or verified (on which a lawsuit was not timely dismissed) eligible for compensation. This is true regardless of the date on which the earlier condition is certified or verified.</i></p>
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1.4 Eligible Conditions (WTC-Related Physical Health Conditions)

To be eligible for compensation from the VCF, you must have a physical injury or condition caused by the terrorist-related aircraft crashes of September 11, 2001, or the rescue, recovery, and debris removal efforts during the immediate aftermath. The statute requires that, to be eligible, you must have at least one [WTC-Related Physical Health Condition](#).

a. Presumptively covered conditions eligible for compensation:

To be eligible for compensation, the Zadroga Act requires an individual to have suffered “physical harm or death as a result of” one of the terrorist-related aircraft crashes of September 11, 2001, or debris removal. Generally, the VCF provides compensation for the physical injuries and conditions that the WTC Health Program has found to be related to 9/11 and therefore are on the [list of conditions](#) established by the WTC Health Program. Thus, as a general matter, the VCF will rely on certification by the WTC Health Program that the individual is eligible for treatment for a particular physical injury or condition under the WTC Health Program. By statute, the VCF may not compensate for psychological conditions, but the WTC Health Program provides mental health treatment as part of their healthcare services. Please see [Section 1.4.e](#) for more information specific to mental health conditions.

Listed below are the categories of physical health injuries and conditions that may be certified by the WTC Health Program (“presumptively covered conditions”). This list includes the most recent additions to the list effective as of August 4, 2016. This list includes only major categories of conditions and is not meant to represent every type of eligible injury that falls within each category:

- Interstitial Lung Diseases
- Chronic Respiratory Disorder – Fumes/Vapors
- Asthma
- Reactive Airways Dysfunction Syndrome (“RADS”)
- WTC-exacerbated Chronic Obstructive Pulmonary Disease (“COPD”)
- New Onset Chronic Obstructive Pulmonary Disease (“COPD”)
- Chronic Cough Syndrome
- Upper Airway Hyper Reactivity
- Chronic Rhinosinusitis
- Chronic Nasopharyngitis
- Chronic Laryngitis
- Gastro-Esophageal Reflux Disorder (“GERD”)
- Sleep Apnea exacerbated by, associated with, or related to, the above conditions
- Low Back Pain occurring in responders
- Carpal Tunnel Syndrome (“CTS”) occurring in responders



- Certain Musculoskeletal Disorders (“MSK”) occurring in responders and defined as “a chronic or recurrent disorder of the musculoskeletal system caused by heavy lifting or repetitive strain on the joints or musculoskeletal system occurring during” the period between September 11, 2001, and May 30, 2002, or as determined by the Special Master (Note: the VCF may compensate MSK in survivors if appropriate proof is provided)
- Acute Traumatic Injuries – the WTC Health Program defines acute traumatic injury as an injury “caused by and occurring immediately after a one-time exposure to energy such as heat, electricity or impact from a crash or fall, resulting from a specific event or incident” for which the claimant received medical treatment on or before September 11, 2003
- Certain types of cancer as specified in the chart on the following page



<p><u>Head & Neck</u></p> <ul style="list-style-type: none"> • Malignant neoplasm of lip • Malignant neoplasm of base of tongue • Malignant neoplasm of other and unspecified parts of tongue • Malignant neoplasm of parotid gland • Malignant neoplasm of other and unspecified major salivary glands • Malignant neoplasm of floor of mouth • Malignant neoplasm of gum • Malignant neoplasm of palate • Malignant neoplasm of other and unspecified parts of mouth • Malignant neoplasm of tonsil • Malignant neoplasm of oropharynx • Malignant neoplasm of nasopharynx • Malignant neoplasm of piriform sinus • Malignant neoplasm of the hypopharynx • Malignant neoplasm of other and ill-defined conditions in the lip, oral cavity and pharynx • Malignant neoplasms of nasal cavity • Malignant neoplasm of accessory sinuses • Malignant neoplasm of the larynx <p><u>Mesothelioma</u></p> <p><u>Prostate Cancer</u></p> <p><u>Soft Tissue</u></p> <ul style="list-style-type: none"> • Malignant neoplasm of peripheral nerves and autonomic nervous system • Malignant neoplasm of other connective and soft tissue <p><u>Skin (Non Melanoma)</u></p> <ul style="list-style-type: none"> • Other malignant neoplasms of skin • Scrotum <p><u>Melanoma</u></p> <ul style="list-style-type: none"> • Malignant melanoma of skin 	<p><u>Digestive System</u></p> <ul style="list-style-type: none"> • Malignant neoplasm of the esophagus • Malignant neoplasm of the stomach • Malignant neoplasm of the colon • Malignant neoplasm of rectosigmoid junction • Malignant neoplasm of the rectum • Malignant neoplasm of other and ill-defined digestive organs • Malignant neoplasm of the liver and intrahepatic bile ducts • Malignant neoplasms of retroperitoneum and peritoneum <p><u>Respiratory System</u></p> <ul style="list-style-type: none"> • Malignant neoplasms of the trachea • Malignant neoplasm of bronchus and lung • Malignant neoplasm of heart, mediastinum and pleura • Malignant neoplasm of other and ill-defined sites in the respiratory system and intrathoracic organs <p><u>Rare Cancers</u> – defined as <i>“any type of cancer that occurs in less than 15 cases per 100,000 persons per year in the United States.”</i> Some examples of cancer that meet the “rare cancer” definition include, but are not limited to, the following:</p> <ul style="list-style-type: none"> • Malignant neoplasm of the testis • Neuroendocrine malignancies • Malignant neoplasm of the male breast • Malignant neoplasm of the gallbladder/biliary tract • Malignant neoplasm of the small intestine • Malignant neoplasm of the thymus • Malignant neoplasm of the central nervous system • Malignant neoplasm of the adrenal gland • Gastrointestinal stromal malignancies • Malignant neoplasm of the penis 	<p><u>Female Reproductive Organs</u></p> <ul style="list-style-type: none"> • Malignant neoplasm of ovary <p><u>Urinary System</u></p> <ul style="list-style-type: none"> • Malignant neoplasm of bladder • Malignant neoplasm of the kidney except renal pelvis • Malignant neoplasm of renal pelvis • Malignant neoplasm of ureter • Malignant neoplasm of other and unspecified urinary organs <p><u>Eye & Orbit</u></p> <ul style="list-style-type: none"> • Malignant neoplasms of eye and adnexa <p><u>Thyroid</u></p> <ul style="list-style-type: none"> • Malignant neoplasm of thyroid gland <p><u>Blood & Lymphoid Tissue</u></p> <ul style="list-style-type: none"> • Hodgkin’s disease • Follicular (nodular) non-Hodgkin lymphoma • Diffuse non-Hodgkin lymphoma • Peripheral and cutaneous T-cell lymphomas • Other and unspecified types of non-Hodgkin lymphoma • Malignant immunoproliferative diseases • Multiple myeloma and malignant plasma cell neoplasms • Lymphoid leukemia • Myeloid leukemia • Monocytic leukemia • Other leukemias of specified cell type • Leukemia of unspecified cell type • Myeloid malignancies • Other and unspecified malignant neoplasms of lymphoid, hematopoietic and related tissue <p><u>Childhood Cancers</u> – defined as <i>“any type of cancer diagnosed in a person less than 20 years of age.”</i></p> <p><u>Breast</u></p> <p>Malignant neoplasm of breast</p>
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b. Minimum and Maximum Time Intervals:

The WTC Health Program has set specific minimum and maximum timeframes between an individual's 9/11 exposure and the onset of symptoms related to an eligible physical injury or condition. These timeframes are different for each category of injuries and conditions. The WTC Health Program's general guidelines are summarized below. We encourage you to visit the WTC Health Program website to understand the complete details for each specific injury and condition and the process used to evaluate each individual's unique circumstances.

- **Cancers:** The WTC Health Program Administrator has determined minimum time periods for five types or categories of cancer eligible for coverage in the WTC Health Program. The Administrator has determined that a minimum time period – referred to as “latency” – must have elapsed between the initial date of an individual's exposure and the date of initial diagnosis of the individual's cancer. Details on the latency periods for cancer can be found at <https://www.cdc.gov/wtc/pdfs/policies/WTCHP-Minimum-Cancer-Latency-PP-01062015-508.pdf>.
- **Aerodigestive Disorders:** The WTC Health Program Administrator has determined maximum time intervals for four of the five categories of eligible aerodigestive disorders: obstructive airways, upper respiratory diseases, gastroesophageal reflux disease (“GERD”) co-occurring with another WTC-related aerodigestive disorder, and isolated GERD. The time interval is measured based on the last day of an individual's 9/11 exposure and the earliest date of an individual's symptoms of the aerodigestive disorder. The fifth category, interstitial lung disease, has no associated maximum time interval. Details on the maximum time intervals for aerodigestive disorders can be found at https://www.cdc.gov/wtc/pdfs/WTCHP_PP_Time_Intervals_New_Onset_AeroDig_Disorders_30_August_2017.pdf.
- **Musculoskeletal Disorders and Acute Traumatic Injuries:** There is a statutory deadline of treatment on or before September 11, 2003, for musculoskeletal disorders and a similar deadline imposed by regulation for treatment of acute traumatic injuries. See 42 U.S.C. § 300mm-22(a)(4)); 42 C.F.R. § 88.15(e).

c. Additional Information about presumptively covered eligible conditions:

- The VCF considers modifications to the list of presumptively covered conditions based on the determinations of the WTC Health Program. The initial list of presumptively covered conditions has been modified four times since the VCF reopened on October 3, 2011 – first on October 12, 2012, when certain cancers were added; a second time on October 21, 2013, when Prostate Cancer was added; a third time on February 18, 2014, when the definition of Rare Cancers was revised; and a fourth time on August 4, 2016, when new-onset COPD and WTC-related acute traumatic injury were added.
- If you have at least one certified or verified 9/11-related physical injury or condition and meet all of the eligibility criteria to receive compensation, you may also be eligible for payment for other physical injuries or conditions that are not included on the list of presumptively covered conditions (and that are therefore not certified or verified) and that resulted from your 9/11 exposure if you have presented extraordinary circumstances. The Special Master exercises this discretion only in very limited circumstances.
- If you have an eligible 9/11-related physical condition, it does not mean that you are guaranteed to be compensated by the VCF. Having an eligible condition is



only one of the necessary criteria for compensation. All of the eligibility criteria must be met to receive compensation.

- The Zadroga Act and the final rules limit compensation to individuals who were treated by a medical professional for the physical injury or condition within a reasonable time from the date of discovering the injury or condition. Treatment must be verified by contemporaneous medical records created by, or at the direction of, the medical professional who provided the medical care. A “reasonable time” is determined on a case-by-case basis.
- If you developed your 9/11-related physical injury or condition before September 11, 2001 (a “pre-existing” condition), you may still be eligible for compensation if your condition has become more severe since that time and the worsening of the condition is determined to be related to the events of September 11th or the debris removal efforts.
- The VCF considers “medically associated” conditions in determining the appropriate amount of compensation. The WTC Health Program defines a health condition [medically associated](#) with a WTC-related health condition as a condition that either: (1) “results from *treatment* of a WTC-related health condition,” or (2) “results from *progression* of a WTC-related health condition.” The VCF recognizes that, in some cases, those conditions that are medically associated with an eligible WTC-related condition may be more severe and/or have a greater impact on the victim’s life than the underlying condition.
- If, at any point after you submit your original claim, the WTC Health Program certifies you for a physical health condition not previously certified, or you are diagnosed with a new 9/11- related injury or condition that qualifies for verification through the Private Physician process, you may file an amendment to claim additional conditions by following the instructions in [Appendix A: Instructions for Amending a Claim](#). The instructions are also available under “Forms and Resources” on the VCF website.

d. Certification and verification of conditions – WTC Health Program or Private Physician process:

If your physical injury or condition is certified for treatment by the WTC Health Program, the VCF will generally find the injury or condition eligible subject to confirmation that other elements of eligibility, including presence at the site, are documented. **If you are not being treated by the WTC Health Program, you must seek certification for your condition(s) through the WTC Health Program.** The VCF has implemented this policy in order to ensure consistency among victims in evaluating the conditions eligible for compensation, and clarity in evaluating an individual victim’s WTC-related exposure. In very limited circumstances (set forth below), the VCF may evaluate the eligibility of the physical injury or condition through the [Private Physician process](#), subject to verification by the Special Master with the assistance of the WTC Health Program Administrator.

Please note that you can seek certification for treatment from the WTC Health Program for purposes of your VCF claim and still be treated for your certified condition by a physician outside of the WTC Health Program. To begin the certification process with the WTC Health Program, you can find an application on line at www.cdc.gov/wtc or by calling 1-888-982-4748. The WTC Health Program includes a Nationwide Provider Network (“NPN”) to serve members who live outside the New York City metropolitan area. The NPN is available to WTC, Pentagon, and Shanksville responders and WTC survivors. For information about the NPN call 1-888-982-4748. If you are enrolled and if the WTC Health Program confirms that it has certified your condition for treatment, then it will be



able to provide the VCF with information about your certified condition(s). For further details on the WTC Health Program process and guidelines, please visit the WTC Health Program [website](#).

Please be aware that the WTC Health Program will prioritize patients who need treatment for appointments over those seeking certifications to support their VCF claims. Please respect that the mission of the WTC Health Program is to provide medical treatment to those who are ill, and do not attempt to expedite your appointment unless you are in need of medical care.

Documents Required for Individuals Enrolled in the WTC Health Program

Once the VCF receives your Claim Form and the original, completed Exhibit A – “Authorization for Release of Medical Records”- the VCF will request information directly from the WTC Health Program to determine whether you have an eligible condition. The VCF will also seek information from the WTC Health Program for deceased individuals who were treated by the WTC Health Program prior to death, upon submission of an Exhibit A by the victim’s authorized Personal Representative. If the WTC Health Program notifies us that you have been certified for an eligible physical health condition, we accept that certification as proof of your eligible condition, subject to the other requirements for eligibility. If your condition is certified for treatment by the WTC Health Program, you do not need to submit any other records to support or demonstrate your condition.

Please note that the VCF does not receive copies of your medical records as part of our information-sharing agreement with the WTC Health Program. The WTC Health Program only provides the VCF with the name of the condition, the WTC Health Program category under which the condition falls (for example, Cancer or Upper Respiratory Disorder), and the associated medical diagnosis code.

If the WTC Health Program has certified your condition, you do not need to submit medical records to support a claim for non-economic loss at the lowest end of the range for your eligible condition. Similarly, if you have an eligible condition that the VCF has identified as presumptively severe and debilitating, you do not need to submit medical records to qualify for the highest non-economic loss award allowed by the statutory caps. See [Section 2.1.a](#) – “Valuation of non-economic loss” for a listing of conditions considered to be presumptively severe. If, however, your certified condition is not among the list of conditions that the VCF considers to be presumptively severe and it significantly impairs activities of daily living, or if the certification does not reflect the severity of the condition, you may want to submit supporting medical documentation related to your condition to help the VCF evaluate the severity and effect of the condition in order to determine whether an increased non-economic loss award within the appropriate range is warranted. For a listing of the types of documents that can assist the VCF in the evaluation of your claim, see [Section 2.1.b](#) – “Documentation of non-economic loss”. Please only submit documents that are related to your 9/11-related eligible physical conditions. It is very helpful and will speed the review of your claim if you highlight the relevant information in the records so the VCF can easily find the pertinent information.

Private Physician Process

The Private Physician process is available only in the following limited circumstances:

- You received specific direction from the VCF to complete the forms; or
- You are filing a claim for a deceased individual who was not certified for treatment by the WTC Health Program for the claimed condition; or



- You are a foreign resident, living outside the continental United States, who has not been certified for treatment by the WTC Health Program for the claimed condition; or
- You were previously deemed eligible for compensation from the VCF based on a certified condition, or you are filing a claim for a deceased individual who was previously deemed eligible for compensation from the VCF based on a certified condition, and you are now seeking to add a non-certified cancer as a claimed condition; or
- You were present at the Pentagon, but not as a responder, and therefore you do not qualify for certification by the WTC Health Program; or
- You are not able to go to a WTC Health Program center (either in the New York City metropolitan area or through the Nationwide Provider Network) to have your condition evaluated and certified for treatment without suffering significant hardship. If you believe that you will suffer significant hardship in seeking certification by the WTC Health Program, you should upload a statement or letter to the claim explaining the circumstances and why you should be considered for the Private Physician process **and** call the VCF Helpline to alert us to the request.

If the VCF determines that you are an appropriate candidate for the Private Physician process, the VCF will contact you and ask you to provide certain medical records and other information from a non-WTC Health Program physician. The VCF will review the information and, as appropriate, will submit the information to the WTC Health Program for assistance in verifying that your condition meets the definition of a 9/11-related condition.

*In all other cases, we will **not** process your claim until we receive notification from the WTC Health Program that you have been certified for at least one physical condition.*

The forms and instructions, as well as more detailed information on the Private Physician process, are available [here](#) and under “Forms and Resources” on the VCF website.

Note: The VCF is not able to pay any physician for providing this information or documentation. The VCF does not require any of the forms to be completed by your physician; you may complete the “Treating Physician Information Form.”

e. Mental illness:

If you did not experience any physical injury or condition as a result of September 11th, but you experienced emotional or mental harm, you are not eligible for compensation from the VCF. When Congress first created the VCF in 2001, it directed that only victims who have a “physical injury” can be eligible for the VCF, and then-Special Master Ken Feinberg interpreted that phrase to mean “a physical injury to the body,” thus excluding claims for psychological conditions. Congress has not directed otherwise, and the Reauthorized Zadroga Act explicitly prohibits the VCF from compensating for Mental Health Conditions. As a result, the VCF is not able to accept claims solely for psychological conditions. This means that claims for Post-Traumatic Stress Disorder are not eligible for compensation in the VCF.

The WTC Health Program provides options for treatment of psychological conditions. For information about whether you may be eligible for WTC Health Program treatment for emotional or mental harms, you may contact them by phone at 1-888-WTC-HP4U (1-888- 982-4748), or on the web at www.cdc.gov/wtc/.



1.5 **Presence at Site**

In order to be eligible for compensation under the VCF, an individual must have been present at a 9/11 crash site or in locations of debris removal at the time of – or in the immediate aftermath of – the terrorist-related aircraft crashes. You do not have to be a responder to be eligible.

a. Location:

To be eligible for the VCF, you must have been at one of the following locations:

9/11 crash sites:

- The World Trade Center site, the Pentagon site, or the Shanksville, Pennsylvania, site
- The buildings or portions of buildings that were destroyed as a result of the terrorist-related airplane crashes of September 11, 2001

The “NYC Exposure Zone” which consists of:

- The area in Manhattan 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; AND
- Any area related to, or along, routes of debris removal, such as barges and Fresh Kills landfill³

If you were an employee of the Office of the Chief Medical Examiner of New York City (“OCME”) involved in the examination and handling of human remains from the World Trade Center attacks, or were a morgue worker who performed similar functions for the OCME staff, during the period September 11, 2001, through May 30, 2002, and you submit sufficient proof of employment and presence at one of the morgue locations within the statutory timeframe, this will satisfy the presence requirement even if your actual work was performed outside of the NYC Exposure Zone.

If your work involved the repair, cleaning, or rehabilitation of vehicles or equipment contaminated by WTC-related debris at or along one of the official routes for the transfer of debris, the work will be considered to be done in an area related to, or along, routes of debris removal, even if those services were performed outside of the area in Manhattan south of the line that runs along Canal Street. Because different routes of debris removal were in use at different time periods, you must submit proof not only that you performed those services during the statutory timeframe (at some point on or between September 11, 2001, and May 30, 2002), but also that you performed those services before the operations at the identified locations officially ended.

b. Timeframe:

To be eligible, individuals must have been present at one of the sites at the time or in the “immediate aftermath” of the September 11th air crashes. The Zadroga Act defines “immediate aftermath” as “any period beginning with the terrorist-related aircraft crashes

³ The VCF and the WTC Health Program use two different geographic areas and two different timeframes during which an individual needed to be at a 9/11 site. The VCF’s “[New York City Exposure Zone](#)” is used to determine an individual’s presence for VCF eligibility purposes (and is not dependent on the length of time the individual was at the site), while the WTC Health Program’s “New York City Disaster Area” is used to determine certification for treatment and requires a minimum amount of time spent in the designated area. It is therefore possible that an individual may be “present” for VCF purposes, but not eligible to be certified for treatment by the WTC Health Program, and therefore not eligible for compensation from the VCF. The geographic area used to confirm an individual’s presence for purposes of their VCF claim can be found at <https://www.vcf.gov/nycExposureMap.html>.



of September 11, 2001, and ending on May 30, 2002.” There are no requirements for the minimum amount of time an individual needed to be at a site for purposes of confirming presence. The VCF must apply the time limitations that Congress established in the Zadroga Act.⁴

1.6 **Documentation of Presence**

The documents listed below are examples of the most common types of documents used to demonstrate presence at a 9/11 site. This is not a comprehensive list. If you have a document that you believe can be used to prove your presence at a 9/11 site and it does not meet one of the categories below, you should submit the document to the VCF to be reviewed. The VCF considers the totality of the circumstances in each individual case, and will consider a wide range of documents to support presence. All documents submitted for a claim are subject to verification and authentication procedures undertaken independently by the VCF.

There are a few reasons why the VCF may ask for additional proof of presence, even in cases where you submit an “independent” document from a third-party, such as an employer or a landlord. First, all documents submitted for a claim are subject to verification and authentication procedures undertaken independently by the VCF. Confirmation of presence that is sent directly to the VCF from the employer or other third-party, with specific dates and locations, is usually sufficient to verify presence. If, however, the document you submit does not provide sufficient detail regarding your presence (i.e., your actual work location and confirmation that you were present at that location at some point during the requisite time period), the VCF will contact the employer or other third-party in an attempt to obtain additional details. If we are unable to confirm presence by speaking with the employer or other contact, and the other presence documents, if any, are insufficient, we will contact you to request additional proof of presence.

The VCF has agreements with certain employers to provide information about presence in support of VCF claims. See [Section 1.6.b](#) for additional information.

Note: these documents are only considered if they include specific dates and locations.

- Letter from employer confirming work at the site – *the VCF prefers letters from employers be sent directly to the VCF by the employer, rather than provided to the VCF by the claimant*
- Official personnel roster
- Pay stubs listing the employer’s address within the NYC Exposure Zone and confirming employment, when used in conjunction with other documents
- Orders, instructions, site credentials, confirmation of tasks performed
- Sworn [Employer Verification Form](#) (available under “Forms and Resources” on the VCF website) - *the VCF prefers this form be sent directly to the VCF by the employer, rather than provided to the VCF by the claimant*
- Rental agreement, proof of rent payment, mortgage receipts, and/or utility bills that list the address within the NYC Exposure Zone, when submitted in conjunction with other documents showing the individual was physically at the address during the relevant timeframe
- School or day care records and transcripts confirming enrollment or attendance during the relevant time period – the school transcript or report card, or day care records, should be

⁴ “Exposure” is defined by NIOSH as the duration of time (hours) between September 11, 2001 and July 31, 2002 that an individual was within the defined NIOSH “New York City Disaster Area” and inhaled a specified level of dust and/or smoke. The WTC Health Program website includes a map of the NIOSH-defined “New York City Disaster Area,” along with detailed information about the number of hours, dates, and levels of exposure that are required for purposes of certifying a condition for treatment.



certified or accompanied by a letter from an employee of the school or day care facility, and/or from the claimant's legal counsel, certifying the accuracy of the information contained in the transcript, report card, or other record (NOTE: If the school or day care records are either certified themselves or submitted with a certifying letter, you do not need to submit any additional proof of presence unless requested by the VCF.)

- Worker's injury reports documenting treatment as a result of injury that occurred at the site
- Medical records documenting treatment as a result of injury that occurred at the site during the immediate aftermath of the attacks
- Sworn and notarized affidavit (or unsworn statements complying with 28 U.S.C. § 1746) – see Section [1.6.a](#) below for additional detail.
- Personal statement including as much detail as possible.

VCF1 Claims: If you were found eligible to receive compensation in VCF1, in most cases, you do not need to submit proof of presence in support of your claim. The VCF will contact you if any additional information is needed. See Section [1.7](#) for more information about VCF1 claims.

a. Affidavits in support of presence at site:

Primary and contemporaneous records prepared in the ordinary course of business and documents prepared by an employer, school, day care, or residential office for the purpose of verifying an individual's presence at the site are the best evidence that an individual was present at a 9/11 crash site. The Special Master recognizes, however, that such documents may no longer exist or may be impossible to obtain. If you are unable to obtain these types of documents, the Special Master will consider sworn affidavits from people who can attest to the victim's presence at a 9/11 crash site. These affidavits will serve as acceptable proof only if the VCF determines that such affidavits are sufficiently reliable.

The person who signs an affidavit is known as an "affiant." Affiants must have personal knowledge of the victim's presence at a 9/11 crash site or along the routes of debris removal. In general, affiants must show that they directly observed the victim at the eligible location, or must have been a supervisor who ordered the victim to that location and has knowledge that the victim in fact reported to the location.

If you submit affidavits to demonstrate the victim's presence on 9/11, you must submit affidavits from a minimum of two people and at least one **must** be from an individual who is not related to the victim or to the Personal Representative (when applicable).

Affidavits should contain as much detail as possible about how the affiant knows that the individual was *physically present* at a 9/11 crash site and *when* the individual was present at the site. For example, affidavits should describe what the affiant and the individual were doing at the 9/11 crash site, the specific location where they were at the 9/11 crash site (address, intersection, building, or other geographic details are helpful; as a general rule, more is needed than just "Ground Zero"), why they were at the 9/11 crash site, how long and often they were there together, and how the affiant knows and remembers that the individual was present on the particular dates and at the particular locations.

As a general rule, when an affidavit does not meet VCF requirements, the VCF will not call the affiant for the purpose of gathering the necessary detail and information regarding the victim's presence. Affiants are called when we need to understand an inconsistency, confirm what appears to be an error (such as 2011 instead of 2001), or to verify information already contained in the affidavit. Therefore, you must provide as much detail as possible on the affidavit itself. Failure to provide detailed affidavits will result in the



VCF sending the claimant a “Missing Information” letter, which may result in the claim being denied if the VCF is unable to get the additional detailed information needed to verify the victim’s presence.

All affidavits must contain the following information:

- A description of how the affiant knows that the victim was present. For example, an affiant may know that the individual was at the site because the affiant was the supervisor or co-worker of the individual and accompanied the individual to the site or personally saw the individual at the site.
- As much detail as possible about the precise times, specific dates, and specific locations (address, intersection, landmarks, cross streets, buildings or other geographic details) that they know the victim was at a 9/11 crash site. The VCF does not accept “Ground Zero” as a specific location for purposes of affidavits.
- The reason why the victim was present and/or what the victim was doing at the 9/11 crash site (if known by the affiant).
- A description of the relationship between the affiant and the victim (how the affiant knows the victim and whether the affiant is related to the claimant or the victim). If the affiant and victim worked together, the affidavit should include the name of the organization they were working for and describe how long they worked together, their respective job titles and relationship during the time they worked together (including whether one person supervised the other), and whether the affiant is still employed by that entity.
- The affiant’s contact information, including address, phone number, email address, or other contact information. In some cases, the VCF may request proof of the affiant’s address and/or relationship to the victim or claimant or may contact the affiant.
- **Affidavits must either be sworn and notarized or include the following language to comply with 28 U.S.C. § 1746:**
 - If signed within the United States, its territories, possessions, or commonwealths, add this language: “I declare (or certify, verify, or state) under penalty of perjury that the foregoing is true and correct. Executed on [date affidavit is signed]. [Affiant’s Signature]”
 - If signed outside the United States, add this language: “I declare (or certify, verify, or state) under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed on [date affidavit is signed]. [Affiant’s Signature]”

When an individual’s presence is based on residence in the NYC Exposure Zone, affiants should provide the information listed above *and* also provide:

- The victim’s exact address during the time they were living in the Exposure Zone.
- The time period that the victim lived at that address (if known by the affiant).
- A statement describing whether the affiant knows if the victim actually resided at that address for some period between September 11, 2001, and May 30, 2002, and whether the affiant is aware of any time during that period that the victim was out of town or not living at that address.

Affidavits that do not comply with these requirements are not sufficient to establish a victim’s presence. If the Special Master determines that an affidavit lacks the required level of detail, the claim may be denied on that basis.



If an affiant does not speak English, you may submit an affidavit in another language. You should submit the affidavit in the affiant's native language, along with a certified English translation. You must also include a certification signed by the translator that includes a statement that the translator is competent to translate the document, and that the translation is true and accurate to the best of the translator's abilities. The certification must also include the translator's address and phone number.

b. Presence Information for specific employers or entities:

Information specific to FDNY firefighters and fire officers

The VCF has an arrangement with the FDNY in which the FDNY will provide documents directly to the VCF regarding proof of a FDNY firefighter's or fire officer's presence at the site. As a result, FDNY firefighters and fire officers do not need to submit any documents as proof of presence at the site unless the VCF specifically requests such documents. Contacting the FDNY directly will not expedite the processing of your claim and, in fact, may delay claims processing by tying up limited resources at the FDNY. If the VCF needs additional information from you after reviewing your claim form and documentation, the VCF will contact you.

Information specific to FDNY EMS members

In limited cases, the FDNY may be able to provide documents and/or information directly to the VCF regarding proof of an EMS member's presence at the site. Therefore, you *should still submit other evidence* (such as affidavits or contemporaneous records) demonstrating that you were physically present in the NYC Exposure Zone during the period beginning on September 11, 2001, through May 30, 2002. If you have your WTC Notice of Participation which was filed with the NYCERS Pension Fund to preserve your right to file for a WTC disability retirement or reclassification in the future, you should submit it with your claim as it may support presence for purposes of your VCF claim. It is also helpful if you specify your job title within EMS on September 11 or in the immediate aftermath of the attacks.

Information specific to victims who worked for NYPD

NYPD members can establish presence in the same way as other claimants. In addition, the VCF will consider the following documents to be of assistance in establishing presence. You must submit at least two of the documents listed below if you intend to rely on these documents to establish presence.

The documents submitted must clearly pertain to the named victim and identify the date(s) and location(s) of the victim's WTC-related service. A complete copy of each document must be submitted, unless otherwise specified below. The VCF will review these submissions on a case-by-case basis and will notify you of any additional information required. All documents submitted for a claim are subject to verification and authentication procedures undertaken independently by the VCF. Please note that the NYPD will not be able to provide the VCF direct access to the below listed documents.

- Memo Book/Activity Log (must include cover page and excerpts of relevant portions with consecutive pages)
- Line of Duty Injury Report (must include an injury date within the relevant time period)
- Line of Duty Control Log
- Firearms Discharge/Assault Report
- Aided Report Worksheet



- Overtime Report
- Unscheduled Overtime Report
- Roll Call
- Detail Roster Assignment Sheet
- NYPD Consultation Referral – Medical Division/NYPD Surgeon Form
- Statement of Illness/Injury
- Daily Activity Report
- Command Log entry
- Exposure Report (49)
- Medical Board Report
- Affidavit (see Section [1.6a](#) for more detail regarding affidavits)
- WTC Notice of Participation
- NYPD Rescue Detail badge (must include victim's name and photo)

For civilian NYPD members, please refer to Section [1.6](#) above regarding documents to demonstrate proof of presence. If you need help obtaining documents to demonstrate that you were present at the site, please contact the Patrolmen's Benevolent Association at 212- 298-9144.

New York City Department of Sanitation

The VCF works directly with the Department of Sanitation to verify the presence of employees who participated in the rescue, recovery, and clean-up efforts. If you were a Sanitation employee between September 11, 2001, and May 30, 2002, the VCF will contact the Sanitation Department to confirm your presence at a 9/11 site. If the VCF needs additional information from you after reviewing your claim form and documentation, the VCF will contact you.

District Council 37 (DC-37)

If you were a DC-37 union member, your union may be able to provide information and/or documentation to support presence for purposes of your VCF claim. Please contact the union's Safety & Health Department at 212-815-1685 and explain that you are interested in obtaining this information, if available.

Communications Workers of America's (CWA)

Certain CWA members completed a WTC Recovery/Cleanup Effort Exposure Information form, which was distributed to CWA local unions and then provided to the CWA District 1 office upon completion. These forms may support presence where they:

- (a) clearly identify a VCF-qualifying date and location of service;
- (b) were created contemporaneously with your alleged exposures; and
- (c) include a signed and notarized statement by Micki Siegel de Hernandez, the Occupational Safety and Health Director of CWA District 1, verifying the authenticity and safekeeping of the form.

If you were a CWA member and completed this form, please contact Micki Siegel de Hernandez at 212-509-6994 to see if your form is on file and to obtain the form and the accompanying signed and notarized statement.

Federal Bureau of Investigation (FBI)

If you were employed by the FBI and worked at one of the crash sites or in the VCF's NYC Exposure Zone between September 11, 2001 and May 30, 2002, the FBI can provide you with a letter verifying your presence at the site. You should contact the FBI Call Center at



202-324-3333 to request the FBI “proof of presence” letter and once received, upload it to your claim or mail it to the VCF. You do not need to submit any additional information to demonstrate your presence at the site. If the VCF needs additional information from you after reviewing your claim form and the letter, the VCF will contact you.

Lucent Technologies

If you were a CWA member who worked for Lucent Technologies in 2001, the VCF may be able to obtain records confirming presence. The CWA, District 1 union maintained lists of:

(a) individuals who were working as “Installers” at the Verizon building at 140 West Street in the week after 9/11; and (b) individuals who received respirator training and were “certified” or approved to use those devices at Ground Zero on or before October 3, 2001. Note that these lists do not include all Lucent employees who were involved in the emergency response effort. Therefore, *you should still submit other evidence* (such as affidavits or contemporaneous records) demonstrating that you were physically present in the NYC Exposure Zone during the period beginning on September 11, 2001, through May 30, 2002.

Verizon

The VCF makes efforts to obtain information for individuals who assert that they participated in the World Trade Center response while working for Verizon. Verizon is generally able to confirm employment, but may not be able to confirm the actual location of an individual’s work. Therefore, if you are asserting presence through your employment with Verizon, please submit any and all documents related to the time period(s) and location(s) you participated in the World Trade Center response. *You should also submit other evidence* (such as affidavits or contemporaneous records) demonstrating that you were physically present in the NYC Exposure Zone during the period beginning on September 11, 2001, through May 30, 2002.

Empire BlueCross BlueShield

If you were employed by Empire BlueCross BlueShield (“EBCBS,” now a subsidiary of WellPoint Inc.) on September 11, 2001, the VCF will attempt to obtain information from EBCBS to confirm presence. While EBCBS may be able to confirm whether an individual was assigned to work at the World Trade Center, it does not have attendance records that would confirm whether the individual was actually present at the site during the time period. Therefore, if you are alleging presence based on employment at EBCBS, *you will still need to submit other evidence* (such as affidavits or contemporaneous records) demonstrating that you were physically present in the NYC Exposure Zone during the period beginning on September 11, 2001, through May 30, 2002.

New York State National Guard

The VCF works with the National Guard to directly obtain information for individuals who assert that they participated in the World Trade Center response while on State Active Duty. While the National Guard may be able to confirm whether an individual was on Active Duty, it does not have records that would confirm the actual location of the work. Therefore, Claimants who allege presence based on work with the National Guard will still need to submit other evidence (such as affidavits or contemporaneous records) demonstrating that they were physically present in the NYC Exposure Zone during the period beginning on September 11, 2001, through May 30, 2002.



New York State Police (“NYSP”)

If you were employed by the New York State Police (“NYSP”) and worked in the NYC Exposure Zone between September 11, 2001, and May 30, 2002, you can contact the NYSP Medical Monitoring Unit via phone at 518-485-5044, or via email at hresource@troopers.ny.gov, to request a letter documenting the dates and locations of your deployment to the NYC Exposure Zone during that time period. Once you receive the letter, you should upload it to your claim or mail it to the VCF. You do not need to submit any additional information to demonstrate your presence at the site. If the VCF needs additional information from you after reviewing your claim form and the letter, the VCF will contact you.

New York State Workers’ Compensation Board (“WCB”)

The VCF may be able to obtain records confirming presence from the New York State Workers’ Compensation Board for individuals who have made a Workers’ Compensation claim based on their 9/11-related work. To do so, the VCF needs the WCB number associated with the individual’s Workers’ Compensation claim. You should submit documents reflecting your WCB number. You should also submit other evidence (such as affidavits or contemporaneous records) demonstrating that you were physically present in the NYC Exposure Zone during the period beginning on September 11, 2001, through May 30, 2002, when you submit your claim.

WTC Volunteer Fund administered by the New York State Workers’ Compensation Board

The VCF may be able to obtain records confirming presence from the New York State Workers’ Compensation Board for individuals who have made a claim to the WTC Volunteer Fund based on their 9/11-related work. To do so, the VCF needs the Workers’ Compensation Board number associated with the individual’s Workers’ Compensation claim. You should submit documents reflecting your WCB number. You should also submit other evidence (such as affidavits or contemporaneous records) demonstrating that you were physically present in the NYC Exposure Zone during the period beginning on September 11, 2001, through May 30, 2002, when you submit your claim.

WTC Health Registry

For individuals enrolled in the WTC Health Registry, the VCF has an arrangement with the WTC Health Registry to obtain direct access to individual survey responses. Claimants must first give their permission to release these responses to the VCF. The WTC Health Registry will provide you with an authorization form that authorizes the WTC Health Registry to release this information to the VCF. You can contact the WTC Health Registry by calling 866-692- 9827. *You will still need to submit other evidence* (such as affidavits or contemporaneous records) demonstrating that you were physically present in the NYC Exposure Zone during the period beginning on September 11, 2001, through May 30, 2002.

American Red Cross

If you were a Red Cross volunteer at the crash sites or in the NYC Exposure Zone beginning September 11, 2001, through May 30, 2002, the Red Cross may be able to provide you with a letter verifying your presence at the site. You should contact Jill Warren at Jill.Warren@redcross.org to request a Red Cross letter verifying your presence. If the VCF needs additional information from you after reviewing your claim form and the letter, the VCF will contact you.



Consolidated Edison (“ConEd”)

The VCF works directly with ConEd to obtain information for ConEd employees who assert that they participated in the World Trade Center response while working for ConEd. ConEd may be able to verify that an individual worked for ConEd during the relevant timeframe but may not be able to confirm the actual location of where the individual’s work was performed. If you allege presence based on your work as an employee of ConEd, you should also submit other evidence (such as eyewitness affidavits or contemporaneous records) demonstrating that you were physically present in the NYC Exposure Zone during the period beginning on September 11, 2001, through May 30, 2002.

If you were a contractor for ConEd, ConEd is unable to provide information regarding your presence at the site within the relevant timeframe. In that case, you should submit presence documentation (such as eyewitness affidavits or other contemporaneous records) demonstrating that you were physically present in the NYC Exposure Zone during the period beginning on September 11, 2001, through May 30, 2002.

c. When to submit presence documents

You should not submit your claim form unless you are ready to submit all required supporting documents, including documents to support your presence at the site, as the VCF cannot review your claim without this information. If you would like to “store” presence documentation with the VCF, *even if you have no immediate plans to submit a claim*, you may upload the documents to the online system at any time after you have submitted your registration. The VCF website has instructions for uploading documents to the online system. ***Please keep in mind, however, that VCF staff will not be reviewing these documents for sufficiency until your claim form and all required supporting documents are submitted.*** *If you decide to upload documents such as affidavits in order to “store” them with the VCF, you should be very careful to confirm that the document is completed with as much specific information as possible, and you should review it in detail to ensure that it meets all VCF requirements.*

1.7 VCF1 Claims

If you were found eligible for compensation in VCF1, you are eligible to amend your claim and seek additional compensation. You may be eligible for additional compensation if:

- You suffered a new physical injury or condition that you had not suffered at the time of the VCF1 claim filing or that was not compensable at the time of VCF1.
- You suffered a new loss that you had not suffered at the time of the VCF1 claim filing – for example, if you were previously compensated for non-economic loss only and have since been determined to be totally disabled due to an eligible condition, you can amend the claim to seek economic loss.
- Your prior eligible condition has substantially worsened, resulting in damages or loss that was not previously compensated.

Note: There are two objectives when evaluating whether a claimant who already received an award in VCF1 should be awarded additional compensation in VCF2 for exacerbated or new injuries: (1) avoiding the reassessment or recalculation of any component of the VCF1 award or changing any assumption applied in making that calculation, and (2) avoiding duplication of any component of the award that was already made in VCF1. Thus, the amount of compensation you received in VCF1 will be considered when determining whether additional compensation



should be awarded. As a general rule, the compensation you receive in this iteration of the VCF (“VCF2”) will be calculated based on the amount of compensation any similarly situated person who filed a claim only in VCF2 would receive; any compensation you received in VCF1 will then be applied as an adjustment to the award.

In most cases, you do not need to submit proof of presence as otherwise required if you were deemed eligible for VCF1 (see Section [1.6](#) for more information on proof of presence). The VCF will contact you if any additional information is needed.

1.8 **Eligibility Review and Determination**

a. **Preliminary Review**

Once you submit your claim, the first step the VCF takes is a preliminary review to confirm that all of the “minimally required” documents have been submitted. In addition to a complete Claim Form, we require the documents listed below before your claim can move forward for a more substantive review. Note: the VCF does not accept electronic signatures on any of its forms and documents. Many of the third-party entities with whom we exchange information on your behalf also do not accept electronic signatures. To ensure there is no delay in the processing of your claim, please submit your document(s) with the appropriate signature and originals where required.

- Complete Signature Page
- Original and signed Exhibit A – “Authorization for Release of Medical Records”
- Confirmation from the WTC Health Program that you have at least one physical condition certified for treatment (the VCF will contact the WTC Health Program directly to confirm you have an eligible certified condition)
- Proof of Presence documents as specified in Section 1.6 of the VCF Policies and Procedures document
- Exhibit 1 – “Social Security Administration Consent Form” (required only if you are claiming economic loss)
- Original Client Authorization to deposit the payment on your claim to your attorney’s bank account (if applicable) or an ACH payment form if payment on your claim will be deposited to your bank account

Once we confirm we have a complete Exhibit A with original signatures, we contact the WTC Health Program for information about your certified condition(s). If applicable, the VCF will also request information from certain government entities, employers, and other third parties that may support presence for VCF purposes.

If any of the above documents are missing or insufficient, the VCF will send you a missing information letter and place the claim in “Inactive” status. Once the required documents are received and verified as sufficient, the claim will be reactivated for review.

If the requested documents are not submitted within 60 days of the date of the missing information letter, your claim may be denied, unless the only outstanding item is confirmation of a certified condition by the WTC Health Program. The VCF understands there may be a delay in the certification process and will not deny a claim when the certification is the only missing item identified during our preliminary review. If your claim is denied, you can amend your claim once you have the necessary documents and the VCF will reactivate your claim for review.



b. Substantive Eligibility Review

Once we have all documents required for processing, we begin substantive review of the claim to determine if you meet the eligibility criteria set forth in the statute and implementing regulations based on the information and/or documentation in your claim file (see Section [1.1](#)). This includes confirming that (a) the claim was registered by the applicable deadline, (b) you have an eligible 9/11-related physical condition, (c) there is sufficient documentation to demonstrate that you were present at the site, and (d) any 9/11-related lawsuits have been timely resolved. If applicable, we also confirm or “validate” the Personal or Authorized Representative who has filed the claim on the victim’s behalf.

If we need something further in order to determine your eligibility, you will receive a missing information letter. It is important that you respond to all missing information letters within the timeframe specified in the letter. If you don’t respond to our missing information request after 30 days, we will render a decision based on the information contained in your file at that time.

You will receive a letter from the VCF explaining the eligibility decision on your claim. If you are found to be eligible for compensation, the letter will list the physical injury or conditions for which you have been found eligible. These are the conditions that the VCF will consider when calculating the amount of your award. If eligibility is denied, the letter will explain how to appeal the decision or how to amend your claim in the future when you are able to provide the additional information for consideration.

1.9 Claims Filed on a Victim’s Behalf

If you are filing a claim on the victim’s behalf, you must show that you have the legal authority to do so. This includes Personal Representatives filing a claim for a deceased victim, parents or guardians who are filing a claim on behalf of a minor child, and guardians filing a claim for an incapacitated adult.

Only those authorized by law or court order may pursue a claim on behalf of another individual. In order to process a claim filed by someone other than the victim, the Special Master must first validate the individual’s authority to represent the victim for the VCF claim. Different types of documentation are required depending on the representative’s relationship to the victim.

If you are filing a claim on the victim’s behalf, you must submit the documents that are required for the VCF to validate your authority as an authorized representative. The [list of required documents](#) are included in the subsections below. The list is also available under “Forms and Resources” on the VCF website.

NOTE: If you are filing a deceased claim (i.e., a claim filed on behalf of an individual who is believed to have died as a result of an eligible 9/11-related condition), all claims for lost earnings or benefits must be made, and all supporting documents must be submitted, *before* the VCF finalizes substantive review of the compensation claim. A claim has reached the final stages of substantive review when the status in the online system moves to “Determination Made: Processing”. The VCF will not allow any amendment in a deceased claim after a substantive determination on the compensation claim has been made, except in limited circumstances. It is therefore very important that you claim all losses and submit the required supporting documentation when you file your claim.

a. Personal Representative of a Deceased Victim

- Victim’s Death Certificate: An **original or certified copy** is required. If possible, please submit the “long form” version of the death certificate, which lists the cause of death.



- Letters of Administration, Letters Testamentary, or other Court Order showing the appointment as the Personal Representative, Executor of Will, or Administrator of the Estate. A copy is sufficient for the VCF to validate the Personal Representative. An **original or certified copy** is required before payment can be issued.
 - Your court order may include limitations. Some limitations do not interfere with the VCF's ability to validate the Personal Representative, while other limitations may impact the VCF's ability to process the claim. See the [Instructions for Letters of Administration with Limitations](#) on the VCF website for more detailed information.
 - If you submit Letters of Administration, Letters Testamentary, or other Court Order that includes limitations that interfere with the VCF's ability to process or pay your claim, you will be advised in writing and given time to obtain the appropriate documentation.
 - In very limited circumstances where the Personal Representative is unable to obtain Letters of Administration, Letters Testamentary, or other Court Order, the Special Master may appoint a Personal Representative for purposes of the VCF claim. You must first attempt to obtain an appointment from the state probate or surrogate court where the victim lived. Please note that this option is generally available only when legal or geographical obstacles mean that the representative is unable to open an estate to obtain an appointment. For more information, please see the information on [Appointment of a Personal Representative](#) on the VCF website.
- Proof of Victim's Cause of Death: This may be included on the victim's death certificate. If it is not included on the death certificate, other documents sufficient to show proof of cause of death may include a hospital discharge summary, or the victim's final medical records. Copies of these documents are sufficient.
- A complete [Claim Form Signature Page](#): This must be signed by the Personal Representative. A copy is sufficient.
- *If the Personal Representative has filed an amendment to a personal injury claim that was originally filed by the victim, a complete Claim Form [Appendix A](#) is required. A copy is sufficient.*

Claims with Co-Personal Representatives: If the court has appointed co-Personal Representatives as administrators of a decedent's estate, one Personal Representative must be designated the "Lead Personal Representative" who will serve as the point of contact for the VCF claim. Each co-Personal Representative must submit a signed and notarized statement identifying the individual who will serve as the Lead Personal Representative. See [Section 6.5](#) for important information regarding the documentation that must be submitted, specific instructions for signing and submitting each of the required authorizations and forms, and an explanation of how any payment will be made on the claim.

b. Parent or Guardian of a Minor Victim (under 18 years of age at the time the claim is filed)

- Minor Victim's Birth Certificate: An **original or certified copy** is required.
- *If parents share legal custody of the Minor Victim:*
 - One [Claim Form Signature Page](#) signed and initialed by both parents. A copy is sufficient;



- OR -

- Two [Claim Form Signature Pages](#), one signed and initialed by each parent. Copies are sufficient.
- *If one parent has sole legal custody of the Minor Victim:*
 - [Court Order or Custody Agreement](#) granting the parent sole legal custody. An **original or certified copy** is required.

- AND -

- A complete [Claim Form Signature Page](#) signed and initialed by the parent who has sole legal custody. A copy is sufficient.

c. Guardian of a Non-Minor Victim

- [Court Order Appointing Guardianship](#): An **original or certified copy** is required.
 - *Please note that the VCF does not generally accept Powers of Attorney to fulfill this requirement.*
- A complete [Claim Form Signature Page](#) signed and initialed by the person granted guardianship. A copy is sufficient.

If you are the parent of an adult child and are helping your child with his or her VCF claim, you do not need to submit the documents listed above. Because the child is an adult, the claim form must be completed by the adult child as a “self” claim in the victim’s name, with all applicable exhibits and supporting documents signed by the victim. The adult child can then authorize the VCF to share information about the claim with a parent by adding the parent as an “Alternative Contact” on the claim form. The adult child may also grant the parent online access to the claim in the VCF claims system. NOTE: The parent should **not** be listed on the claim form as an “Authorized Representative” as this designation is only applicable to parents or guardians of minor children, Personal Representatives of deceased individuals, and guardians of incapacitated adults.

Minors who reach 18 years of age during the processing of the VCF claim: The VCF requires that a victim take ownership of his or her own claim once he or she reaches 18 years of age. Thus, when the VCF becomes aware that a previously minor victim has reached the age of 18, the VCF will contact the victim at the address on file to request the correct updated contact information, and a properly signed Signature Page, exhibits, and sufficient payment information as directed by the now-adult victim. Once a victim turns 18, the VCF also will take steps to remove the parent as the Authorized Representative. The parent will receive a letter explaining the change, and the now-adult victim will also receive a letter explaining the change and next steps, including information on how to add the parent as an Alternative Contact if the victim still wants the parent to assist with the claim. The claim will be placed in “Inactive” status until the victim submits the properly signed documents.

If the parent was represented by a law firm for the minor child’s claim, the VCF will not remove the law firm associated with the claim unless the now-adult victim asks that the firm be removed. This means the law firm of record will continue to have access to the claim and receive copies of the correspondence unless the attorney or the victim notifies the VCF that the firm no longer represents the now-adult victim.



Section 2. Calculation of Loss (Compensation)

By law, the VCF can only compensate for losses caused by eligible conditions related to the events of September 11, 2001. In addition, the law requires the Special Master, in each case, to take account of the harm to the claimant, the facts of the claims, and the individual circumstances of the claimant. Our claim analysis therefore always begins with three essential questions: was there a demonstrable loss, can we reasonably conclude the loss was caused by a WTC-related **eligible** condition, and what makes sense in the context of this claimant and the individual circumstances of this claim?

Three principles guide this inquiry. First, the VCF strives to be fair to all claimants. This means that we consider both fairness to the individual claimant as well as fairness to the entire claimant population, with priority given to those who suffer from the most debilitating physical conditions. Second, everything we do must be faithful to the statute that authorizes our work, the Reauthorized Zadroga Act (codified at 49 USC Title IV). And third, because we are spending public funds, we must ensure that every aspect of the award is adequately justified and documented.

The VCF is committed to transparency about the claim review process. To that end, the sections below provide detailed information about how we generally evaluate and calculate compensation for non-economic and economic loss. However, given the volume and variability of claims, and the legal requirement that the Special Master consider individual circumstances in each case, it is not possible to cover every potential situation in this document. Therefore, this information should be viewed as a general guide to how the VCF implements our fundamental principles: fairness to the claimants, faithfulness to the statute, and accountability to the public, in the service of compensating demonstrable loss caused by an eligible condition.

a. Compensation Review Process

Once the VCF confirms that you have met the eligibility criteria, we begin initial review of your compensation information. This includes determining the types of loss being claimed. Claims seeking only non-economic loss are the simplest and fastest to review. **Non-economic loss** is sometimes called a “pain and suffering” award. This is determined based generally on the nature and severity of your condition and the effect of the condition on activities of daily living and does not take into account economic loss caused by the condition.

If you are claiming **economic loss**, we obtain information and documentation from various third parties, such as the Social Security Administration (“SSA”), the FDNY, the NYPD, and the New York State Workers’ Compensation Board, regarding your disability, earnings history, and/or pensions if we have not already done so as part of our preliminary eligibility review.

If your claim is missing documentation that we need in order to calculate your award, you will receive a missing information letter. It is important that you respond to all missing information letters within the timeframe specified in the letter. If you don’t respond to our missing information request after 30 days, we will render a decision based on the information contained in your file at that time.

Please be aware that any documents you submit after we have finalized the substantive review of your compensation claim will not be reviewed as that review would delay the issuance of your award determination. If you submit documents after the VCF finalizes substantive review of your claim, but before your award letter is issued, we will notify you in the award letter that the documents have not been reviewed. The letter will explain the next steps to take on your claim.



b. Substantive Compensation Review and Calculation of Award

Each award is calculated individually. As required by the statute, your final award will be calculated using this basic formula: Non-Economic Loss plus Economic Loss, minus Collateral Offsets. Our review includes: determining non-economic loss based on the severity of physical harm; calculating economic loss, including past and future lost earnings (if claimed); and confirming collateral offsets, including payments received from pension funds, life insurance, SSA, Workers' Compensation, and settlements from 9/11-related lawsuits. Claims that have more complex compensation information take more time to review.

To calculate **economic loss**, the VCF must first determine whether there is in fact a compensable loss. There are three types of economic loss: loss of earnings/benefits, out-of-pocket medical expenses, and replacement services loss. Each of these types of loss is explained in the sections below.

If we do not receive the documents necessary to calculate economic loss, or if the documents are not submitted in a timely manner, we may issue an award for non-economic loss only. In certain situations, we may deactivate your claim and stop our review if we are missing critical information. This includes information about collateral offsets that apply to both economic and non-economic loss, proof of cause of death for a wrongful death claim, or a missing Exhibit 1, which allows us to receive information from SSA in support of your claim.

If you submitted a claim for economic losses, but the VCF issues an award for non-economic loss only because of missing documents, the VCF will only reconsider the economic loss award on amendment. This means you must submit an amendment and request re-review of your economic loss claim. **Note: In deceased claims, once we have finalized substantive review of your compensation claim, you will not be able to amend your claim to provide any missing information that you did not previously submit.** For this reason, if you have not already provided all relevant information to the VCF, we strongly urge you to contact the VCF to request that we hold review of the claim so that you can provide all materials needed to support the claim before we finalize our review. See [Section 5](#) for additional information about amending your claim.

Once the award is calculated, we send you a letter explaining the breakdown of your award and an option to appeal within 30 days if you believe an error was made in the calculation. If you do not appeal, we authorize payment within 20 days of the end of the 30-day appeal period. If you do appeal, payment is authorized once a decision is rendered following your appeal.

As a matter of policy, if the VCF determines that your total award, after calculating economic and non-economic loss and subtracting all applicable offsets, is less than what it would be if we calculated only non-economic loss (to which certain offsets do not apply), then we will convert your claim to one for non-economic loss only, so that you receive the larger award. Your award letter will provide details for both the economic and non-economic loss calculations applied to your claim so that you can understand the VCF's rationale for awarding only non-economic loss. We urge you (and your attorney, when applicable) to consider the collateral offsets that may be applicable to your claim before submission, and consider submitting a non-economic loss only claim in those cases where your offsets are likely to exceed your economic loss. By doing this analysis before submitting your claim, the VCF will be able to more quickly process your claim because we do not need to take the time to calculate the economic loss in order to determine that a non-economic only award would be greater.



2.1 Non-Economic Loss

The Zadroga Act defines non-economic loss as losses for physical and emotional pain, suffering, inconvenience, physical impairment, mental anguish, disfigurement, loss of enjoyment of life, loss of society and companionship, loss of consortium (other than loss of domestic service), hedonic damages, injury to reputation, and all other non-pecuniary losses of any kind or nature.

Each person who was killed or injured in the September 11th attacks suffered grievous harm, and each person experienced the unspeakable events of that day in a unique way. After extensive fact finding, public outreach, and review of public comments in the original VCF, the Special Master and the Department of Justice concluded that the most rational and just way to approach the difficult task of placing a dollar amount on the pain and emotional suffering experienced by the thousands of individuals killed or injured by the September 11th attacks was to assess the non-economic losses for categories of victims.

a. Valuation of non-economic loss:

Non-economic loss for death

The regulations set a presumed award for non-economic losses sustained by the victim, and the victim's spouse⁵ and dependents, because of the victim's death as a result of the September 11th aircraft crashes or subsequent debris removal: \$250,000, plus an additional \$100,000 for the spouse and each dependent of the decedent. The latter figures – \$100,000 for the spouse and each dependent – include a non-economic component of "replacement services loss."

Non-economic loss for injury

The 2015 reauthorization statute established certain caps on non-economic awards for physical injury claims. The maximum non-economic loss for any one type of cancer condition is \$250,000, and the maximum non-economic loss for any one type of non-cancer condition is \$90,000. If the victim has more than one type of cancer, the Special Master may issue an award that makes an adjustment above \$250,000 to account for multiple cancers. Similarly, if the victim has cancer and severe non-cancer conditions, the Special Master may issue an award that makes an adjustment above \$250,000 to account for multiple conditions.

The 2015 reauthorization statute also requires that the Special Master prioritize claims with the most debilitating physical conditions. Accordingly, non-economic loss is based generally on the severity of the condition and the effect of the condition on the victim's ability to maintain normal activities of daily living. **Important Note: The amount of non-economic loss is not tied to the number of certified conditions.** It is possible that an individual victim with many relatively mild conditions would receive a non-economic award that is less than that of a victim who has only one condition that is severe. For example, a victim who has a respiratory condition that significantly restricts the victim's ability to participate in activities of daily living and recreation, or that is progressive and not effectively treated, may

⁵ The regulations provide that the Special Master will identify the spouse of a victim by looking to the victim's Federal tax return. Prior to June 26, 2013, same-sex married couples were prohibited from identifying themselves as married on their Federal tax returns because Section 3 of the Defense of Marriage Act ("DOMA") prohibited the Federal Government from recognizing same-sex marriages. Following the decision of the Supreme Court in *United States v. Windsor*, 133 S. Ct. 2675 (2013) (finding Section 3 of DOMA unconstitutional) and pursuant to Department of Justice policy, all lawful same-sex marriages will be recognized if they were valid in the place where the marriage was celebrated. The Special Master will therefore recognize all same-sex marriages valid in the place where the marriage was celebrated notwithstanding that a victim's Federal tax return filed before June 26, 2013, could not identify a same-sex spouse.



have a higher non-economic award than a victim who has a mild respiratory condition and another mild condition which have not had a significant effect on their activities of daily living. Please keep this in mind when considering whether to seek certification of additional conditions through the WTC Health Program.

In general, when an eligible non-cancer condition has a consistent, sustained, and severe impact on a victim's quality of life, the non-economic award will be in the range of \$90,000. As a general rule, under the terms of the Reauthorization Act, the Special Master has identified the following conditions as presumptively severe and debilitating and warranting the highest allowable non-economic loss award for a non-cancer condition, without any further documentation: Emphysema, Interstitial Lung Disease (including Asbestosis), and Sarcoidosis.

When the victim demonstrates mild or negligible impairment on daily life, or if the eligible conditions have resolved over time or are reasonably well-controlled through over-the-counter medication, the non-economic award may range between \$10,000 and \$90,000, depending on the severity of the condition as demonstrated by recent medical records (medical records that are dated within three years of the claim submission date). As a general rule, under the terms of the Reauthorization Act, the Special Master has identified the following conditions as presumptively less severe and debilitating and thus warranting lower awards, absent medical documentation of severity, than the highest allowable for a non-cancer condition: Asthma/RADS, Barrett's Esophagus, Bronchiectasis, Chronic Airway Obstruction,⁶ Chronic Bronchitis, Chronic Cough, Chronic Obstructive Pulmonary Disease, Chronic Rhinitis, Esophagitis, Gastroesophageal Reflux (GERD), Laryngitis, Nasopharyngitis, Obstructive Sleep Apnea, Pharyngitis, Respiratory Conditions due to Fumes or Vapors, Rhinosinusitis, Sinusitis, and Traumatic Injury or Musculoskeletal Disorder. While some of these conditions can have severe impacts on individual patients, the VCF will require evidence of such severity, in the form of recent medical records supported by impact statements and/or appeal testimony, before considering an increase in the award.

For eligible cancers, the non-economic award will generally range between \$90,000 and \$250,000, depending on the type of cancer and the medical evidence provided regarding metastasis, recurrence, and/or permanent complications. For example, if a victim is certified for two different types of non-melanoma skin cancer – for example, basal cell and squamous cell – or for one non-melanoma skin cancer at multiple sites, the award will generally be in the range of \$90,000.

The Special Master may consider multiple conditions together to determine an aggregate award, which may exceed \$250,000. For example, the victim may suffer from multiple types of cancer or may have a severe non-cancer eligible condition along with an eligible cancer. In such cases, the non-economic award may be greater than \$250,000.

Note: If you received a non-economic loss award in VCF1, the VCF will consider the amount previously awarded when determining whether additional compensation is warranted in light of the 2015 reauthorization statute's prioritization mandate and non-economic loss caps.

⁶ When evaluating whether an individual should be certified for Chronic Obstructive Pulmonary Disease (COPD), the WTC Health Program follows the diagnostic criteria set forth by the American Thoracic Society in the Global Initiative for Chronic Obstructive Lung Disease (known as the GOLD standard). See <https://goldcopd.org/wp-content/uploads/2018/11/GOLD-2019-v1.7-FINAL-14Nov2018-WMS.pdf>. For purposes of evaluating non-economic loss, the VCF does not treat a certification for Chronic Airway Obstruction as equivalent to COPD unless the individual meets the GOLD diagnostic criteria for COPD, and will not consider an increase to the award unless there is medical documentation of ongoing severity and impact on daily life.



While this information is provided for general guidance, it is important to note that these are general benchmarks, and awards may vary within the statutory caps as each claim is evaluated individually on its specific facts and at the discretion of the Special Master.

b. Special Master authority to award non-economic loss above the statutory cap

When considering the authority provided by the statute governing the VCF to issue non-economic loss awards above the statutory caps in special circumstances, the Special Master's intention (consistent with the intent of Congress) is to exercise this authority in very limited and unique circumstances, and only for non-cancer claims. The \$250,000 cap for a single cancer condition will not be exceeded under this authority.

The exception will be made only in the small number of non-cancer claims where the claimant has an interstitial lung disease ("ILD") or other pulmonary illness where the effects of the condition are so severe that they are similar in all relevant respects to what a claimant with lung cancer might suffer. These claimants might require lung transplants (sometimes double lung transplants), or significant mechanical respiratory assistance on a daily basis. The Special Master interprets the statutory language to allow compensating these limited number of severe non-cancer claimants in the same way that a cancer claimant would be compensated – meaning, \$250,000 for a single condition, and a maximum award, under current VCF policy guidelines, of \$340,000 for multiple severe conditions. This is the bar by which the Special Master will measure the appropriateness of an increase above the cap, and it will be done in consideration of all other circumstances of the claim and the totality of the award. If you believe you meet this threshold, you should request "special circumstances" consideration on appeal. If you have a prior claim that has already been decided and paid, and you believe you should be considered for the exception, please amend the claim to submit the request for review.

c. Documentation of non-economic loss:

If the WTC Health Program has certified your condition, no further documentation is necessary to support a claim for non-economic loss; the VCF will award non-economic loss at the lowest end of the range for the applicable condition based solely on the WTC Health Program certification. If, however, the certified condition significantly impairs activities of daily living or if the certification does not reflect the severity of the condition, additional documentation of the types described below can help the VCF evaluate whether an increased non-economic loss award within the appropriate range is warranted.

To help the VCF understand the severity and effect of your condition, you may want to submit supporting documents related to your condition with your claim. The VCF focuses on recent documentation, from within three years of the claim submission date, when evaluating non-economic loss. For example, if a claim is submitted on January 1, 2020, recent medical records are those dated after January 1, 2017. Please only submit documents that are related to your 9/11-related eligible physical conditions. If the medical records submitted with your claim meet the three-year timeframe, you do not need to continue to submit medical records on your claim unless the VCF requests them. The types of documents listed below can assist the VCF in the evaluation of your claim:

- Recent medical documents that show the type and frequency of medical treatments you have had for your condition. For example, documents that show hospitalization, surgery, emergency treatment, and/or treatment for side effects of the condition.
- Recent test results and treatment prescribed that show the severity of your condition. For example, many people with respiratory injuries have pulmonary function tests. If you have had such tests, please submit the test results including the physician's



interpretation of the tests. Other examples include computed tomography scans, x-rays, endoscopies, esophagogastroduodenoscopies, laryngoscopies, polysomnography or sleep studies, or other diagnostic and treatment procedures.

- Recent medical records documenting severity and/or effect of the condition on daily life.
- Recent documentation of the medications required to manage your condition and how often you take those medications. The type of medication prescribed and the frequency of use of the medication can help demonstrate the severity of the condition.
- Recent medical records or treating physician statements showing use of assistive devices that significantly impair activities of daily living – such as breathing devices that may be used for Obstructive Sleep Apnea.
- If your condition has limited your activities, please submit any explanation or documentation that explains this effect of your condition. For example, you could submit letters or reports from specialists who treated your eligible conditions.
- Records of state and federal agency proceedings or private insurance records that address your medical condition.
- A personal statement discussing the impact of the eligible conditions on your life. Such a statement is most helpful if it provides a timeline and details on the medical treatments you have experienced. Note that in general, the VCF will need medical records substantiating claims of medical procedures (surgery, etc.).

A document from your physician summarizing the medical history of your condition and treatment will often be sufficient to prove the extent of your non-economic loss. If you submit medical records, please highlight the relevant information in the records so the VCF can easily find the pertinent information.

Note: The non-economic award is not automatically tied to the degree of disability (to the extent there is an occupational disability determination as a result of an eligible 9/11-related physical injury or condition). A claimant may be partially disabled from performing a certain occupation due to his/her eligible injury or condition but the fact of an occupational disability alone will not warrant a non-economic award higher than the presumptive “base” value. As noted above, the non-economic award is based generally on the severity of the condition and the effect of the condition on the victim’s ability to maintain normal activities of daily living, as demonstrated by recent medical records, except in those cases treated as presumptively severe (where medical records are not needed in order to qualify for the highest award allowed by the statutory caps).

2.2 Economic Loss: Lost Earnings and Benefits

If you are physically injured as a result of an eligible condition, you can make a claim for earnings/benefits you lost before you submitted your claim to the VCF, and you can make a claim for earnings/benefits you expect to lose in the future (after submission of your claim) as a result of your eligible condition.

If you are submitting a personal injury claim and you claim a loss of earnings, the VCF must determine whether you are unable to work, or have a reduced ability to work, as a result of an eligible 9/11-related physical condition. If that is the case, then the VCF must determine the extent of that loss. The VCF will then compute the amount of past and/or future lost wages in light of these factors (as explained below). Note: The VCF considers and calculates losses suffered before you submit your claim for lost earnings as “past” losses, and losses suffered after you submit your claim for lost earnings as “future” losses.



If you are filing a deceased claim (i.e. a claim on behalf of a victim who died as a result of an eligible 9/11-related physical condition), you can make a claim for lost earnings/benefits incurred before the victim died as a result of an eligible condition and you can make a claim for the lost future earnings resulting from the death of the victim. If the Personal Representative of the victim seeks compensation for loss of the victim's future earnings, the VCF will compute the future lost earnings as of the date of the victim's death using the procedures explained below.

This section describes the evidence you must submit to substantiate your claim for lost earnings. In general, you must submit:

- (1) Evidence that you are or were unable to work as a result of an eligible condition; and
- (2) Information about your earnings and benefits, so that the VCF can determine the amount of loss. Sections 2.2f-i contain information specific to victims who worked for New York City (including FDNY and NYPD) and the Federal government (including military and military reserve).

See [Section 2.3](#) for a detailed explanation of the methodology used to calculate future lost earnings.

a. Documentation of earnings history:

The VCF generally will use information obtained from the Social Security Administration ("SSA") to determine earnings history. You must complete and submit a consent for release of SSA information (Exhibit 1 to the Claim Form) in order for the VCF to obtain this information.

If you did not have SSA earnings (e.g., worked outside the United States or do not have a Social Security number), then you must provide other documents demonstrating earnings – including tax returns, statements of profit/loss from a business (if self-employed), W2 forms, 1099 forms, pay stubs, or employment offer letters.

If you believe that your SSA earnings history does not fully account for future earnings potential, then you must provide documentation supporting any argument that the VCF should take into consideration other information in determining future earnings. For example, if you received a promotion before becoming disabled and if the earnings history did not reflect that promotion, then you must provide proof of the promotion and any earnings adjustment resulting from the promotion. If you were eligible for bonuses, deferred compensation, stock options, or any other form of compensation that might not be reflected in the SSA earnings report, you must submit proof of such forms of compensation if you want the VCF to consider such forms of compensation or increases in compensation in evaluating your claim.

b. Establishing discrete past lost earnings:

In order to qualify for discrete past lost earnings (i.e., losses incurred before you filed your VCF claim or losses incurred in the absence of a third-party disability occupational disability determination), you must show that you were unable to work, or unable to work at the same level, as a result of an eligible condition and that you incurred losses as a result. You will need to submit two types of information:

- First, you need to show that you actually lost compensation. For example, an employer might provide a statement showing your compensation history and time periods where you missed work and were not compensated. If you were compensated fully through sick pay or other compensation, that means you have not "lost" compensation.



- Second, you need to show that you were unable to work, or unable to work at the same level, because of an eligible physical condition. Examples of such documentation might include a medical report explaining that you had to miss work because of your eligible condition, determinations by an insurance carrier that provided disability coverage and which specify the disabling condition, or Workers' Compensation records.

The VCF provides a *Temporary Past Lost Earnings* worksheet to help support your VCF claim. You can access [here](#), and under "Forms and Resources" on the VCF website.

c. Establishing loss of future earnings/benefits as a result of a permanent disability:

If you are filing on behalf of a deceased victim and you have provided sufficient evidence that the cause of death was related to eligible conditions, the VCF will generally calculate lost earnings and benefits resulting from the victim's death if it is clear from the information in the claim file that the victim's death resulted in a compensable loss.

In some cases, even where the record supports the determination that the victim's death was related to an eligible condition, it is not clear that the victim's death resulted in a compensable loss. For example, if the victim left the workforce more than one year before death without a permanent partial or total occupational disability determination based on an eligible 9/11-related physical health condition, the VCF will consider the reasons the victim originally left the workforce and the likelihood that the victim would have returned to the workforce were it not for the victim's eligible condition in determining whether the victim actually lost compensation as a result of an eligible condition. For these claims, it may be necessary to provide additional documentation that explains the relationship between the loss of earnings and the eligible condition. In many cases, these issues are best addressed in the context of an appeal hearing.

Likewise, if the victim was 65 years old or older at the time of death, the VCF generally will not award lost earnings and benefits, based on the presumption that the victim had already reached the end of his or her reasonable work-life expectancy. There are limited circumstances in which the VCF may assume that the victim would have continued working past age 65, such as where the victim was providing financial support to minor children. In many cases, these circumstances are best addressed in the context of an appeal hearing.

See the section below about documentation of employment-related benefits.

If you are filing a personal injury claim, in order to qualify for an economic loss award for loss of future earnings/benefits, you must first show that you have a permanent partial or total occupational disability based on an eligible 9/11-related physical condition. In general, the VCF will accept a determination by a governmental agency that you have a disability and will accept the governmental agency's determination of the cause of the disability. If the governmental agency determines that the cause of disability is a condition that the VCF has found eligible, then the disability determination will provide a basis for a determination of future loss of earnings/benefits. For example, the VCF will accept disability determinations made by the Social Security Administration, the FDNY, the NYPD, NYCERS, the VA, and Workers' Compensation boards (see the sections below regarding FDNY, NYPD, NYCERS, FERS, and the VA). The VCF may also accept a determination of disability made by a private insurer or a treating physician if they are sufficiently detailed as to the effect of the VCF eligible condition, distinguish those effects from those of ineligible conditions, and provide sufficient information from which the onset and severity of the disabling condition may be determined.



When considering whether the disabling condition identified in the disability determination is the same as your VCF-eligible condition, the VCF will apply the following presumptions:

- The VCF will treat all conditions in the category of Obstructive Airways Diseases (“OAD”) as equivalent. Obstructive Airways Diseases include asthma, bronchiectasis, chronic airway obstruction, chronic bronchitis, chronic obstructive pulmonary disease (“COPD”), emphysema, reactive airways disease, reactive airways dysfunction, and respiratory conditions due to fumes and vapors. The VCF will consider the SSA diagnoses of Chronic Pulmonary Insufficiency (code 4960), Chronic Respiratory Disorders (code 4960), or Other Disorders of the Respiratory System (code 5190) equivalent to the Obstructive Airways Diseases listed in this paragraph.
- The VCF will treat all conditions in the category of Interstitial Lung Diseases (“ILD”) as equivalent. Interstitial Lung Diseases include asbestosis, granulomatosis, interstitial pneumonia, pneumonitis, pulmonary fibrosis, and sarcoidosis.
- The VCF will treat all conditions in the category of Upper Respiratory Diseases (“URD”) as equivalent. Upper Respiratory Diseases are those affecting the nose, sinuses, or throat. These conditions include rhinitis, sinusitis, rhinosinusitis, tracheitis, laryngotracheitis, laryngitis, nasopharyngitis, and pharyngitis.

Thus, in each of the cases identified above, if you have been deemed disabled due to one of the listed conditions, and another condition treated as equivalent has been deemed eligible for compensation by the VCF, your disability determination supports a lost earnings award.

Note that, in all cases, even though the conditions may be treated as equivalent when deciding whether a disabling condition is the same as your eligible conditions, these conditions are NOT equivalent for the purposes of determining the appropriate non-economic loss award amount, as discussed in Section 2.1 above. Disabling conditions that fall in one category will not be deemed equivalent to conditions that fall in another category. Thus, if you are disabled due to an Interstitial Lung Disease and you have been deemed eligible by the VCF only for Obstructive Airways Diseases, the disability determination is not a basis for awarding lost earnings. Likewise, if you are disabled due to an Obstructive Airways Disease and you have been deemed eligible by the VCF only for Interstitial Lung Disease, the disability determination is not a basis for awarding lost earnings. An exception to this general rule may arise in those cases where a claimant is found disabled by the SSA due to Chronic Pulmonary Insufficiency or Chronic Respiratory Disorders and his or her only eligible condition is an Interstitial Lung Disease (e.g., sarcoidosis or pulmonary fibrosis). In such a case, if medical records submitted provide no other discernable basis for the claimant’s SSA disability, then it will be presumed that the eligible Interstitial Lung Disease is the same as the disabling condition.

It may be necessary to provide additional documentation that explains the relationship between the disability and your eligible condition(s). The VCF cannot award lost earnings for a disability that is not clearly related to an eligible condition.

In some cases, even where the record supports the determination that your disability is related to an eligible condition, it is not clear that your disability resulted in a compensable loss. For example, if you left the workforce more than one year before the onset of your eligible disability, the VCF will consider the reasons you originally left the workforce and the probability that you would have returned to the workforce were it not for your eligible condition in determining the extent of your earnings and benefits loss. For these claims, it may be necessary to provide



additional documentation that explains the relationship between your loss of earnings and benefits and your eligible condition(s).

d. Documents required to demonstrate disability:

- **Social Security Administration (“SSA”)** – If you have submitted Exhibit 1 of the Claim Form, the VCF will obtain certain disability information directly from the SSA. You should, however, submit any information you have about a favorable disability determination by the SSA, in particular, if your claim was decided on appeal, the narrative decision by the SSA Administrative Law Judge.

Claimants who receive disability benefits under the federal Supplemental Security Income (“SSI”) program: If you receive disability benefits under the federal Supplemental Security Income (“SSI”) program (administered by Social Security) as opposed to under the regular Social Security Disability Income (“SSDI”) program, please indicate that you are receiving SSI benefits when you file the claim and file an Exhibit 1, making sure to select the box requesting release of “Current monthly Supplemental Security Income payment amount.” The information the VCF receives from the Social Security Administration will include information about SSI benefits if applicable. Note: an SSI disability finding may support a claim of lost earnings.

- **Workers’ Compensation** – If you have a Workers’ Compensation determination from the New York State Workers’ Compensation Board (“WCB”), the VCF can obtain that information directly. To do so, the VCF needs the Workers’ Compensation Board number associated with your Workers’ Compensation claim. You should submit documents reflecting your WCB number. If you have a Workers’ Compensation determination from another state, then you must submit the Workers’ Compensation determination documents, including complete documentation of any orders/decisions, any benefits paid, the basis for your disability, and any medical records (including treating physician records and/or independent medical examinations) that are part of your Workers’ Compensation record.
- **Insurer** – If you have a disability determination from a private insurer, you must submit documentation from the insurer confirming the disability finding and showing that the basis for the disability was an eligible condition. You must also submit documentation of the amount and duration of benefits received, and a copy of the disability insurance policy.
- **Private physician** – To be considered by the VCF, an evaluation from a physician must state how long and how often the doctor has treated you, and explain the examination(s) and testing done by the physician. In particular, the evaluation must include the date of onset of disability; the percentage of disability attributable to eligible conditions and/or whether the eligible conditions are independently disabling, particularly if the claimant suffers from other non-certified conditions, or mental health conditions for which the VCF cannot compensate; and explanations as to why certain test results, limitations, or the effects of the condition itself support a disability finding. These pieces of information are critical to a finding that there is a disability determination that supports a lost earnings award, and disability evaluations that do not contain these pieces of information will be rejected as insufficient.
- **WTC Health Program Disability Evaluation process** – The VCF has worked with the WTC Health Program to implement a disability evaluation process (“Process”), which is designed to help provide qualifying claimants with a disability determination for an eligible condition in order to support an economic loss award in a VCF claim. The



Process is intended for a limited subset of WTC Health Program members who have been deemed eligible by the VCF for at least one certified physical condition, do not already have a disability determination for an eligible condition from a third-party entity or source (e.g., Social Security Administration, FDNY/NYPD, a state Workers' Compensation program, or insurance company), and meet other specific criteria for the Process. Individuals who have a disability determination based on an ineligible condition may be candidates for the Process if their eligible condition has become disabling.

If a claimant requests and is approved to enter the Process, a WTC Health Program physician will conduct a one-time disability evaluation of the claimant and prepare a disability evaluation report, which the claimant will submit with his/her claim. The VCF will consider the WTC Health Program Disability Evaluation report in combination with the facts and circumstances of the claim to determine if a lost earnings award is appropriate. It is important to note that receiving a WTC Health Program disability evaluation through the Process does not guarantee that you will be awarded lost earnings from the VCF.

See [Appendix B](#): WTC Health Program Disability Evaluation Process for complete details on the Process. Instructions are also available under "Forms and Resources" on the VCF website.

Pending disability applications: what to do if you are waiting for a disability decision from a government entity or insurer

If you are requesting economic loss but you have a disability application pending, and if your application for disability is based on a condition that is eligible for the VCF, you should wait to submit your claim, but must do so before the VCF closes on October 1, 2090, regardless of your disability status at that time.

If you have already filed your claim requesting economic loss, but you have a disability application pending, you should amend your claim immediately and include a statement notifying the VCF that there is a pending disability application. We will not process your claim until a determination on your disability application is made.

If you do not promptly notify the VCF of the pending disability application, and the VCF processes your claim and issues only a non-economic loss award, the claim for economic loss will be reviewed in priority order based on the date of submission of the amendment advising the VCF of the completed disability determination. If, on the other hand, you promptly amend your claim and notify the VCF of the pending disability application and the VCF defers processing your claim, your claim will be reviewed in a priority order based on the original date of submission of your compensation form once the completed disability application is submitted in a subsequent amendment.

e. Loss of employment-related benefits:

The VCF award will include the value of lost employment-related benefits. Employment-related benefits include pension programs, retirement contribution programs, and health benefits. You will need to submit documents to show the benefits you received before the eligible injury/death and any claimed losses associated with employer-provided benefits.

Defined benefit plans

In a defined benefit pension plan, the employer or other sponsor promises to pay specific retirement benefits based on the employee's or member's earnings history, length of service, and age. If you have a defined benefit pension that was or will be reduced because you retired early due to an eligible condition, the VCF may compensate you for that loss. To



do this, the VCF needs documents describing the pension plan and how the pension would be calculated.

The VCF has some of the information necessary to calculate pension loss for claimants who worked for New York City or the Federal government. **See Section 2.2d for FDNY, 2.2e for NYPD, 2.2f for members of the New York City Employees Retirement System, and 2.2g for Federal employees including the military and military reserve.**

The VCF also has information about defined benefit pension plans provided by many unions. In order to calculate loss associated with these pensions, you will also be required to submit:

- Wage cards from 2001 to the present.
- Information about your work with the union, usually consisting of a work history showing the hours worked in every year of work. This report should include regular hours and overtime hours. If possible, overtime hours should be broken down into “time and a half” and “double time.”
- Job title, unit, or level within the union.

If you are submitting a claim for loss of future earnings/benefits from a union, **please see [Appendix G](#) for the complete list of documents you must submit in order for the VCF to calculate your loss.** When calculating loss of benefits from a union, the VCF models typically include loss of pension and loss of annuity benefits. The VCF may consider loss of other benefits from your union if complete documentation is provided about the employer contribution amount and how the benefit is calculated.

In addition, the VCF has some of the information necessary to calculate pension loss for the following employers:

- Consolidated Edison
- Lockheed Martin
- Metropolitan Transportation Authority Police
- State of New Jersey, if a members of the Police and Firemen’s Retirement System (“PFRS”)
- State of New York, if a member of the State and Local Retirement System (“NYSLRS”) or the Teachers Retirement System (“NYSTRS”)
- Verizon

If you are submitting a claim for loss of future earnings/benefits from any of these employers, **please see [Appendix G](#) for the documents you must submit in order for the VCF to calculate your loss.**

If your employer or union is not listed above or in Appendix G, you must submit complete documentation about the pension plan and how benefits are calculated, as well as information specific to your pension calculation. Generally, you will need to submit the following information and documents:

- The pension plan or pension summary plan description (“SPD”) that describes eligibility requirements and how pensions are calculated
- Membership or start date with the employer or entity
- Years of qualifying service or number of pension credits
- Final salary or earnings that are used to calculate pension amount
- Any other variables or inputs that are used in the pension calculations
- If you already began receiving a pension (either directly or as a beneficiary of a decedent):



- The start date of that pension
- The amount of that pension
- The type of that pension (e.g., ordinary, service, disability, etc.)
- If the pension offers different payment options, provide the document the claimant or decedent received outlining those options
- If you receive a disability pension, documents showing the injuries or conditions that the pension is based upon

Note that the information above and in Appendix G only identifies documents related to loss of pension and other benefits. As with all other claims for lost earnings, **claimants must also submit documents establishing a disability and the amount of earnings lost.**

If there is an indication that you are receiving, or are entitled to receive, a disability pension (or if the decedent received a disability pension before death), but you do not submit information necessary to calculate that pension or determine the basis of that pension, the VCF will not issue a full award and may issue only a non-economic loss award because, without that information, the VCF cannot determine whether an offset is appropriate and the amount of that offset. If you have a personal injury claim and you later amend your claim and submit the information, the VCF will be able to calculate your economic loss. If you are filing a deceased claim (i.e., a claim seeking wrongful death losses because the victim died as a result of his or her eligible 9/11-related condition), and the victim received or was entitled to receive a disability pension before death, or the victim's beneficiaries are receiving or are entitled to receive a survivor pension, you must submit that information before the VCF finalizes the substantive review of the compensation claim.

Defined contribution plans

If your employer provided benefits such as a 401K match or other types of benefits that you would ordinarily receive at the time of retirement, you should submit proof of such benefits in order for the VCF to compute the loss. For example, you may submit a letter from your employer describing the retirement benefit or paystubs that reflect the employer's contribution to your retirement account.

If benefit information is not provided:

If you do not submit complete information about your benefits, the VCF will apply its standard default values: a 401k employer contribution equal to 4% of base salary and \$2,400 per year for health insurance. The VCF will also use the standard default values if you did not have benefits or if your benefits were less than the standard default values.

f. Documentation to support loss of earnings and pension benefits for FDNY claimants:

For each FDNY victim who is claiming loss of future earnings and benefits and has provided the appropriate authorization, the FDNY sends the VCF a printout that is used to calculate the victim's pension and contains the following information, which the VCF uses to calculate economic loss:

- Historical earnings:
 - This includes last 5 years' total earnings prior to retirement, including salary, holiday pay, night shift differential pay, and overtime.
- 1/60th calculation (for those who served over 20 years)
- Total annual retirement salary (i.e., pension amount)
 - In general, this is based on the higher of Year 5 earnings or 3-year-average. If Year 5 total earnings exceed 120% of average, the pension basis will be capped at 120%.



- For those who have been granted a WTC disability or reclassification, the pension value is 75% of the higher value, with the exception noted above.
- Type of plan (tier)
- Date of appointment
- Date of retirement

Generally speaking, a FDNY victim who has been granted a WTC disability pension does not need to submit any additional compensation/pension documentation unless the claimant asserts loss from non-FDNY employment.

Information specific to victims with an FDNY disability

Depending on their circumstances, FDNY victims should submit either two, three, or five documents (depending on their specific situation as explained below) to demonstrate that they have been found disabled as a result of a VCF-eligible condition or injury.

- **Victims who retired on a 3/4 Accidental Disability based on VCF-eligible conditions and who did NOT reclassify the disability should submit the following three (3) documents:**
 - 1) **The FDNY Medical Board Committee Report:** This is a report from the Chief Medical Officer of the FDNY on FDNY letterhead regarding the “Result of Medical Committee,” which summarizes the FDNY member’s WTC-related exposure, medical history, diagnosis, and the Medical Board Committee’s recommendation as to the extent of the member’s disability and fitness for firefighting duty.
 - 2) **Recommendation of the FDNY Pension Fund re: Accident Disability:** This is a recommendation of the 1-B Medical Board on FDNY letterhead regarding whether the individual should be awarded an accident disability retirement.
 - 3) **Letter from the Board of Trustees of the Fire Department Pension Fund Regarding Award of Accident Disability Retirement:** This is a letter issued to the individual on FDNY letterhead from the Director of the Board of Trustees of the Fire Department Pension Fund regarding whether the Board approved or disapproved the victim’s application for accident disability retirement.
- **Victims who retired on a 3/4 Accidental Disability and later reclassified the disability under the WTC Bill should submit five (5) documents:** The three documents noted above from the original disability retirement, PLUS the 1-B Medical Board Recommendation and the Board of Trustees Letter from the reclassification proceedings.
- **Victims who retired on a service pension and later reclassified to a 3/4 Accidental Disability under the WTC Bill should submit two (2) documents:** The 1-B Medical Board Recommendation and the Board of Trustees Letter from the reclassification proceedings.

FDNY victims who retired on a non-WTC-related accidental pension, ordinary disability pension, or service pension will not be eligible for lost earnings unless they can provide a disability determination from a third-party entity – such as the Social Security Administration or a treating physician – that identifies a VCF-eligible condition as a basis of the disability determination.



g. Documentation to support loss of earnings and pension benefits for NYPD Claimants:

For each NYPD victim who is claiming loss of future earnings and benefits and has provided the appropriate authorization, the NYPD sends the VCF a spreadsheet that includes the following information for each NYPD victim, which the VCF uses to calculate economic loss:

- Historical earnings: this includes last 5-year total earnings and 3-year average of highest 3 of 5 years
- 1/60th calculation (for those who served over 20 years)
- Pension amount: In general, this is based on the higher of Year 5 earnings or 3- year average
- Type of retirement: WTC Accidental or Reclassification, Accidental Disability (not WTC-related), Ordinary Disability (not WTC-related), or Service Retirement
- Date of appointment
- Date of retirement and, if reclassified, date of WTC reclassification
- Basis of disability determination generally: e.g., pulmonary, GERD, cancer, orthopedic

The NYPD also sends the VCF information/documentation regarding the basis of the NYPD victim's disability, if applicable. Specifically, the NYPD sends the VCF the underlying Medical Board Police Pension Fund Article II Reports that identify the basis of the disability determination for claimants who have retired on a WTC disability. This generally includes the final Medical Board report that identifies the final diagnosis and recommends approval of a WTC disability, as well as any prior Medical Board reports issued that address the claimant's conditions and recommend approval, disapproval, or deferral on the claimant's disability application. It may also include documentation that was included in the claimant's pension file and was reviewed in the course of the disability determination process.

Generally speaking, a NYPD victim who has been granted a WTC disability pension does not need to submit any additional compensation/pension documentation unless the claimant asserts loss from non-NYPD employment.

NYPD victims who retired on a non-WTC-related accidental pension, ordinary disability pension, or service pension will not be eligible for lost earnings unless they can provide a disability determination from a third-party entity – such as the Social Security Administration or a treating physician – that identifies a VCF-eligible condition as a basis of the disability determination.

h. Documentation to support loss of earnings and pension benefits for members of NYCERS:

The VCF will calculate pension loss for victims who worked for a New York City agency that is part of the New York City Employees' Retirement System ("NYCERS"), such as the NYC Department of Sanitation, the NYC Department of Corrections, or EMS personnel employed by FDNY, if complete documentation is provided. In March 2018, the VCF finalized an arrangement with NYCERS in which NYCERS will provide directly to the VCF the information and documentation needed to evaluate disability, lost earnings, and pension benefits for living members, upon receipt of a completed Exhibit B1. You should not contact NYCERS directly to obtain this information. Doing so will unnecessarily tie up limited resources at NYCERS and may delay claims processing.

Please note: The VCF's arrangement with NYCERS does not include the provision of information and documentation for deceased members, regardless of whether the VCF claim is filed for personal injury or wrongful death. For deceased NYCERS members, the authorized



Personal Representative must obtain the information and documentation from NYCERS directly and in accordance with NYCERS release of information requirements, and then submit that information and documentation to the VCF.

Personal Representatives must submit the following:

- Letter from NYCERS informing the victim about the different pension options, including the accompanying data showing how those options were calculated. The data may be in a document called “Retirement Data Sheet” or “Disability Retirement Data Sheet.” It should include the victim’s membership date, years of credited service, and Final Average Salary.
- The NYCERS pension plan to which the victim belonged (for example, 62/5, 55/25, CC-20, SA20) and the NYCERS membership date (if this information is not provided in the Retirement Data Sheet).
- Letter from NYCERS stating that the pension has been finalized and showing the total monthly or annual allowance under the selected option.

Personal Representatives for victims who received a disability pension from NYCERS should also submit:

- NYCERS Medical Board Report
- Letter from NYCERS stating that the victim was approved for a 3/4 accidental disability
- Letter from NYCERS showing the annual or monthly benefit amount

i. Documentation to support loss of earnings and benefits for Federal Employees Including Military Personnel:

Active Duty Military Personnel

Note that the VCF generally will not compensate for the loss of military earnings and benefits unless you left the service due to an eligible condition. If you were not medically discharged for an eligible condition, you should provide other evidence and explain how it establishes that the loss of your military earnings and benefits was caused by your eligible condition(s).

Compensation for active duty military service members and uniformed service members is based on the amount of your basic pay (“BPY”), which is the largest component of military pay, plus any additional factors influencing military pay (e.g. longevity raises, overtime, bonuses, differential pay, etc.) as reflected in your taxable income reported to the Social Security Administration. Any additional factors influencing military pay are assumed to be included in your reported military pay and will not be compensated separately. In addition, compensation may include other military benefits or allowances if the appropriate documentation of the amount and duration of the benefits is submitted.

Individuals who submit a claim for a loss of future earnings/benefits from the Military or Military Reserve must submit documentation of the following:

- Date of initial entry to military service (“DIEMS”)
- Basic Active Service Date (“BASD”)
- Pay Date (Per Leave and Earnings Statement)
- Current grade or grade at retirement
- Type of retirement from the military (e.g. service, disability), if applicable
- Date of retirement from the military, if applicable
- Final points statement
- Most recent pay statement showing various allowances, benefits, and special pay
- If receiving military retired pay: start date and benefit amount



If you have been found partially or totally disabled by the Military, submit complete documentation of the basis of your medical retirement (e.g. Medical Evaluation Board and/or Physician Evaluation Board report).

Veterans Administration Disability Determinations

If you have been found partially or totally disabled by the Department of Veterans Affairs (“VA”) because of your military service, notify the VCF. We will obtain complete documentation of your service-connected disability compensation, including all rating decisions and all changes to the amount of your VA compensation, directly from the VA. If you are receiving Combat-Related Special Compensation or Concurrent Retirement and Disability Pay, submit a complete history of the amount and duration of benefits received.

FERS and CSRS

Federal employees in the Federal Employees Retirement System (“FERS”) or Civil Service Retirement System (“CSRS”) who are claiming loss of future earnings/benefits must submit the following:

- Documentation showing the Effective Date and the victim’s final grade, step, and location – the best source of this information is the most recent SF-50 (Notification of Personnel Action) prior to retirement. The victim’s most recent Earning and Leave Statement prior to retirement may have all of this information except the Effective Date, so if that document is submitted in place of the SF-50, the claimant will need to also provide his/her Effective Date.
- SF-50 (Notification of Personnel Action) from the victim’s retirement.
- The start date and amount of the victim’s pension.
- The following information, which is used to calculate the victim’s pension. Note that this information should be in a letter that was sent to the victim at retirement or in a Federal Retirement Benefits printout:
 - Date that victim entered the FERS system (date used to calculate Creditable Service for Retirement)
 - Retirement date
 - Total years and months of credited service
 - “Average High-3 Salary”

Individuals who receive a disability pension from FERS should also submit:

- Letter from Office of Personnel Management (“OPM”) confirming that the victim’s disability retirement has been approved and stating the conditions forming the basis of the disability
- Amount of Monthly Disability Pension in first 12 months (already reduced by Social Security benefits)
- Amount of Disability Pension after 12 months (already reduced by Social Security benefits)
- Estimate of re-calculated Disability Pension at age 62

2.3 Detailed Explanation of Methodology used to Calculate Future Lost Earnings

In general, the VCF will use the following procedures and assumptions for determining future lost earnings for both deceased and injured victims:

1. Age, start of loss and compensable income: Establish the victim’s age and compensable income at death or at the time the victim was determined to be unable to work by a governmental entity, or had to reduce work, and suffered a loss of income as a result of eligible conditions. The start of loss date is typically the onset date of disability. There are



some cases, however, where a victim continued to earn income at the same level after s/he was determined to be disabled by a governmental entity. In those cases, the VCF may use the later date – that is, the date when the victim actually suffered a loss in earnings.

Income will be determined based on the documents submitted with the claim and on data obtained from SSA earnings reports. Generally, the Special Master will consider the three calendar years of employment history before the decrease in the victim’s earnings capacity as a result of the victim’s disability due to the eligible conditions or the victim’s death, but the Special Master also may consider other factors or other years or combinations of years in evaluating the claim. Where there is a finding of partial disability or if there are multiple disability determinations, some for eligible conditions and some for ineligible conditions, the VCF will compute the percentage of income “lost” based on the percentage of disability attributable to eligible conditions. In some cases, the VCF will apply a computation of future residual earnings for individuals who are disabled from a specific job but who are otherwise able to perform a different occupation. In general, the standard amount used to calculate future residual earnings capacity is the minimum wage applicable to large employers in New York City (\$31,200 in 2018). The VCF will also consider when and how a claimant left the workforce, particularly if the claimant stopped working before the disability onset date identified in the disability determination.

2. **After-tax income:** Determine after-tax compensable income by applying the average effective combined federal, state, and local income tax rate for the victim’s income bracket currently applicable in the state of the victim’s domicile for tax purposes. The Special Master will consider the victim’s tax returns as well as effective income tax rates derived from published Internal Revenue Service (“IRS”) data on selected income and tax items for Individual Income Tax Returns by State.⁷ Effective income tax rates derived from IRS data for New York are shown in Table 1 below.

Table 1 Presumed Future Effective Combined Federal, State and Local Income Tax Rates for New York								
Income								
\$10,000	\$20,000	\$25,000	\$30,000	\$35,000	\$40,000	\$45,000	\$50,000	\$60,000
3.70%	5.70%	7.70%	8.84%	9.99%	11.14%	12.29%	13.43%	14.58%
Income								
\$70,000	\$80,000	\$90,000	\$100,000	\$125,000	\$150,000	\$175,000	\$200,000	\$225,000
15.12%	15.67%	17.51%	19.34%	21.41%	23.47%	25.53%	27.59%	29.65%
<small>Note: Calculated from data reported by the Internal Revenue Service's Statistics of Income (SOI) Division for individual income tax returns: Forms 1040, 1040A, 1040EZ for Tax Years 2007, 2008, and 2009 (Table 2; files 07in33ny.xls, 08in33ny.xls, 09in33ny.xls). Obtained from the IRS website, http://www.irs.gov/taxstats/article/0,,id=171535,00.html</small>								

3. **Employer-provided benefits:** Add the value of employer-provided benefits (or other benefits received through employment, such as from a union or government pension program). These benefits will be set at actual levels if you provide the necessary data.

⁷ Average combined effective income tax rates by earnings bracket were calculated based on an analysis of IRS data for the most recent tax years available: 2007, 2008, and 2009.



If you do not provide sufficient evidence of the benefits you received through employment, the VCF will apply the same assumptions that were used in the original VCF, i.e., the VCF will assume that the employer’s retirement contribution is 4% of base salary and that medical benefits are \$2,400 per year in current year dollars and will adjust for applicable inflation.

If, as a benefit of your employment, you are a member of a defined benefit pension plan, and you submit documentation of all information required to calculate a pension benefit under your plan, the VCF generally will calculate your benefits using that data. See [Appendix G](#) – Required Documents to Support Lost Earnings for Certain Unions and Employers. In some cases, however, the VCF may estimate your benefits using presumptive values. Presumptive defined benefit pension values assume a five-year vesting requirement, normal retirement age of 65, and a benefit factor of 1% of average salary for the final five years of employment.

4. Work-life expectancy: Determine a measure of the victim’s expected remaining years of workforce participation using the tabulated work-life expectancies for the victim’s age at the time of death or at the time the victim was unable to work, or had to reduce work, as a result of eligible conditions contained in the publication, “Worklife in a Markov Model with Full-time and Part-time Activity” by Kurt V. Krueger, Gary R. Skoog, and James E. Ciecka in the *Journal of Forensic Economics*, 19 (1) 2006, pp. 61-82. These are generally accepted tables of work-life expectancy regarding the general population.

Work-life expectancies are based on actual experiences and behavior of the general population and measure the estimated time in years an individual of a given age will remain in the labor force (either employed or actively seeking work), allowing for age-specific mortality risks and rates of workforce transitions. The Special Master will use the expected work-life for active males, with a full-time beginning labor force state, to compute expected remaining years of workforce participation for both male and female victims. The work-life expectancies are shown in Table 2 below. Because published estimated work-life expectancies by gender are lower for women than men, this specification increases the duration of estimated foregone earnings, and thus presumed economic losses, for female victims and was implemented by the Special Master to accommodate for potential increases in labor force participation rates of women.

Table 2
Expected Remaining Years of Workforce Participation

Age	All Active Males
25	34.19
30	29.88
35	25.49
40	21.17
45	17.03
50	13.03
55	9.43
60	6.31

Source: "Worklife in a Markov Model with Full-time and Part-time Activity" by Kurt V. Krueger, Gary R. Skoog, and James E. Ciecka in the *Journal of Forensic Economics* 19(1), 2006, pp. 61-82.



As a matter of general policy, the VCF will not award lost earnings if the victim was 65 years old or older at the time of disability or death based upon the presumption that the victim had reached his or her reasonable work-life expectancy. Exceptions may be considered if the victim (or his or her authorized representative) submits evidence to support the assumption of additional years of workforce participation after age 65, such as the victim's need to support minor children. In many cases, these issues are best addressed in the context of an appeal hearing.

5. **Growth rates:** Project compensable income and benefits through the victim's expected work-life using growth rates that incorporate an annual inflationary or cost-of-living component, an annual real overall productivity or scale adjustment in excess of inflation, and an annual real life-cycle or age-specific increase derived using data on average full-time year-round earnings by age bracket from the 2010 Current Population Survey ("CPS"), a monthly survey of households conducted by the Bureau of the Census for the Bureau of Labor Statistics. This survey is widely recognized as a primary source of data on employment status and workforce characteristics of the civilian non-institutional population ages 16 years and older. Because age-specific observed life-cycle increases for all males were higher than observed life-cycle increases for both men and women combined, the Special Master elected to incorporate the life-cycle increases for males into earnings growth for all victims, both male and female.

Independent of life-cycle increases, inflation and real overall productivity increases of 2% and 1%, respectively, are applied each year. These rates of increase are consistent with the long-term relationship between economy-wide wage growth and risk-free interest rates, which currently reflect lowered inflationary expectations. A schedule containing age-specific earnings growth rates reflecting the combined inflation, overall productivity, and life-cycle increases is shown in Table 3 below. The Special Master has determined that individual age-specific growth rates, rather than growth independent of a particular age bracket at death, better reflects the expected pattern of earnings over one's career⁸ and results in more equitable and consistent projections for victims close to each other in age with otherwise similar family and employment characteristics.

⁸ Real life-cycle increases are typically higher in the earlier stages of one's career, one reason being unrealized opportunities for advancement and promotion that individuals in later stages of their careers have already experienced. During the course of an individual's career, the rate of annual real life-cycle growth tends to gradually decline until a peak real earnings level is attained. Although CPS and other data used to study lifetime earnings profiles indicate that peak real earnings typically decline at some point, in calculating life-cycle earnings growth in excess of inflation and overall productivity adjustments for victims, the Special Master has assumed that peak earnings are maintained.



Table 3
Presumed Age-Specific Earnings Growth Rates
(Including Life-Cycle, Inflation, and Overall Productivity Increases)

Age	Earnings Growth Rate
18	9.976%
19	9.807%
20	9.642%
21	9.481%
22	9.271%
23	9.062%
24	8.854%
25	8.645%
26	8.438%
27	8.230%
28	8.023%
29	7.816%
30	7.610%
31	7.404%
32	7.199%
33	6.994%
34	6.789%
35	6.585%
36	6.381%
37	6.177%
38	5.974%
39	5.771%
40	5.569%
41	5.367%
42	5.166%
43	4.964%
44	4.764%
45	4.563%
46	4.363%
47	4.163%
48	3.964%
49	3.765%
50	3.567%
51	3.369%
52	3.171%
53+	3.000%

Note: Nominal percentage changes assume annual inflation or cost of living increases of 2.0% plus overall productivity adjustments of 1.0% per year. The underlying real life-cycle percentage change is calculated using a regression analysis of log of total earnings on experience and experience squared using earnings for full-time year-round male workers from the 2010 Current Population Survey (CPS) table PINC-04.



6. Risk of unemployment: To better reflect contingencies that the victims would have faced, all projected earnings and fringe benefits (assumed to be received during projected employment and until work-life expectancy) amounts will be adjusted for a factor to account for the risk of unemployment as lifetime jobs are not representative of the modern economy. This adjustment is made because work-life expectancies are based on years of expected workforce participation, which, as defined by the Bureau of Labor Statistics, include periods an individual is either working or seeking work. Historical unemployment rates were examined and a reduction factor of 6% is applied to presumed earnings and fringe benefits to account for this risk⁹.
7. Personal consumption adjustment for decedents: For claims for deceased victims whose death was related to an eligible condition, subtract from annual projected compensable income and benefits the decedent's share of household expenditures or consumption as a percentage of income, using expenditure data by income level obtained from "Table 2. Income before taxes: Average annual expenditures and characteristics, Consumer Expenditure Survey, 2009," published by the Bureau of Labor Statistics ("BLS"). This subtraction is a standard adjustment in evaluating loss of earnings in wrongful death claims because some amount of the income the decedent would have contributed to the household would have been consumed personally by the decedent and not available to other household members. A decedent's expenditures were calculated as a share, based on household size, of certain expenditure categories. For married or single individuals with dependents,¹⁰ these expenditure categories include Food, Apparel & Services, Transportation, Entertainment, Personal Care Products and Services, and Miscellaneous. For single individuals without dependents, Housing, Education and Health are also included.¹¹ For lower income categories where total expenditures exceed income, expenditures were scaled to income, so as not to reduce income for expenses potentially met by other forms of support. This approach was intended to avoid a penalty to the victim. Table 4 on the next page shows calculated consumption rates by income bracket and for various household sizes.

⁹ Application of individualized unemployment rates by age or occupation was infeasible and determined to be unnecessary.

¹⁰ For purposes of determining consumption rate and household size, the term "dependent" refers to an individual who was financially supported by the decedent and may include individuals who are not considered when calculating the wrongful death non-economic loss award, as the definition of "dependent" for purposes of awarding additional non-economic loss is more stringent.

¹¹ Other standard expenditure categories sometimes included in litigation, namely Reading, Cash Contributions, Alcoholic Beverages, and Tobacco Products, were excluded.



Table 4
Decedent's Personal Expenditures or Consumption as Percent of Income

	Income								
	\$10,000	\$20,000	\$25,000	\$30,000	\$35,000	\$40,000	\$45,000	\$50,000	\$60,000
Single	77.6%	75.4%	75.0%	73.2%	68.3%	63.4%	63.5%	63.7%	62.6%
Single, 1 dependent child	18.8%	18.8%	18.8%	18.8%	17.7%	16.6%	16.5%	16.5%	16.1%
Married, no children	34.9%	26.8%	25.7%	25.7%	22.4%	19.2%	17.8%	16.5%	16.1%
Married, 1 dependent child	18.8%	16.9%	16.5%	14.7%	13.7%	12.6%	11.9%	11.2%	10.9%
Married, 2 dependent children	12.9%	12.0%	11.8%	10.9%	10.1%	9.4%	8.9%	8.4%	8.2%

	Income								
	\$70,000	\$80,000	\$90,000	\$100,000	\$125,000	\$150,000	\$175,000	\$200,000	\$225,000
Single	61.6%	52.7%	45.8%	45.8%	45.8%	45.8%	45.8%	45.8%	45.8%
Single, 1 dependent child	15.7%	13.4%	11.9%	11.9%	11.9%	11.9%	11.9%	11.9%	11.9%
Married, no children	15.7%	12.9%	10.8%	10.8%	10.8%	10.8%	10.8%	10.8%	10.8%
Married, 1 dependent child	10.6%	8.8%	7.6%	7.6%	7.6%	7.6%	7.6%	7.6%	7.6%
Married, 2 dependent children	8.0%	6.7%	5.8%	5.8%	5.8%	5.8%	5.8%	5.8%	5.8%

In determining household size for claims for decedents, the Special Master will assume that children will remain in the household through age 23. Consumption rates calculated using alternative techniques were considered but found to produce higher personal consumption rates and were not ultimately used to determine the decedent's household consumption adjustment.¹² Although the consumption rates determined from BLS data actually represent household expenditures as a percent of before-tax household income, the actual consumption reduction used to determine the decedent's personal expenditures was calculated as a percent of lower after-tax income, which significantly lowers the resulting adjustment. In addition, the victim's consumption is determined as a share of the victim's own earnings only, rather than the standard share of total household earnings. This further lessens the resulting subtraction, compared to personal consumption rates typically applied in litigation, if there are other earners in the household.

8. Application of statutory limitation on annual gross income: In accordance with the updates to the statute that were enacted as part of the December 18, 2015, reauthorization of the VCF, for each year of loss, the methodology limits the annual loss of earnings and other benefits related to employment that fall under the definition of gross income in section 61 of the Internal Revenue Code of 1986 to \$200,000. The methodology computes the loss in each year (including pensions) and caps the loss at \$200,000 in each year. The methodology applies adjustments for taxation, risk of unemployment, employee contributions, and personal consumption for deceased claims before applying the annual limit. The methodology accounts for the loss of employer-provided health plans after application of the limit because such costs are exempted from gross income.
9. Present value: Calculate the present value of projected earnings and fringe benefits using discount rates based on a weighted average of historical yields on mid- to long-term U.S. Treasury securities, adjusted for income taxes using a mid-range effective tax rate.¹³

¹² These alternative techniques included an analysis of BLS data on household expenditures reported by household size, with expenditure categories allocated equally among household members or allocated according to the methodology suggested by authors Robert Patton & David Nelson in their 1991 Journal of Forensic Economics article, "Estimating Personal Consumption Costs in Wrongful Death Cases."

¹³ The tax rate used to determine after-tax interest rates is the computed combined Federal, State and local income tax rate of 15.1% for New York for the \$70,000 earnings bracket. Although it is recognized that a different after-tax



Because the period of presumed economic losses is either longer or shorter, depending on the victim’s age, the present value calculations are performed using yields on a blend of securities with longer or shorter times to maturity. For computational efficiency, three blended after-tax discount rates were used, depending on the victim’s age as of date of death or time the victim was unable to work, or had to reduce work, as a result of eligible conditions, and assumed to apply for all years forward. These rates are shown in Table 5 below.¹⁴ The present value adjustments will be based on the period of presumed economic loss (which is in turn based on the age of the victim).

Table 5
Assumed Before-Tax and After-Tax Discount Rates

Age of Victim	Before-Tax Discount Rate	After-Tax Discount Rate
35 & Under	4.1%	3.5%
36 - 54	3.8%	3.2%
55 & Over	3.2%	2.7%

Note: The present value of presumed economic loss is calculated by applying the after-tax discount rate corresponding to the victim's age at death to all future periods. For example, projected earnings and benefits for a victim who was 30 years old at the time of death will be discounted to present value at 3.5% per year for all future years, and projected earnings and benefits for a 45-year-old victim will be discounted to present value at 3.2% per year for all future years.

10. **Assumptions:** The computation methodology adopts a number of assumptions implemented to facilitate analysis on a large scale. When viewed in total, these assumptions are designed to benefit the victim and are more favorable than the standard assumptions typically applied in litigation. For example, the Special Master considered that over the course of their projected careers, younger victims could expect to cross into higher income brackets, and be subject to corresponding higher income tax rates, on account of experience-based real lifetime earnings growth in excess of economy-wide national wage increases. To calculate economic losses, however, whatever income tax rate corresponded to the victim’s determined compensable income bracket as of the date of death, or time the victim was unable to work or had to reduce work as a result of eligible conditions, was assumed to apply for the remainder of the victim’s career, without increase. Likewise, the calculations of economic losses also assume that the personal consumption percentage corresponding to the victim’s determined compensable income bracket as of the date of death, or time the victim was unable to work or had to reduce work as a result of eligible conditions, applies for the

interest rate could theoretically be calculated for each age, income, and state combination, such a computation was impracticable for the large-scale valuations to be undertaken here. It was determined that the benefit to the claimants of calculating the decedent’s personal consumption offset as a percent of after-tax individual earnings more than outweighed the potential effect of discounting future amounts by income-specific after-tax discount rates. Moreover, computation of the after-tax discount rate using a relatively high combined New York income tax rate, compared to other states, results in a lower after-tax discount rate. The lower the after-tax discount rate, the higher the present value of presumed economic loss.

¹⁴ The blended discount rates, before tax adjustment, shown in Table 5 imply real interest rates in excess of inflation of 2.1%, 1.8%, and 1.2%, depending on the average time to maturity consistent with the average duration of presumed losses.



remainder of the victim's career, without decrease. It was determined that the net effect of these and other facilitating assumptions was to increase the potential amount of presumed economic loss to the benefit of the victim.

2.3.1 Compensation for VCF1 Claimants Who Were Paid in VCF1

If you received an award in VCF1, you can amend your claim and qualify for additional compensation if:

- a. Your VCF1-eligible injury or condition has substantially worsened;

OR

- b. You have a new physical injury or condition that you had not suffered at the time of the VCF1 claim filing or that was not compensable at the time of VCF1;

AND

- c. You have not already been fully compensated for your losses.

When evaluating whether additional compensation should be awarded, the VCF considers the types of conditions compensated, the type, nature, and amount of compensation awarded, and the basis and timing of any lost earnings awarded in VCF1. A claimant will be considered to have been fully compensated if the compensation s/he received in VCF1 exceeds the amount of compensation s/he is eligible to receive in VCF2 based on his/her eligible conditions and the circumstances of the claim. For that reason, even if a claimant's eligible condition has worsened since VCF1, s/he may not qualify for additional losses. Moreover, the VCF will not reconsider or recalculate any component of the VCF1 award or change any assumptions made in the VCF1 calculation. Below are some illustrative examples of how VCF1 awards are considered:

- If you received \$125,000 of non-economic loss in VCF1 for asthma, and you amend in VCF1 for additional non-economic loss for newly certified interstitial lung disease and emphysema that have progressively worsened, the VCF will consider you to be fully compensated for your eligible conditions and will not award additional non-economic loss. The VCF is required to consider your non-economic loss in the context of the current statutory caps. Because your VCF1 non-economic loss exceeds the maximum amount allowed by law for those conditions (\$90,000), no additional losses will be awarded.
- If you were found to be partially disabled due to an eligible condition in VCF1 based on an FDNY disability determination, and the Social Security Administration subsequently determined that you became fully disabled due to the same condition after your VCF1 award was issued, you may be eligible for additional compensation. The VCF considers the fact that you became more (fully) disabled after your VCF1 award was issued as evidence that your same, eligible condition has worsened and that you suffered losses that were not previously fully compensated. Note that proof of exacerbation is required to support an additional award for economic loss in VCF2 if economic loss was awarded in VCF1. Thus, a determination by SSA that you were already fully disabled at the time that the VCF1 award was issued will not support additional loss, even if the SSA does not make that determination until after your VCF1 award was issued, and even if the VCF1 did not consider you to be fully disabled, because that new determination does not establish that your disability has actually worsened since the time VCF1 considered your conditions.



2.4 Other Types of Economic Loss

a. **Past out-of-pocket medical expenses:**

As part of the economic loss component of your claim, you can request reimbursement for past out-of-pocket medical expenses you have paid as a result of your eligible condition(s).

Because claims for reimbursement of out-of-pocket medical expenses require the submission and review of significant documentation establishing both that the claimed medical expense was related to your eligible condition and that you personally paid for the expense out of pocket, processing these claims takes time and can delay your award. As a result, it is VCF policy that claims for reimbursement of past out-of-pocket medical expenses will **only** be considered if the following criteria are met:

- The claim for medical expenses must be submitted as a compensation [amendment](#) to your claim and only **after** you have received your initial award determination. This allows the VCF to issue your initial award determination more quickly, since we are not spending time during our initial review to verify each claimed medical expense.
- If you amend your claim to seek reimbursement for medical expenses, the VCF will only review the amendment if the total amount of the claimed medical expenses incurred due to eligible conditions exceeds \$5,000.
- The amendment must be submitted with the required documentation as explained below, and in the required format, in order to be considered for reimbursement.

The Special Master may exercise discretion to waive one or more of these requirements as appropriate based on individual claimant circumstances. If you wish to seek a waiver, please contact the VCF Helpline.

I. When to File a Medical Expenses Claim.

- A. By Amendment:** Claims for medical expenses will only be processed by the VCF when filed as an amendment once your initial award determination is received. You may also amend your claim to seek reimbursement for medical expenses after receiving a revised award decision. Instructions for how to amend your claim can be found under “Forms and Resources” on the VCF website.

The amendment may be filed at any time following receipt of your initial award determination, but no later than October 1, 2090.

The VCF will only consider reimbursement for medical expenses incurred as of the date the amendment is submitted. This means if you amend your claim to seek reimbursement for medical expenses, you must have paid the expenses prior to the date you submit the amendment. By statute, the VCF does not compensate for potential or anticipated future medical expenses.

- B. Pending Claims and Amendments:** If you have already filed a claim for medical expenses as part of your claim form submission, *effective immediately, the VCF will not review the expenses as part of our initial review of your claim.*

Once you receive your award determination, you will need to determine if your out-of-pocket medical expenses meet the \$5,000 minimum threshold for filing an amendment to seek reimbursement. You are not required to amend your claim if you decide you no longer want to seek reimbursement for medical expenses. If your paid medical expenses meet the \$5,000 threshold and you want to seek reimbursement of the expenses, you must submit an amendment to reactivate your request. You do not



need to resubmit documents in support of your medical expenses claim if you already submitted them with your claim form, although you may submit additional documentation if you paid expenses between the date you submitted your claim and the date you file your amendment. You must be certain any documentation you provide meets the criteria outlined below.

If you have already filed an amendment to seek medical expenses reimbursement, the VCF will review the expenses as part of our review of your amendment, provided the expenses meet the \$5,000 minimum threshold. You do not need to resubmit documents you have already submitted in support of your amendment, but you must be certain the documentation you provided meets the criteria outlined below.

- C. Claim Form for New Claims:** If you are filing a new claim and you plan to seek reimbursement for medical expenses by filing an amendment after you receive your initial award determination, please select “Medical Expenses” in the “Type of Loss” section of the claim form. This will allow the VCF to monitor the number of anticipated future amendments for medical expense claims.

Selecting the medical expenses option is strictly for VCF informational purposes and your request will not be reviewed as part of your claim. You therefore do not need to submit any documentation in support of the medical expenses when you submit your claim form; you only need to submit that information if you decide to amend your claim after receiving your initial award.

Failing to affirmatively indicate an intent to file a later claim for medical expenses when filing your claim form will not prevent you from filing an amendment seeking such reimbursement later.

II. Acceptable Medical Expenses Claims.

- A. Types of Expenses Covered:** By statute, the VCF does not compensate for potential or anticipated future medical expenses.

Compensable expenses include costs you have paid out-of-pocket for prescription medication, prescribed medical equipment, doctor visits, diagnostic tests, surgeries, or other medical procedures relating to your eligible conditions. The VCF will not compensate for any travel expenses you incurred while seeking medical treatment, including the cost of gas, public transportation, hotels, and meals, except in extraordinary circumstances.

Only expenses that you have paid out-of-pocket will be reimbursed. Compensable expenses do not include any costs for which you have been, or will be, reimbursed by your insurance company, a secondary payer (like Medicaid, Medicare, or a second insurance provider), or any other collateral source.

- If you have insurance, the VCF will not compensate for any expenses that have not yet been evaluated by your insurance company or any applicable secondary payer.
- If the service or medication is provided to you by the WTC Health Program, it is not eligible for reimbursement from the VCF and you should not include it with your claim.
- Treatment expenses covered by private health insurance, Workers' Compensation, or other programs will not be reimbursed. If you receive a benefit intended to cover medical expenses from Workers' Compensation or any other



collateral source, please include information regarding that payment, so that it can be appropriately offset from your medical expenses award.

- Treatment expenses billed to you as a co-payment, after denial of insurance coverage, or that you pay because they fall within your insurance deductible, may be reimbursed if appropriate documentation is submitted.

B. The Minimum Monetary Threshold. The VCF will consider claims for medical expenses only if the total amount legitimately claimed in your amendment exceeds \$5,000. The “total amount legitimately claimed” means that the claimed expenses are reasonably related to your eligible conditions (as identified in your most recent eligibility determination letter) and that you have documentation demonstrating that you paid the expense out-of-pocket.

If your medical expenses claim does not meet the documentation requirements described in the next section, the VCF reserves the right to deny the amendment.

III. Documentation Required to Support a Medical Expenses Claim.

For the VCF to consider your amendment for medical expenses, you must submit the following documents in support of your amendment:

A. [VCF Medical Expense Worksheet](#) (available under “Forms and Resources” on the VCF website); and

B. A Medical Expense Supporting Documentation Packet that verifies: (a) the relationship of each claimed expense to one of your eligible conditions; and (b) the amount of each claimed expense that you have paid out-of-pocket.

The requirements for each of these items are described in greater detail below.

- **The Medical Expense Worksheet.** The Medical Expense Worksheet is used to identify each discrete medical expense for which you are seeking reimbursement. The worksheet must be completed following the instructions below (the instructions are also included in the worksheet). The VCF will not review your amendment if the worksheet is not properly completed. If you are unable to complete the worksheet in Excel format, please contact the VCF Helpline for assistance.

Instructions for Completing the Worksheet. The numbers below correspond to the numbers for each field or column in the worksheet.

1. **Claim Number:** enter your **7-digit VCF claim number** including any leading zeros.
2. **Victim Name:** enter your full name (or the victim’s name if you are not the victim).
3. **Medical Insurance (Primary and Secondary if applicable):** Enter the name of your insurance carrier (if you had one) at the time the expense was incurred and the name of any applicable secondary payer, such as Medicaid, Medicare, or a second insurance provider.

Each expense you are claiming must be entered in a separate row in the Worksheet following the guidelines below. Do not group expenses together – each unique expense must be entered as a separate line item. You should sort the Worksheet chronologically by column A, the date of service.

4. **Date of Service:** Enter the date that you received the medical service. The field will automatically format the date to MM/DD/YYYY. For doctor visits, diagnostic tests, surgeries, or other procedures, this is the date you went to the doctor or had



the test or procedure performed. For prescriptions or equipment, this is the date you filled the prescription or purchased the equipment. It is very helpful if you list the dates in chronological order (starting with the oldest date of service and ending with the most recent date of service).

5. **Name of Doctor, Facility, or Pharmacy:** Enter the name of the doctor, facility, or pharmacy as shown on the invoice, receipt, or medical records.
6. **Short description of Procedure, Treatment, or related Expense:** Enter a brief description of the treatment, procedure, or test. Some examples are: office visit; surgery; prescription - [name of prescription drug]; MRI; blood test.
7. **Related Eligible Condition:** Enter the name of the eligible condition to which the specific expense relates. The condition name MUST match the name of one of the conditions listed on your most recent eligibility determination letter.
8. **Amount Paid by Victim/Claimant:** Enter the amount you paid out-of-pocket for the medical service or treatment. This is the amount for which you are personally responsible; it should not include any portion covered by insurance or any other source. Do not include any amounts that have not yet been evaluated by your insurance company or any applicable secondary payer. The field will automatically format the entry in \$0.00 format.
9. **Page within Supporting Documentation Packet that shows relationship to Eligible Condition:** Unless the expense claimed is on the list of **Presumptively Compensable Expenses** (see Table 1 on page 6), enter the page number (or numbers) from the Supporting Documentation Packet that shows that the expense is related to one of your eligible conditions.

If the expense claimed is on the list of **Presumptively Compensable Expenses**, this cell may be left blank.
10. **Specific Page within Supporting Documentation Packet that shows Proof of Payment:** Enter the page number (or numbers) from the Supporting Documentation Packet that show that you personally paid for the claimed expense. Note that there must be specific documentation supporting the payment of the claimed expense. A credit card statement or cancelled check will not be sufficient if it identifies only that an amount was paid to a pharmacy such as CVS or Duane Reade, but is not accompanied by a receipt that demonstrates that the amount paid was for the specific claimed prescription cost.

Submitting the Worksheet: You must upload the Worksheet to your claim in Excel format. If you do not upload the Worksheet, or if you upload the file in any format other than Excel, the VCF reserves the right to deny your medical expenses claim.

When uploading the Worksheet to your online claim, **select “Medical Expense Worksheet” as the document type.**

- **Medical Expense Supporting Documentation Packet.** For each discrete medical expense entered on the Medical Expense Worksheet, the Supporting Documentation Packet must include:

(1) A document that demonstrates that the expense is related to one of your eligible conditions, **unless** the expense is on the list of **Presumptively Compensable Expenses** (see Table 6 below); **and**



(2) A document that demonstrates the amount of the expense that you have paid out-of-pocket.

When uploading the Supporting Documentation Packet to your claim, **select the document type “Medical Expense Supporting Documentation Packet.” If you fail to include the required supporting documentation, your amendment will be denied.**

1. Demonstrating the Relationship between the Claimed Expense and your Eligible Condition.

- **Presumptively Compensable Expenses:** If your eligible conditions falls within one of the categories in Table 6, the VCF will presume that any expense for the medications and procedures listed in Table 1 is related to your eligible condition and you do not need to provide any further proof of the relationship. You still must complete the Medical Expense Worksheet to list the specific expense, but you may leave Column F blank for the specific entry.

Please note that this list is subject to change. Please be sure to check the most recent version of the list (available on the VCF website) when completing your Medical Expense Worksheet.

- **Non-Presumptively Compensable Expenses:** If your eligible condition or your medical expense is not listed in Table 1, then you must submit medical records that demonstrate the relationship between each claimed expense and one (or more) of your eligible conditions. The medical records must include your name, date of birth or other identifying information, and date of service, and must state the condition for which you were treated. If medical records are not available, you may instead submit a letter from your doctor explaining how the expense is related to your eligible condition.

2. Demonstrating the Amount of the Expense you Paid. For all claimed medical expenses (without regard to whether they are Presumptively Compensable Expenses), you must submit documentation showing the amount you were billed, the date of service, the service provider, and proof that you paid the expense. The documentation must also include your name or other identifying information.

Documents that are sufficient to demonstrate the amount of the expense you paid include receipts from providers or pharmacies, provider billing statements, cancelled checks or credit card statements if they contain the necessary detail, pharmacy prescription histories, or an explanation of benefits statements from your insurance provider if you do not have a secondary payer.

If you have insurance or a secondary payer, do not submit any bill or invoice for expenses that have not yet been evaluated by your insurance company, or an explanation of benefits statement that does not reflect the contribution of the secondary payer.

3. General Organization of Supporting Documentation Packet. It is extremely helpful to the VCF, and will minimize delay in processing your amendment once it is in substantive review, if you organize the Supporting Documentation Packet in the following way:

1. Label all submitted documentation with the line number from the Medical Expense Worksheet that corresponds to the specific expense. This helps the VCF to easily match the documentation to the associated entry on the worksheet.



2. Sort the submitted documentation chronologically by the date of service. This should match the “Date of Service” as entered on the worksheet for the specific item.
3. Organize the documents in the packet so that the documentation demonstrating that the expense is related to an eligible condition (when required) is immediately followed by the documentation demonstrating the amount of the expense and your proof of payment.

If the VCF, with reasonable effort, cannot clearly identify the required documentation necessary to support each claimed medical expense, the VCF reserves the right to deny your medical expenses claim.



Table 6: Presumptively Compensable Expenses

This chart may change over time. Please be sure to refer to the most recent chart posted to the VCF website prior to filing your amendment for medical expenses.

Condition Category	Includes	Presumptively Compensable Medications (generic name is listed first, followed by brand name)	Presumptively Compensable Procedures
Obstructive Airway Disease	<ul style="list-style-type: none"> • Asthma • Bronchiectasis • Chronic airway obstruction • Chronic bronchitis • Chronic obstructive pulmonary disease (COPD) • Emphysema • Reactive airways disease • Reactive airways dysfunction • Respiratory conditions due to fumes and vapors 	<ul style="list-style-type: none"> • Albuterol (ProAir, Proventil, Ventolin) • Atrovent (ipratropium) • Beclomethasone (Qvar) • Benzonatate (Tessalon Perles) • Budesonide (Pulmicort, Symbicort) • Ciclesonide (Alvesco) • Fluticasone propionate (Advair, Flovent) • Formoterol (Dulera, Foradil, Symbicort) • Ipratropium (Atrovent) • Levalbuterol (Xopenex) • Metaproterenol (Alupent) • Mometasone (Asmanex, Dulera) • Montelukast (Singulair) • N-acetylcysteine (Mucomyst) • Oxygen • Pirbuterol (Maxair) • Salmeterol (Advair, Serevent) • Terbutaline (Brethine) • Tiotropium (Spiriva) • Zafirlukast (Accolate) • Zileuton (Zyflo) 	<ul style="list-style-type: none"> • Bronchoscopy • CAT Scan Chest/Thorax (CT)(CT Scan) • Chest X-ray (CXR) • MRI Chest • Pathology – lung specimens • Sputum Cultures • Thoracoscopy/Thoracotomy • Video-Assisted Thoracotomy (VAT) • Wedge resection of the lung
Interstitial Lung Disease	<ul style="list-style-type: none"> • Asbestosis • Granulomatosis • Interstitial pneumonia • Pneumonitis • Pulmonary fibrosis • Sarcoidosis 	<ul style="list-style-type: none"> • Azathioprine (AZA, Imuran) • Cyclophosphamide (Cytoxan) • Cyclosporine (Restasis, Sandimmune, Neoral, Gengraf, Apo-Cyclosporine) • Methotrexate (Trexall, Rheumatrex, Rasuvo, Otrexup) • N-acetylcysteine (Mucomyst) • Oxygen 	<ul style="list-style-type: none"> • Bronchoscopy • CAT Scan Chest/Thorax (CT)(CT Scan) • Chest X-ray (CXR) • MRI Chest • Pathology – lung specimens • Sputum Cultures • Thoracoscopy/Thoracotomy • Video-Assisted Thoracotomy (VAT) • Wedge resection of the lung



Condition Category	Includes	Presumptively Compensable Medications (generic name is listed first, followed by brand name)	Presumptively Compensable Procedures
Gastroesophageal Reflux		<ul style="list-style-type: none"> • Esomeprazole (Nexium) • Famotidine (Pepcid) • Lansoprazole (Prevacid) • Omeprazole (Prilosec) • Pantoprazole (Protonix) • Ranitidine (Zantac) 	<ul style="list-style-type: none"> • Barium Swallow • Esophagogastroduodenoscopy (EGD) • Laryngopharyngeal Endoscopy • Pathology – Esophagus, gastric, duodenum specimens • Upper GI Series
Upper Respiratory Disease	<ul style="list-style-type: none"> • Rhinitis • Sinusitis • Rhinosinusitis • Tracheitis • Laryngotracheitis • Laryngitis • Nasopharyngitis • Pharyngitis 	<ul style="list-style-type: none"> • Azelastine (Astelin, Astepro) • Budesonide (Rhinocort) • Fluticasone propionate (Flonase) • Ipratropium bromide (Atrovent) • Mometasone (Nasonex, Asmanex) • Oxymetazoline (Afrin) 	<ul style="list-style-type: none"> • CAT Scan Head/Sinuses • Endoscopy of Nasal and Sinus Cavities • Laryngopharyngeal Endoscopy • Pathology – Nasal and Sinus specimens • Septoplasty • Sputum Cultures
Prostate Cancer		<ul style="list-style-type: none"> • Sildenafil (Viagra) • Tamsulosin (Flomax) 	<ul style="list-style-type: none"> • Prostate Biopsy • Radical Prostatectomy • Radiation Seed Implants

b. Replacement Services loss:

If you regularly performed general household-related tasks, and if you cannot perform those tasks as a result of an eligible condition, then the VCF may provide compensation for the value of those “services.” This component of economic loss is called “replacement services loss” and is typically considered to be a component of loss in deceased claims, or in claims where the claimant did not have prior earned income or worked only part-time outside the home. Replacement services loss awards are not precluded in other circumstances, but they are variable according to the individualized needs and circumstances of the claimant and subject to the discretion of the Special Master. Examples of the types of tasks that are considered for “replacement services” compensation are services that you provided to the family or to yourself, such as cleaning, cooking, child care, home maintenance and repairs, and financial services. Replacement services loss is intended to replace something that was lost – that is, something you used to do and now cannot do because of your eligible condition. In order to be compensated for replacement services, you must demonstrate that you performed the service before the onset of the eligible condition (or that the victim performed the service prior to his or her death from the eligible condition). In a personal injury claim, you must also demonstrate that the eligible condition now prevents the performance of such services.

To make a claim for replacement services loss, you should provide a statement describing the types of services you provided before your eligible condition, the amount of time spent on those services (per week or month), and the amount of time you are able to spend on those services now (i.e., with the eligible condition). You should also submit medical



records that show that the reason you cannot perform the services is because of the eligible condition. You must complete and submit a Social Security Administration Consent Form (Exhibit 1 of the Claim Form) even if Replacement Services is the only type of loss you are claiming. This allows the VCF to obtain information from the Social Security Administration to determine earnings history. If the victim is deceased, you should provide a clear statement of the services provided before the onset of the eligible condition and/or death from the eligible condition.

If the victim is deceased, you should provide a clear statement of the services provided before the onset of the eligible condition and/or death from the eligible condition. If services are no longer relevant, they will not be compensated (for example, child care services will not be compensated after the child reaches age 18).

c. Burial or memorial service expenses:

The VCF will compensate for documented out-of-pocket burial or memorial expenses for victims who died as a result of an eligible 9/11-related physical injury. The VCF will calculate such loss on a case-by-case basis using documentation submitted by the Personal Representative. If any part of these expenses was covered by life insurance or another source, you must provide documentation of that coverage. The VCF will not reimburse expenses that were covered by another entity.

d. Other out-of-pocket expenses:

The VCF generally does not compensate other out-of-pocket expenses absent evidence that they are medically necessary as a result of an eligible condition. Expenses for travel for medical treatment generally are not compensated, but extraordinary circumstances will be considered on a case by case basis.

2.5 Collateral Source Offsets

The VCF is required by statute 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 that is eligible for compensation. This includes compensation paid to your dependents or to the beneficiaries of a deceased victim as a result of the eligible injury, such as benefits that the Social Security Administration pays to dependents of a disabled or deceased wage earner. 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 terrorist-related aircraft crashes of September 11, 2001, or debris removal in the immediate aftermath. For example, the VCF will deduct from the award the amount that an FDNY victim receives under a WTC disability pension provided that the disability pension is for an eligible condition.

The Special Master will exercise discretion in valuing the appropriate deductions for collateral offsets by determining the following:

- Whether the particular offsets fall within the definition of collateral sources;
- Whether particular offsets should apply to all or some categories of loss (for example, certain disability benefits are offset only against lost earnings; see Table 7: Which Offsets Apply to Which Types of Loss);
- Whether the collateral source compensation is certain or can be computed with sufficient certainty to enable its offset while ensuring that beneficiaries receive the full amount of compensation that is appropriate; and



- The appropriate amount of the compensation that should be offset, taking into account the time value of money and contributions made by the injured victim or decedent in the nature of investment or savings.

While it is not possible to define in advance every possible collateral source deduction, the following general illustrations should provide guidance:

- The Special Master has the discretion to exclude from consideration life insurance proceeds that are distributed to persons other than the beneficiaries of the VCF award.
- The Special Master has the discretion to adjust the amount of offsets to exclude premiums or assets that were accumulated by the victim through self-contributions paid into a life insurance program to build up a tax-deferred cash value.
- The Special Master may reduce the amount of the offset for a pension to take account of self-contributions to that plan over the injured victim's or decedent's lifetime.
- The collateral source offsets will not include monies or other investments in the injured victim's or decedent's 401(k) accounts.
- The Special Master is required under the statute to offset Social Security survivor and dependent benefits as compensation paid to the surviving spouse or dependents of a disabled or deceased wage earner because of the eligible injury. For this reason, if any spouse or dependent (e.g., a minor or disabled child or an elderly parent) of the deceased victim is receiving these benefits, you must submit a separate Social Security Administration Consent Form (Exhibit 1 of the Claim Form) for the surviving spouse and/or dependents when submitting the claim. Please do not submit another copy of the Exhibit 1 for the victim. The VCF will then obtain information regarding the benefits directly from the SSA.

Moreover, the final regulations provide that tax benefits received from the Federal Government as a result of the enactment of the Victims of Terrorism Tax Relief Act of 2001 (Pub. Law No. 107-134) will **not** be treated as collateral source compensation.

The following are NOT considered collateral offsets:

- Charitable gifts - the final regulations clarify that benefits from charities (privately-funded charitable entities) disbursing private donations will not be treated as collateral source compensation, even if such charities were created or managed by governmental entities.
- Payments made by the various State Victim of Crime Boards funded with federal funds.
- The cost NIOSH incurs in reimbursing treatment under the WTC Health Program.
- Deferred or vested compensation from employment. Compensation that would have been payable upon retirement or death regardless of when or why the victim retired or died is not payable "as a result of the terrorist-related aircraft crashes of September 11, 2001," and therefore is not collateral source compensation. Thus, if you retired on a disability pension due to an eligible condition, the VCF will only offset that pension to the extent it is greater than the amount you were entitled to receive as a service pension. Likewise, in a wrongful death claim, the VCF will only offset a survivor pension to the extent it is greater than the pension the victim was otherwise entitled to receive.



Table 7: Which Offsets Apply to Which Losses

The Special Master has discretion to determine which offsets should be applied to which losses. It is not possible to define and categorize in advance every possible collateral source deduction.

Collateral sources	Offsets Applied to Personal Injury Losses <i>(including losses before death when the victim is deceased)</i>				Offsets Applied to Wrongful Death Losses				Offsets Applied to the Total Award (PI and WD)
	Non-economic Loss	Medical Expenses	Replacement Services	Lost Earnings	Non-economic Loss	Burial Expenses	Replacement Services	Lost Earnings	
Lawsuit Settlements	X	X	X	X	X	X	X	X	X
PSOB Awards <i>(for Death or Disability)</i>	X	X	X	X	X	X	X	X	X
Payment on prior PI claim	X	X	X	X	X	X	X	X	X
Disability Benefits <ul style="list-style-type: none"> ▪ SSA ▪ Workers' Comp ▪ Disability pension ▪ Private long- or short-term disability insurance ▪ Dependent benefits for Claimant's disability 				X					
Life insurance					X	X	X	X	
SSA death benefit of \$255					X	X	X	X	
SSA survivor benefits for dependents								X	
Workers' Compensation death benefits								X	
Survivor Pension								X	



a. Collateral offsets that are paid periodically:

The Special Master will only offset the present value of collateral source compensation. This has the effect of decreasing offsets and, thus, increasing the amount of VCF awards. As an example, in the case of Social Security children's benefits, the Special Master will determine the monthly benefit to the child, multiply that benefit by the number of months remaining until the child reaches age 18 (taking into account possible limits such as maximum family benefits available), include — if consistent with Social Security guidelines — a factor for inflation, and then discount the total to present value to determine the amount of the offset.

b. Benefits that may be subject to liens:

Some Workers' Compensation laws, both domestic and foreign, contain provisions that would allow the insurance carrier to assert a lien against an award issued from the VCF. For those who receive Workers' Compensation benefits from New York State, New York amended its Workers' Compensation statute in 2002 to prohibit insurance carriers from asserting liens against awards from the VCF. Specifically, the NY Workers' Compensation law, Section 29(1-b) provides as follows:

“1-b. Notwithstanding any other provision of this chapter to the contrary, the state insurance fund, if compensation and/or medical benefits be payable therefrom, or otherwise the person, association, corporation, insurance carrier or statutory fund liable for the payment of such compensation and/or medical benefits: (a) shall not have a lien on the proceeds of any award from the September eleventh victim compensation fund of two thousand one established pursuant to title IV of the federal air transportation safety and system stabilization act, public law 107-42, as amended; and (b) shall not terminate or reduce such compensation and/or medical benefits based upon the submission of a claim for an award from such federal fund, and/or the waiver or compromise of any cause of action resulting from such submission.”

As a result of this amendment, if a victim or family member of a decedent has received, or is entitled to receive, payments from the New York State Workers' Compensation Board related to an eligible condition, in general, the VCF will offset those payments.

Other state Workers' Compensation programs have not enacted similar legislation. Thus, there is a possibility in those states that payments to a victim or family member of a decedent might ultimately be subject to repayment from the VCF award. The VCF will review these benefits on a case-by-case basis. If you know that payments or benefits you have received are subject to a lien, you must notify the VCF. If you do not notify the VCF, we will assume that there are no liens.

Similarly, payments from other government or private entities that are subject to liens may not be offset from the VCF award if sufficient evidence of the lien is submitted. The VCF will evaluate these types of payments on a case-by-case basis.

c. Survivor benefits subject to adjustment or termination:

Some survivors may be eligible for benefits or payments from certain programs that provide periodic payments subject to adjustment or termination depending on potential future events. Such payments will be assumed to continue and will be offset unless evidence is submitted that the benefits or payments in fact terminated.

Thus, for example, the Special Master has determined that Workers' Compensation benefits that are payable only if the spouse does not remarry will be offset throughout the period of compensated loss unless evidence is submitted that the spouse in fact



remarried and the benefits in fact terminated. Likewise, Social Security and similar benefits payable to a surviving spouse only if the spouse does not remarry or does not earn income above a certain threshold will be offset absent evidence that they have terminated.

Where survivor benefits being paid to a disabled child may continue after age 18 but are subject to evaluation for continuing disability, the Special Master has discretion not to deduct them to extent they cannot be determined with reasonable certainty.

Any changes in entitlement to survivor benefits, such as a determination of continuing disability at age 18, should be reported on the "[Collateral Offset Update Form](#)" found under "Forms and Resources" on the VCF website.

d. Public Safety Officers' Benefits ("PSOB"):

Congress amended the Public Safety Officers' Benefits Act (42 U.S.C. § 3796) to provide that the benefits paid under the Act "shall be in addition to any other benefit that may be due from any other source, except . . . payments under the September 11th Victim Compensation Fund of 2001 . . ." Therefore, if PSOB has paid a benefit to the eligible victim, then the VCF will offset this amount. As shown in Table 7 on page 55, PSOB benefits are offset against the total award, including non-economic loss, whether they were awarded for death or disability.

If you have applied or plan to apply to PSOB Programs for a September 11th-related injury, you should note the PSOB application in the Collateral Offsets section of the claim form.

The VCF has an arrangement with the PSOB program to exchange information regarding the status of any claim, the amount of any award determination and payment, and the basis of the award determination. It may facilitate the processing of your claim, however, if you submit to the VCF any determination you have received from the PSOB program, or documentation of a payment from the PSOB program, when you submit your claim.

e. WTC Volunteer Fund administered by the New York State Workers' Compensation Board:

If an individual is eligible for VCF compensation and is also receiving payments from the WTC Volunteer Fund, the VCF will offset certain payments made by the WTC Volunteer Fund.

While unpaid volunteers are normally ineligible for Workers' Compensation benefits, the New York Workers' Compensation Law was amended to provide a unique exception for certain volunteers who assisted with World Trade Center rescue, recovery, and clean-up efforts. WTC volunteers are eligible to receive benefits through the WTC Volunteer Fund, which is administered by the Workers' Compensation Board. The WTC Volunteer Fund provides medical and indemnity (cash) payments for volunteers who are disabled as a result of their efforts.

The Federal government originally provided funding for this program, but the \$50 million congressional appropriation (\$25 million in 2002, increased to \$50 million in 2005) was exhausted in early 2016. An additional \$9 million was provided by the State of New York in 2016. In the event these funds are also exhausted, the NY Workers' Compensation Law now provides that WTC volunteers may receive benefits directly from the Uninsured Employers Fund, which is funded by fines paid by employers who do not comply with insurance coverage requirements.

Before these legal alterations were made in the program, it was the VCF's policy to offset only those WTC Volunteer Fund payments that a claimant had received as of the date his/her claim was filed because any future payments were considered to be uncertain and contingent on an additional infusion of funds and on the identification of a continuing



funding mechanism. Given the recent additional \$9 million in funding, however, and the statutorily designated backstop through the Uninsured Employers Fund, future funding for the WTC Volunteer Fund is now sufficiently certain. As a result, and consistent with the statute and regulations governing the VCF, the VCF has revised its policy and will offset any indemnity benefits a VCF claimant receives, or is entitled to receive in the future, from the WTC Volunteer Fund for an eligible condition. Claimants receiving benefits through the Workers' Compensation WTC Volunteer Fund should provide the VCF with their Workers' Compensation file number. The VCF may obtain information directly from the WTC Volunteer Fund regarding VCF claimants with WTC Volunteer Fund claims, which will allow the VCF to investigate the basis of any disability benefits, the amount of such benefits, and any other information that may be relevant to the VCF's computation of loss.

f. Obligation to notify the VCF of additional offsets:

If you receive, or become entitled to receive, any additional payment that constitutes a collateral offset at any time after you submit your claim – including after any award has been determined and paid – until the VCF closes on October 1, 2090, you are required to notify the VCF in writing within 90 days by completing and submitting the "[Collateral Offset Update Form](#)" found under "Forms and Resources" on the VCF website. A significant increase (more than a cost of living adjustment) in the amount of a previously reported collateral offset may constitute an additional payment that should be reported. Do not use this form if you have had a decrease in a collateral source payment and would like to request that the VCF review your award. To request a review in the case of a decrease in a collateral source payment when the higher payment was used in the calculation of your award, you must file an amendment.

When determining when to notify the VCF, keep in mind the following general guidelines:

- If you notify the VCF within 90 days of the date you learned that you were entitled to receive a new or revised collateral source payment, your determined or paid award will not be adjusted to reflect the new or revised entitlement or payment.
- If you notify the VCF more than 90 days after the date you learned that you were entitled to receive a new or revised collateral source payment, the VCF may adjust your determined or paid award to reflect the new or revised entitlement or payment as an offset, which may result in a lower award.

The obligation to report collateral source payments is ongoing. If you become entitled to receive additional collateral source payments after an initial notification to the VCF, you will need to submit a new form to advise the VCF of this update.

2.6 Withdrawing an Economic Loss Claim

If you filed a claim for economic loss and have since decided that you do not want the VCF to review your economic loss claim, you may withdraw that portion of your claim at any time by filing an amendment. Follow the instructions in [Appendix A](#) to amend your claim. The instructions are also available under "Forms and Resources" on the www.vcf.gov website.

When filing your amendment, you must identify the specific type(s) of economic loss claim(s) you are withdrawing: past lost earnings, future lost earnings, replacement services, and/or medical expenses. If you filed a claim for more than one type of economic loss, you may choose to withdraw some or all of your economic loss claims. If you withdraw all of your economic loss claims, the VCF will then review your claim for non-economic loss only.



Section 3. Awards and Payment

When the VCF has made an award determination for your claim, you will receive a letter notifying you of the amount of your award. Please read this letter carefully. If there is any outstanding missing information on your claim, it will be listed in this letter. This information must be provided before the VCF can begin processing your payment.

If you appeal your loss determination, payment will not begin until a decision is rendered following your hearing. If, however, your claim has been approved for expedited processing due to terminal illness or significant financial hardship, we will process the payment while awaiting the scheduling and outcome of your hearing. Additional information on appeals and hearings can be found in [Section 4](#).

Once the VCF begins processing your payment, it may take up to 45 days before the money is deposited into the designated account.

3.1 Receiving your Payment

All VCF payments are made electronically. The U.S. Department of the Treasury will only issue paper checks for claimants who live outside the U.S. and do not have a U.S. bank account.

The VCF can only make direct deposit payments to a regular checking or savings account. Payments cannot be made to money market or brokerage accounts.

3.2 Payment Instructions if you live in the U.S.

Payment will be made via an electronic deposit directly to a regular checking or savings account. Payments will be made by the U.S. Department of the Treasury using the Automated Clearing House (“ACH”) electronic payment system.

You will need to complete the “[VCF ACH Payment Information Form](#).” You can download the form from “Forms and Resources” on the VCF website or you can call the toll-free Helpline and request a paper form be mailed to you. Complete the form by carefully following the instructions printed on the back of the form, and mail it on the same day that you submit your claim. **DO NOT upload the form to your online claim**. Note that you must complete and sign Section 1 of the form and a representative from your bank must complete and sign Section 3. The VCF requires that a bank representative sign the ACH form to verify that the bank routing number and your account number are correct. Any missing or incorrect information will delay payment on your claim.

If you use an online bank, please contact your bank and ask about options for mailing or faxing the form to them. Your bank can also download a blank form from the VCF website and complete it on your behalf. You can work with your bank to determine the best way to complete the form. Please remember that a representative from the online bank must sign the form to validate the account information. Once the form is complete, you must mail the completed form directly to the VCF. **DO NOT upload the ACH form to your online claim**.

3.3 Payment Instructions if you live outside the U.S.

Payment will be made via a check from the U.S. Department of the Treasury. The VCF will contact you to provide specific instructions for receiving the check and to confirm the expected delivery date. Checks are mailed via a tracked service and the claimant must sign for the delivery of the check.



3.4 Instructions for Payments made to Law Firm escrow accounts on a Claimant's Behalf

Many law firms that represent VCF claimants have an agreement with their clients that VCF payments will be made directly to the law firm escrow account on behalf of the claimant. The VCF expects that the law firm will disburse the payment to you within 30 days of the money being deposited into the law firm account.

If you are represented by an attorney and payment on your claim will be made to the law firm's escrow account, your attorney will ask that you sign an authorization allowing the VCF to issue your payment to that account. This authorization must include certain specific information as outlined in the "Law Firm Payment Instructions" available on the "Information for Law Firms" page of the VCF website. The authorization must be sent to the VCF as an original document with an original signature.

For Law Firms: please carefully review the "[Law Firm Payment Instructions](#)" available on the "Information for Law Firms" page of the VCF website if your law firm has an agreement with the claimants you represent that VCF payments will be made directly to a bank account maintained by the law firm to hold and distribute proceeds obtained on behalf of clients of the firm. You must follow the specific instructions or payment may be delayed.

Each payment made to a law firm bank account includes the claimant name and claim number as part of the transaction record. You may need to ask your bank to provide this information to you if it is not easily visible as part of the transaction detail. Payments for multiple individuals will not be grouped into a single transaction, although your law firm may receive more than one deposit on the same day. Your financial institution should provide the details to you for each deposit made to your account.

3.5 Changing your Payment Information

If you submitted a "VCF ACH Payment Information Form" and then changed your bank account, you will need to submit a new form (available on the VCF website) so the VCF has the current banking information for any future payments on your claim. Carefully follow the directions on the form and mail it to the VCF with a letter stating that it should replace the banking information currently associated with your claim.

If you submitted documents directing the VCF to pay your claim through your attorney, that instruction may not be changed once your claim moves to "Special Master Review" status in the online system. You may still remove or change the attorney associated with your claim for any future appeal or amendment. If your award is changed by that amendment or appeal and you submit new payment instructions, then the new payment instructions will apply to the payment resulting from the amendment or appeal and all subsequent payments. If you previously authorized the VCF to make the payment on your claim to an attorney and you remove the attorney from your claim, you must complete the "[Change of Attorney Form](#)" and submit the signed form to the VCF in order for the change to be made to your claim. The form is available under "Forms and Resources" on the VCF website. Claimants should be aware that, regardless of how they receive payment from the VCF, they may continue to be liable for any agreement related to attorney fees as specified in the attorney-claimant contract.

3.6 Payment Instructions specific to claims for Deceased Victims

The VCF will issue payment on behalf of a deceased victim to the Personal Representative of the deceased individual. The Personal Representative, however, is not necessarily the person who will ultimately receive the award. This depends on the specific circumstances of the claim, the



domicile of the decedent, applicable state law, the terms of the decedent's will or other terms governing the distribution of the decedent's estate, and/or any applicable rulings made by a court of competent jurisdiction. The Personal Representative is required to distribute the award in accordance with the law of the victim's domicile.

If more than one individual has been appointed as co-Personal Representatives, please see Section [6.5](#) for important information about the documentation that is needed in order for the VCF to process the payment on the claim.

Note regarding payments on behalf of minor children: If any portion of the payment is allocated to minor children, the VCF may require additional documentation from the Personal Representative before processing the payment. The Personal Representative is responsible for determining the requirements of applicable law with respect to the distribution to minors and for adhering to these requirements.

3.7 Payment Instructions specific to claims for Minor Victims

If the victim is a minor at the time payment is issued on the claim, the VCF requires that the parent(s) or legal guardian(s) of the minor complete the "Acceptance of Payment on behalf of a Minor Child" form. The VCF will send you this form to complete. If more than one parent or guardian shares custody of the minor, both individuals will need to sign the form. The completed form does not need to be submitted as an original and can be uploaded to your claim.

If the parent(s) or guardian(s) of the minor victim share joint custody, and if the payment on the claim is being made to a bank account that is owned by only one of the custodial parents/guardians, the parent/guardian who is not receiving payment must submit a signed and notarized statement identifying the parent/guardian who will serve as the payee for the claim. If the parent(s)/guardian(s) are represented by an attorney and have agreed that the payment on the claim will be made to the law firm's escrow account, the authorization to pay that account must be signed by both parent(s)/guardian(s).

3.8 Split Payments

The Special Master will not split a VCF payment among multiple payees. For example, the VCF will not split a payment so a portion is paid directly to a law firm and a portion directly to the claimant. Attorneys who represent VCF claimants should have agreements in place with their clients that include details on the fees being charged and how and when those fees will be paid. Payments made by the VCF are paid only to injured victims or the authorized Personal Representative of a deceased victim, or a parent or guardian of a minor victim. Although the Special Master will authorize payment to a law firm account with appropriate documentation signed by the claimant, the payment is made specifically on behalf of the individual.

3.9 Additional information regarding VCF Awards and Payments

- **Tax information:** VCF awards are not subject to federal income tax. See 26 U.S.C. §139(f).
- **Bankruptcy proceedings:** The VCF cannot advise you on how your award may be treated if the victim or recipient of the award has filed for bankruptcy protection. If a court has ordered that the VCF award must be paid to a trustee in bankruptcy, you must notify the VCF and provide the court order. An attorney may be able to provide more information based on each individual's particular case. If additional information regarding the breakdown of your award is needed for purposes of a bankruptcy proceeding, please contact the VCF Helpline.



- **Medicare Secondary Payer claims:** The Centers for Medicare & Medicaid Services (“CMS”) has determined that, pursuant to its waiver authority, it will not pursue Medicare Secondary Payer (“MSP”) claims against awards from the VCF under the Zadroga Act.
- **Other government programs:** The VCF is not able to advise individuals as to whether receipt of a payment from the VCF will affect benefits that the individual may be receiving from any federal, state, or local program that determines eligibility based on income or resources. Since each program is different and each individual’s situation is different, you should contact the relevant programs to seek guidance on how an award from the VCF may affect your qualification for benefits. Information regarding how the state of New York views the interaction between VCF payments and certain New York benefits programs is available [here](#).
- **“Early payment” programs or advance loans:** There are organizations offering accelerated funding for VCF victims. These types of advances, early payments, or loans using an anticipated VCF award as collateral, are not affiliated in any way with the VCF. The Special Master does not endorse any of these entities and cautions claimants to investigate any entity that they intend to deal with to attempt to determine if it is legitimate or is instead engaged in predatory or fraudulent activity. If you decide to work with one of these organizations to receive your payment in advance, your agreement with them is completely independent of your VCF claim and any agreement you sign is strictly between you and the specific entity.
- **Expedite process:** In cases involving terminal illness or significant financial hardship, you can request that the VCF expedite the processing of your claim or amendment. The VCF considers “significant financial hardship” to include an imminent or pending foreclosure or eviction proceeding, utility cut off, or other similar circumstances, as demonstrated by appropriate documentation. If you would like to seek expedited processing of your claim or amendment based on a terminal diagnosis or financial hardship, you must contact the Helpline and upload any appropriate documentation to your claim. The VCF will review your request and notify you as to whether the request is granted or denied, typically within 48 hours. If you are requesting that your claim be expedited, you should submit a complete claim. This includes claiming all losses – economic and non-economic – at the time you submit your claim and request expedited processing.

Amendments on expedited claims: If your claim was previously approved for expedited review based on terminal illness, you do not need to seek approval for expedited processing of your amendment, but you must call the VCF Helpline to alert us to the amendment. This is necessary for the VCF to track the amendment so it can receive expedited processing. You do not need to upload another expedite request or additional documentation in cases expedited for terminal illness. If your claim was previously approved for expedited review due to financial hardship, you must submit a second request and adequate documentation to support the request for any subsequent amendment.

- **Advance benefits:** The VCF does not issue early payments or “advance benefits.” Please follow instructions and submit a complete claim in order to ensure that your claim is processed as quickly as possible.
- **Assignment of awards:** Federal law prohibits the assignment of claims made against the United States unless done in compliance with Federal law. 31 U.S.C. 3727. Thus, the VCF generally will not accept or recognize any effort on your part to assign your claim or your award to someone else and will not pay anyone other than the claimant, the Personal Representative, or an authorized law firm as detailed above.



3.10 VCF claimants who file claims with the U.S. Victims of State Sponsored Terrorism Fund (“USVSST”)

On November 21, 2019, Congress passed the [USVSST Fund Clarification Act](#), which allows 9/11 victims, widows, and dependents – as specifically defined by the Clarification Act – to receive USVSST Fund payments, **even** if they had already applied for or received compensation from the VCF.

This is a legislative reversal of the prior statutory language under which some of these claimants would not be compensated by the USVSST Fund if they were simultaneously pursuing a VCF claim.

As a result, **if** your claim was withdrawn “with prejudice” from VCF2 so that you could pursue a claim with the USVSST Fund, the VCF will no longer enforce the withdrawal. Instead, the VCF will re-open the claim and move it back into the review process, with the priority date for review as it was at the time of the withdrawal.

Note, the VCF is required by law to offset any benefit paid by other collateral sources relating to the 9/11 attacks. As a result, USVSST Fund payments made to victims who are also eligible for compensation from the VCF, will be subject to offset by the VCF. If you have a simultaneous claim with the USVSST Fund and the VCF, the VCF will not be able to pay your claim until the full value of the USVSST Fund payment is known. To be clear, the VCF is required to offset USVSST Fund payments made on account of 9/11-related injuries **to the same victim**. If the VCF victim and the USVSST Fund victim are **not** the same person (e.g., the USVSST Fund claim is because of a judgement entered for damages arising from the death of a spouse, parent, or sibling, even if the **claimant** is the same person), the VCF is not required to take an offset.

For specifics on USVSST Fund eligibility, information on how to make a USVSST Fund claim, the time frame in which do so, or the way in which the USVSST Fund will treat VCF awards (both in VCF1 and VCF2), please consult the materials provided by the USVSST Fund on its website (www.usvsst.com). Please remember that you must inform the VCF of any new collateral source payments you receive, or become entitled to receive, after your claim has been filed – including after any award has been determined or paid – until the VCF closes on October 1, 2090.

Section 4. Appeals and Hearings

An appeal can be filed within 30 days after the VCF has notified you of the eligibility or compensation decision on your claim. You can file an appeal if you have been found ineligible to receive compensation from the VCF or if you believe the VCF erroneously calculated the amount of your award. For example, you would file an appeal if you believe that the VCF used an incorrect income amount to calculate lost earnings or did not include in the calculation specific benefits information that you provided in your initial claim submission. You should only appeal the compensation decision if you are challenging the award determination already issued, and think that the VCF did not properly consider certain facts and information you presented in your claim in determining the amount of your loss. You may appeal only if your eligibility denial letter or award letter includes an Appeal Request Form.

If you appeal the award decision on your claim, except in cases where a claim is approved for expedited processing, any payment due will not be processed until your hearing is held and a decision is rendered on your appeal.

Note: Compensation appeals are not permitted in cases involving an award for non-economic loss only, where medical records were not submitted at the initial claim review stage. Because



you should have the medical records that are needed at the time you submit your claim, the option to appeal will not be included in your award letter. If you did not submit medical records, and you believe your non-economic loss award does not adequately address the severity of your condition, you must submit the medical records with a compensation amendment.

Filing an appeal vs. amending your claim

You should not appeal, but should instead amend your claim, if you filed a personal injury claim and are seeking a revised determination based on one or more of the following: (1) new information that was not previously submitted with your claim; (2) information previously requested by the VCF in connection with review of your claim that you did not submit within the response timeframe provided; or (3) your circumstances have changed since receiving your decision letter. [Section 5](#) includes more detailed information about amending your claim. Note that amendments will not be permitted in deceased claims, except in limited circumstances as described in Section 5.

For further information concerning when an appeal is appropriate vs. when to amend your claim, see [Appendix C: When to Appeal vs. When to Amend](#).

4.1 Filing an Appeal

When you receive the letter with your eligibility or compensation decision, it will include an Appeal Request Form with instructions for how to appeal the decision. If you intend to appeal you must follow the instructions in the letter, which are also outlined below.

- **Within 30 days of the date of your decision letter:** Complete and sign the Appeal Request Form and return it to the VCF. If your completed Appeal Request Form is not uploaded to your online claim or postmarked by the due date in your decision letter, you will have waived your right to an appeal.
- **Gather the necessary documents and complete your Appeal Package:** Your Appeal Package **must** include the following:
 - Completed Pre-Hearing Questionnaire (enclosed with your decision letter).
 - “Explanation of Appeal” as explained below.
 - All relevant documentation to support your appeal, along with a listing of the documents and the specific component of your appeal to which each document applies.
- **Within 60 days of the date of your decision letter:** Submit your complete **Appeal Package** as one package. Your completed package must be submitted or postmarked by the due date in your decision letter or your request for an appeal will be denied.

Explanation of Appeal

The Explanation of Appeal is a written statement that should clearly explain the following:

- The specific components of your award, or the specific eligibility denial reasons, that you believe were not properly decided or calculated and that you intend to raise on appeal.
- The specific issues you intend to raise at your hearing for each component of your decision being appealed.
- A listing of the documents you are submitting as part of your Appeal Package to support your argument for each component of your decision being appealed.



The goal of the Explanation of Appeal is for you to fully explain the arguments you intend to raise at your hearing, and the reasons why you believe your claim was not properly decided. Please carefully review the information enclosed with your decision letter to ensure you submit a complete Appeal Package.

Once your complete Appeal Package is submitted, the VCF will review the information to confirm that you have a valid appeal, and will notify you of the next steps specific to your appeal and the scheduling of your hearing.

Important Reminders

- You should only submit the Pre-Hearing Questionnaire, Explanation of Appeal, and applicable supporting documents once you have **all** of the information you intend to submit in support of your appeal. All materials should be uploaded to your claim or mailed to the VCF as one package.
- Submit your complete **Appeal Package** as one package. Your Appeal Package **must be submitted to the VCF by the deadline** stated on the appeal form included with your decision letter.
- With very limited exceptions, documentation provided to the VCF after your Appeal Package is submitted will not be considered as part of your appeal.
- If the VCF previously requested a document during the review of your claim, and you did not submit it when originally requested, the Special Master may exercise her discretion to exclude that document from the appeal record if you submit it for the first time as part of your Appeal Package.

4.2 Hearings Process

If the VCF determines that your appeal request is valid (e.g., it is not an amendment and the Appeal Request Form and complete Appeal Package are submitted by the deadlines identified in your decision or award letter), the VCF will send you a letter with your assigned hearing date and time and important details about your hearing. If the VCF determines that your appeal request is not valid, we will notify you in writing that a hearing is not appropriate, explain the next steps that are appropriate, and if applicable, process any pending payment on your claim.

Once the VCF has assigned your hearing date and time, **it cannot be changed** except in rare circumstances of an urgent nature, as determined by the VCF. Requests to reschedule a hearing must be accompanied by a letter explaining the reason for the request. With very limited exceptions, your appeal will be denied and the prior decision on your claim will be considered final if you miss your scheduled (or rescheduled) hearing. If your appeal request is not valid, the VCF will notify you in writing that a hearing is not appropriate, explain the next steps that are appropriate, and if applicable, will process any pending payment.

If you decide after returning your appeal form that you do not want to appeal the decision on your claim, please notify the VCF so that we can update our records and take the appropriate action.

Although in-person hearings are preferred, the VCF is able to provide accommodations – such as phone or video conference – for individuals who are unable to attend an appeal hearing in person. You should include any requirements on your Pre-Hearing Questionnaire. Although you may participate in your hearing by telephone, your attorney (if you are represented) must be present in person.

If you or one of the individuals you are bringing as a witness at your appeal hearing does not speak English, you should request on your Pre-Hearing Questionnaire form that the VCF provide



an interpreter for your hearing. Interpreters are provided at no cost to you. The request for an interpreter needs to be made by checking the appropriate box on the form and indicating the specific language. Please note that these interpreters are for the hearing only. If you need translation services before or after the hearing, you will need to provide your own translator. VCF hearing interpreters may not be used outside of the hearing itself.

What happens at a hearing: Hearings are held in a non-adversarial manner. Hearings are conducted by the Special Master or a Hearing Officer designee from her office. These Hearing Officers are qualified individuals who have been trained expressly for these proceedings. While hearings vary in length, they rarely last more than one hour.

The objective of the hearing is to give you a chance to present information or evidence that you believe is necessary to support your appeal. You are allowed, but not required, to present witnesses, including expert witnesses. The Hearing Officers will be permitted to examine the credentials of any experts who participate in a hearing. If you are represented by an attorney, your attorney should attend the hearing with you, or, as noted above, should appear in person at a hearing for which you may be participating by telephone. Any individual who provides testimony at a hearing will be sworn in and will provide testimony under oath.

Please note that immigration status has no bearing on your hearing and undocumented individuals can attend a VCF hearing without risk of exposure.

After the hearing: A new determination is not made on the spot at a hearing. The Hearing Officer will make a recommendation and the Special Master will review the information presented at the hearing, including your testimony, your Explanation of Appeal, and any supporting documentation. You will receive a follow-up letter explaining the decision on your appeal.



Section 5. Amendments

5.1 Personal Injury Claims

You may amend your personal injury claim if you have already filed a claim and meet one of the following circumstances:

- 1) The WTC Health Program certifies you for a condition not previously certified, or you are diagnosed with a new 9/11 related injury or condition that qualifies for verification through the VCF [Private Physician process](#).
- 2) Your claim was denied or deemed inactive because you did not respond to the VCF's request for missing information and you are now ready to provide the requested documents.
- 3) You need to add, change, or remove the Personal Representative or parent/guardian on an existing claim.
- 4) Your injury or condition substantially worsens, resulting in loss that was not previously compensated, or you have incurred new or additional economic losses due to your eligible injury or condition.
- 5) You have new information in support of your claim that was not submitted to the VCF when your award was determined and that you believe would affect the amount of your calculated loss.
- 6) You have received the initial award determination on your claim and are seeking reimbursement for out-of-pocket medical expenses that total more than \$5,000.
- 7) You previously submitted a claim for one or more components of economic loss and now want to withdraw that portion of your claim.
- 8) You meet the criteria for the [WTC Health Program Disability Evaluation](#) Process and want to request consideration for that process, or you have received your WTC Health Program disability evaluation report and need to submit it for VCF review.
- 9) You responded to a "Missing Information" request from the VCF after the time period stated in the letter and the information you submitted was not considered by the VCF when calculating your award. Or, your online claim status is "Determination Made: Processing" and you have new documents you would like the VCF to review. After you receive the letter notifying you of your award, you will need to file an amendment to have the new documents reviewed. Note: If you submit documents after the VCF finalizes substantive review of your compensation claim, but before your award letter is issued, we will notify you in the award letter that the documents have not been reviewed and will instruct you to submit an amendment if you still want the VCF to review the documents.

5.2 Deceased Claims

In a deceased claim (i.e., claims filed on behalf of a victim who died as a result of his or her 9/11-related eligible condition), you will not be permitted to amend your claim after the VCF finalizes substantive review of the compensation claim (with limited exceptions, as explained in the "Exceptions" section below). A claim has reached the final stages of "substantive review" when the status in the online system moves to "Determination Made: Processing." **This means that when filing a new deceased claim, you must claim all losses and submit all supporting documentation before the VCF finalizes substantive review of the compensation claim.** You can amend your claim at any time *before* the VCF finalizes substantive review of the compensation claim, but the best way to ensure complete review of a claim filed on behalf of a deceased victim is to claim all losses and submit all supporting documentation when you file your claim form.



Exceptions:

The VCF will permit amendments on deceased claims after the VCF has finalized substantive review of the compensation claim in the following limited circumstances:

- 1) You received an award on a deceased claim and then filed an amendment **before December 9, 2019**. The VCF will review your amendment in the ordinary course. If you previously received an award on a deceased claim but failed to seek all compensable losses prior to payment of your award, you may file an amendment to your claim on or before **March 9, 2020**. After that date, you will not be able to amend your deceased claim, except in the limited circumstances listed below.
- 2) You previously claimed wrongful death losses but the VCF found that there was not enough evidence to show that the victim's death was related to an eligible condition. In this situation, you may file an amendment to submit additional information showing that the victim's death was related to an eligible condition;
- 3) The victim had a 9/11-related physical health condition that was not on the list of presumptively covered conditions when the VCF finalized substantive review of the claim, the VCF therefore did not award compensation relating to that condition, and that condition has since been added by the WTC Health Program to the list of presumptively covered conditions. In this situation, you may file an amendment to seek compensation for losses relating to the newly added condition;
- 4) You want to request reimbursement for past out-of-pocket medical expenses the victim paid as a result of eligible conditions. Please see [Section 2.4\(a\)](#) for more information about filing a medical expenses claim;
- 5) You need to add, change, or remove the Personal Representative on your claim, including to add a Personal Representative when a victim passes away after filing a personal injury claim and the death is not due to an eligible 9/11-related condition; or
- 6) The Special Master determines that not permitting the amendment would result in substantial injustice.

All Claims:

There are certain situations when amending your claim will not result in a change to your award. Listed below are examples to consider before filing an amendment.

- **Amendments seeking additional non-economic loss:** Except in limited circumstances, if you already received a non-economic loss award at the statutory cap (\$90,000 for non-cancer conditions and \$250,000 for cancer), claiming a new condition will not change your non-economic loss award. You may file an eligibility amendment to add the new condition and the VCF will determine if it is considered eligible, but you should not file a compensation amendment to seek additional non-economic loss. The limited circumstances in which the VCF may award additional non-economic loss include if you are claiming a cancer where one was not previously considered in the award or if you are were previously compensated for a cancer and are claiming a non-cancer condition that the Special Master has identified as presumptively severe and debilitating (see [Section \[2.1\(a\)\]](#)).
- **Amendments on claims with large collateral offsets:** If your initial award determination was reduced by collateral offsets, you should consider whether these offsets will exceed the new loss you are seeking. If your offsets are substantially higher than the loss you are claiming through the amendment, the amendment will not result in a change to your net total award. For example, if you received a \$350,000 settlement payment from a 9/11-



related lawsuit, and are only seeking additional non-economic loss, you should not file an amendment as the non-economic loss awarded will not exceed the amount of this offset.

If you are represented by an attorney and are unsure whether your amendment will result in a substantial change in your award, we encourage you to discuss the amendment with your attorney. If you are not represented, the VCF Helpline can assist you in deciding whether to submit the amendment.

You may file an amendment online or in hard copy. Follow the instructions in [Appendix A](#) to amend your claim. The instructions are also available under “Forms and Resources” on the www.vcf.gov website.

The VCF will review the new information you submit with your amendment and will notify you of the outcome of our review. Each amendment will be reviewed; however, an amendment may not necessarily result in a change in your award.

If you believe your claim warrants an expedited review at the amendment phase, please submit another request for expedited status following the guidelines in [Section 3.9](#). If your claim was previously approved for expedited review based on financial hardship, your amendment will not automatically be reviewed on an expedited basis.

Section 6. Deceased Victims

If you are filing a claim on behalf of a deceased individual, you need to: (1) be appointed as the victim’s Personal Representative, and (2) file Appendix A to the claim form.

6.1 Victims who pass away after Filing a Personal Injury Claim

If a victim started or submitted a personal injury claim and then passed away, the next steps on the claim will depend on: (1) whether the victim died of causes related to his or her 9/11-related eligible condition or died of unrelated causes; and (2) the status of the personal injury claim at the time the VCF is notified of the death. If the victim died of causes unrelated to 9/11, you should file a Personal Representative amendment to the personal injury claim. If the victim’s death is believed to have been caused by an eligible 9/11-related condition, or if you are unsure if the death was caused by an eligible condition, you should register a new deceased claim. **It is critical to the proper handling of the claim that you take one action or the other, but not both.**

Follow the instructions in [Appendix D](#): “Information and Instructions – Steps to take if a Personal Injury Claimant passes away after filing a Claim” based on the specific circumstances of the claim.

If a victim passes away as a result of his or her 9/11-related eligible condition after having received payment on a personal injury claim, the VCF will consider whether any additional compensation should be awarded in the deceased claim by calculating the loss for the deceased claim and deducting the award already paid in the personal injury claim. In calculating the loss for the deceased claim, the VCF will recalculate all components of loss that were compensated in the personal injury claim, and will also review any amendments filed on the personal injury claim prior to the decedent’s death for which a decision had not yet been issued. Thus, if lost earnings were compensated in the personal injury claim, they will be recalculated in the deceased claim to take into account the consumption factor discussed in Section 6.2.a. below.

The VCF will issue an award determination for the deceased claim equal to the amount by which the total computation for the deceased claim (including all applicable components of personal injury loss) exceeds the total amount already paid in the personal injury claim. If the total loss determined for the deceased claim (including all applicable components of PI loss) does not



exceed the amount already paid in the personal injury claim, the deceased claim will be valued at zero **and no additional award amount will be issued**. In such a case, the VCF will not take any action with respect to the personal injury award that was already paid.

These guidelines apply only when the victim died as a result of a 9/11-related VCF eligible condition after payment had already been made on the personal injury claim.

If payment had not yet been made on the personal injury claim, the processing of the personal injury claim will stop and the VCF will notify you of the next steps to be taken on the claim based on the claim status at the time the VCF was notified of the death. If the claimant was notified of an award on the personal injury claim, but payment on the claim had not yet been made, the VCF makes every effort to issue payment of the non-economic personal injury award once the proper Personal Representative is validated, and according to any limitations that may be included in the Letters of Administration issued by the Court. The VCF then re-calculates any economic loss attributable to the victim's personal injury as part of our review of the deceased claim.

[Appendix D: "Information and Instructions – Steps to take if a Personal Injury Claimant passes away after filing a Claim"](#) includes detailed information about the processing of personal injury claims when a claimant passes away.

6.2 **Calculation of Deceased Claims**

There are certain considerations and assumptions applicable to a claim filed on behalf of a victim who died as a result of an eligible physical injury or condition that do not apply to a personal injury claim. In cases where the VCF has already made a compensation determination on the decedent's personal injury claim, an additional award may be made in a deceased claim filed for the same person. The following differences may affect whether there is any additional loss, as well as other factors that may impact the computation of the deceased award.

a. **Economic Loss:**

1. In deceased claims, the VCF applies a consumption factor to the calculation of future lost earnings to reflect the decedent's share of household expenditures – i.e., the amount of his/her own income that s/he would use for those expenditures. This would tend to lower the loss determination for lost future income. (See paragraph 8 of section 2.3.)
Note: The loss of pension benefits, which terminated at death because benefits were maximized while the individual was alive and no survivor pension option was selected, or benefits that were reduced following a victim's death, are not losses of future income compensable by the VCF. That said, the Special Master recognizes the fairness disparity in a process whereby former first responders, who responded to the WTC site in the wake of the attacks, do not qualify for Line of Duty death designations from their former employers because they were not officially deployed to the response effort. In those particular instances, and based on the circumstances of the specific claim, the Special Master will exercise her discretion and include a flat \$250,000 in economic loss (in addition to any other economic loss awarded on the claim).
2. The VCF will not employ a residual earnings deduction when calculating future lost earnings for a victim who died of an eligible physical injury or condition. Thus, if the future lost earnings awarded in the personal injury claim were for a partial loss, then it is possible that the deceased claim loss of future income would be greater than the loss of income calculated for the personal injury claim.
3. If a decedent was disabled for an ineligible condition prior to death, the VCF will reduce the earnings basis on the deceased claim to reflect that a portion of the decedent's lost earnings are due to the unrelated disability.



4. The VCF does not award lost earnings prior to death when only a short period of time has elapsed between the disability determination as a result of an eligible condition and the subsequent death related to the eligible condition.
5. Replacement services in a deceased claim may be awarded, even if they were denied in the personal injury claim (see section 2.4(b)).
6. The VCF will compensate for documented out-of-pocket burial or memorial expenses for victims who died as a result of an eligible 9/11-related physical injury or condition.

Note: If the VCF has already made a compensation determination on the personal injury claim, and the deceased claim results in a lower award, the VCF will not reduce the prior personal injury award.

b. **Non-Economic Loss:**

For personal injury claims, non-economic loss awards are determined based on the extent of physical harm – measured by the severity of the victim’s condition and the impact on his or her ability to conduct activities of daily living. For deceased claims, non-economic loss is awarded for the victim’s pain and suffering in life based on the severity of the condition, and additional non-economic loss is awarded for the wrongful death portion of the claim. For the latter, presumed amounts generally apply – \$250,000 for the decedent, plus an additional \$100,000 on account of the spouse and on account of each dependent of the deceased individual, as those terms are defined in the regulations. Thus, non-economic loss awarded for a deceased claim will generally exceed the non-economic loss awarded in the personal injury claim.

6.3 Application of Offsets in Personal Injury and Deceased Claims

Deceased claims (for victims who die of their eligible 9/11-related injuries) have two parts: (1) the personal injury award for the victim for the losses he or she suffered while alive, including pain and suffering and past lost earnings; and (2) the wrongful death award for the victim’s family to compensate for the harm they suffer as a result of the victim’s death, including their pain and suffering and future lost earnings. The VCF calculates these two awards separately, and the offsets related to the personal injury losses will be applied only to the personal injury award, while the offsets related to the wrongful death losses will be applied only to the wrongful death award. The two awards will not offset each other. For example, disability benefits that the victim received while alive would be offset against the personal injury loss determination but not the wrongful death loss determination. Likewise, offsets received by the victim’s beneficiaries as a result of his or her death – such as death benefits, life insurance, and Social Security survivor benefits – would reduce a wrongful death loss calculation but would not apply to the personal injury loss calculation. Certain offsets related to wrongful death, such as life insurance, apply to both the economic loss and non-economic loss components of the wrongful death claim. If the decedent had a large life insurance policy payable to one or more of the decedent’s beneficiaries, then you should take the amount of that policy into account in evaluating whether to file a deceased claim (see [Table 7: Which Offsets Apply to Which Types of Loss](#)). The “Award Detail” included with the award letter will reflect how each of the two awards was calculated, as well as the total sum awarded. A Sample “Award Detail” is below.



Award Detail

Claim Number:
Victim Name:

PERSONAL INJURY CLAIM (Losses up to Date of Death)	
Lost Earnings and Benefits	
Loss of Earnings Including Benefits and Pension	\$0.00
Mitigating/Residual Earnings	(\$0.00)
Total Lost Earnings and Benefits	\$0.00
Offsets Applicable to Lost Earnings and Benefits	
Disability Pension	(\$0.00)
Social Security Disability Benefits	(\$0.00)
Workers Compensation Disability Benefits	(\$0.00)
Disability Insurance	(\$0.00)
Other Offsets related to Earnings	(\$0.00)
Total Offsets Applicable to Lost Earnings and Benefits	(\$0.00)
Total Lost Earnings and Benefits Awarded	\$0.00
Other Economic Losses	
Medical Expense Loss	\$0.00
Replacement Services	\$0.00
Total Other Economic Losses	\$0.00
Total Economic Loss	\$0.00
Total Non-Economic Loss	\$0.00
Subtotal Award for Personal Injury Claim	\$0.00
DECEASED CLAIM (Losses from Date of Death)	
Lost Earnings and Benefits	
Loss of Earnings Including Benefits and Pension	\$0.00
Offsets Applicable to Lost Earnings and Benefits	
Survivor Pension	(\$0.00)
SSA Survivor Benefits	(\$0.00)
Workers Compensation Death Benefits	(\$0.00)
Other Offsets related to Earnings	(\$0.00)
Total Offsets Applicable to Loss of Earnings and Benefits	(\$0.00)
Total Lost Earnings and Benefits Awarded	\$0.00
Other Economic Losses	
Replacement Services	\$0.00
Burial Costs	\$0.00
Total Other Economic Losses	\$0.00
Total Economic Loss	\$0.00
Non-Economic Loss	
Non-Economic Loss - Decedent	\$0.00
Non-Economic Loss - Dependent(s)	\$0.00
Total Non-Economic Loss	\$0.00
Additional Offsets	
Social Security Death Benefits	(\$255.00)
Life Insurance	(\$0.00)
Other Offsets	(\$0.00)
Total Additional Offsets	(\$255.00)
Subtotal Award for Deceased Claim	(\$255.00)
Subtotal of Personal Injury and Deceased Claims	\$0.00
PSOB Offset	(\$0.00)
Prior Lawsuit Settlement Offset	(\$0.00)
Previously Paid Personal Injury Award	(\$0.00)
TOTAL AWARD	\$0.00
Factors Underlying Economic Loss Calculation	
Annual Earnings Basis (without benefits)	
Percentage of Disability attributed to Eligible Conditions - applicable to Personal Injury claim	
Start Date of Loss of Earnings Due to Disability - applicable to Personal Injury claim	
Eligible Conditions Considered in Award	



6.4 **Personal Representatives**

a. **Court appointment of a Personal Representative:**

Claims for deceased victims (regardless of cause of death) may be submitted only by the Personal Representative of the victim. In general, for victims who lived in the United States, a Personal Representative is appointed by a state court and that appointment will define the authority of the Personal Representative to take actions regarding the estate of the deceased person. Each state has laws that define the process for appointment of a Personal Representative and the specific authority granted to that Personal Representative. If the victim has died and you wish to file a claim for that victim, you should contact the relevant probate or surrogates court in your state to obtain information about appointment of Personal Representatives. There are different procedures outside the United States and the VCF will address the issue of the appropriate representative for victims who did not live in the United States on a case-by-case basis in accordance with the law of the domicile of the victim.

In some cases, the victim may not have a large estate or may not require probate proceedings in the absence of an award from the VCF. Even in these situations, the VCF requests that you make every effort to obtain a Personal Representative appointment from a court. In general, states have procedures for individuals to open a simple or small estate in order to obtain an appointment. If you qualify for a VCF award, you might have to revise the petition for appointment. To open such a proceeding in New York, for example, you must file a Petition for Letters of Administration (if the decedent did not have a will), Petition for Probate and Letters Testamentary (if the decedent had a will), or Voluntary Administration (if the decedent's estate meets certain requirements). There is a fee for opening these estate proceedings but, in many cases, the fee will be quite low. In New York, if the value of the estate is less than \$10,000, you will have to pay \$45.00 to open the proceeding. Additionally, if the value of the estate is less than \$30,000 (or \$20,000 if the decedent passed away before January 1, 2009), and the estate does not include certain property, you can file a Voluntary Administration in order to be appointed the Personal Representative of the decedent's estate. Please note, the VCF will accept Letters of Voluntary Administration in very limited circumstances. If you submit Letters of Voluntary Administration, the document must explicitly permit the filing and processing of the VCF claim, and you will be required to petition for Letters of Administration or Letters Testamentary that permit you to collect the VCF award once an award determination is made on your claim. The forms required to open an estate proceeding in New York, as well as additional information on opening an estate proceeding, can be found at the following website: <https://www.nycourts.gov/COURTS/nyc/surrogates/index.shtml>.

There are certain documents you must submit with your claim to be recognized as the lawful Personal Representative of the victim. Please carefully review the information below and the "[Documents required when the claimant is not the victim](#)," which can be found under "Forms and Resources" on the VCF website.

- **Proof of Cause of Death:** If you intend to pursue a wrongful death claim, you should select "Yes" when answering the question on the claim form, "*Did the decedent die as a result of his or her 9/11-related physical injury?*" When answering "Yes" you must submit an original or certified copy of the death certificate for the decedent. You may submit what is sometimes referred to as a "long form" death certificate, which generally includes a medical report detailing the cause of death. Other records, such as a letter from the decedent's treating physician prior to death explaining the cause of death, may also be helpful



in establishing the link between the death and the decedent's eligible condition. "Short form" or standard death certificates often do not identify the cause of death, or do not describe the cause of death in sufficient detail to allow the VCF to evaluate whether the decedent's death was related to his/her eligible 9/11-related condition(s).

If you submit a claim on behalf of a deceased victim and you do not intend to pursue a wrongful death claim, you should select "No" when answering the question on the claim form, "*Did the decedent die as a result of his or her 9/11-related physical injury?*" If you choose to select "Do Not Know," then you must also submit a written statement indicating either: (1) you are not claiming that the decedent's death was the result of an eligible condition; or (2) you do not intend to pursue a wrongful death claim.

If your claim is submitted and the VCF is not able to determine the cause of death, your claim will be deactivated before eligibility is determined. This means the VCF will not review the claim until you submit the required documents and the claim is reactivated for review.

- **Proof of Court Appointment as Personal Representative:** You must submit with your claim the court document that confirms your appointment as the Personal Representative. This document might be called "Letters of Administration" or something else (depending on the state). Please see the section below for additional information on documents that are required.

The Letters of Administration (the document issued by the court appointing the Personal Representative) will often spell out the tasks the Personal Representative is authorized to undertake and will often place limitations on the authority of the Personal Representative. For example, the document might say that the Personal Representative is not allowed to compromise (settle) a claim without specific court approval. Or it might say that the Personal Representative can only collect funds up to a specified limit without specific court approval.

The specific limitations in the Personal Representative appointment document may affect the actions of the VCF. The VCF will inform you if we need additional court documents in order to process the claim. If the appointment document contains a limitation prohibiting you from compromising any lawsuit or claim on behalf of the decedent, you must obtain clarified Letters of Administration (or similar document) permitting you to pursue a claim with the VCF on behalf of the decedent.

New York has a specific statute that addresses claims submitted to the VCF for individuals who died from a 9/11-related cause. If the victim died from a 9/11-related cause, and the Personal Representative appointment is made in New York, then limitations on the authority of the Personal Representative to take actions will not prevent the VCF from processing the claim.¹⁵ If the victim did

¹⁵ The September 11th Victims and Families Relief Act (enacted May 21, 2002) removes many of the limitations from the letters of administration issued by Surrogate's Courts in the State of New York. The law provides that a Personal Representative appointed by a Surrogate's Court can file, prosecute, and compromise a claim even if there are restrictions in the letters of administration. See 2002 N.Y. Laws Ch. 73 (S.7356). Specifically, the law states "Notwithstanding any other provision of law to the contrary, or any restrictions set forth in letters relating to any decedent who dies as a result of wounds or injury incurred as a result of the terrorist attacks on September eleventh, two thousand one, a duly appointed Personal Representative is authorized to file and prosecute a claim with the fund, and the filing of such a claim for an award from the fund, and the resulting compromise of any cause of action



not die from a 9/11-related cause, then the limitations will affect the ability of the VCF to process the claim. In any case, if the Personal Representative appointment document indicates that the Personal Representative may not collect any funds, or limits the amount of money that the Personal Representative may collect, the VCF will not pay any amount that exceeds that limit. In such cases, the Personal Representative will have to obtain revised documents that authorize the collection of the remainder of the VCF award. [Appendix E](#) provides important information about Letters of Administration with limitations. The information is also available under “Forms and Resources” on the VCF website.

If you have not been appointed by a court as the Personal Representative of the decedent or as the executor or administrator of the decedent’s will or estate, and you believe you cannot get such an appointment, you may ask the Special Master to appoint you as the Personal Representative for the purposes of filing a VCF claim. The Special Master will only appoint a Personal Representative in extremely rare circumstances. Please see [Section 6.6](#) below for detailed instructions on requesting a Special Master appointment.

b. Original documents:

The VCF requires “original documents” for death certificates and Letters of Administration (appointment document.) The VCF can process the claim with a copy of the Letters of Administration, but an original is required before any payment can be made. The VCF accepts as “original documents” either the original of the document or a certified copy that has been issued by a court and certified by the Clerk of Court. A certified copy is not the same as a notarized copy. Because the VCF must be able to verify the authenticity of the document, you will need to mail the document (either the original or the certified copy) to the VCF before we can begin review of your claim. Please keep in mind that if you submit an original document, the VCF cannot guarantee that it will be returned to you.

6.5 Multiple Personal Representatives

If the court has appointed multiple individuals as co-Personal Representatives for the decedent, each Personal Representative must submit the proper documentation showing appointment as a Personal Representative for the deceased victim and sign all of the applicable signature sections of the claim form. All Personal Representatives can sign the same copy of each required form (multiple signatures on a single form), or each Personal Representative can sign a separate copy of each form. As long as each Personal Representative signs each applicable document, and all signed documents are submitted to the VCF, the signatures do not need to be on the same copy of the document.

The VCF also requires all Personal Representatives on the claim to designate one of the Personal Representatives as the Lead Personal Representative. Each co-Personal Representative must submit a signed and notarized statement identifying the individual who will serve as the Lead Personal Representative.

The Lead Personal Representative, and all co-Personal Representatives, are authorized to act on behalf of the decedent for purposes of processing the VCF claim, and all will receive copies of correspondence from the VCF. The Lead Personal Representative designation is required in order for the VCF to issue payment of any award. The VCF cannot make payments to multiple

pursuant to the act, shall not violate any restriction on the powers granted to the Personal Representative relating to prosecution or compromise any action, the collection of any settlement, or the enforcement of judgment.” Id. § 4(e)(3), amending N.Y. EST, POWERS & TRUSTS § 11-4.7(e)(3).



people on a single claim and must have payment information for one designated Lead Personal Representative. The Lead Personal Representative is the individual who will receive any payment on the claim and is required to distribute the award in a manner consistent with the law of the decedent's domicile or any applicable rulings made by a court of competent jurisdiction.

If there is a need to change the individual designated as the Lead Personal Representative, the co-Personal Representatives, including the individual who is designated as the Lead Personal Representative at that time, must submit a notarized statement, signed by all co-Personal Representatives, designating a different individual as the Lead Personal Representative.

6.6 Special Master Appointment of a Personal Representative

The Special Master will appoint a Personal Representative only in very limited circumstances. You must first attempt to obtain an appointment from the state probate or surrogate court where the decedent lived.

Any request for the Special Master to appoint you as the Personal Representative should include a notarized statement that addresses your relationship to the decedent, documentation demonstrating proof of your relationship to the decedent, an explanation of why you were unable to obtain a court appointment, and additional information regarding the decedent's estate. Follow the instructions provided in [Appendix F](#) to request a Special Master appointment. The information is also available under "Forms and Resources" on the VCF website.

6.7 List of claims filed on behalf of Decedents

The Special Master is authorized under the regulations to publish a list of individuals who have filed a claim with the September 11th Victim Compensation Fund on behalf of a deceased individual, as well as the names of the deceased individuals on whose behalf a claim has been filed. This includes those who have amended a personal injury claim to notify the VCF that the victim is now deceased.

Information will be posted for a period of 90 days from the date the claim or amendment is submitted.

6.8 Payment Instructions specific to Deceased Victim Claims

Please review the information in Section [3.6](#): "Payment instructions specific to claims for deceased victims."

Section 7. Information for Individuals with Attorneys

You are not required to have an attorney to file a claim with the VCF. You are free to consult with attorneys and you should make your own decision as to whether you wish to engage an attorney. Some attorneys have indicated a willingness to provide assistance on a pro bono basis through the New York City Bar Association. The VCF does not recommend specific attorneys nor do we provide any type of referral.

7.1 Attorney's Fees

The VCF will not reimburse individuals for fees charged by their attorneys. Such fees must be paid by the claimant. Under the Zadroga Act, attorneys may not charge any individual more than 10% of the amount of the individual's VCF award. The Special Master will not comment on any disagreement about payment of fees that may occur between an attorney and client.



Attorneys who also charged their client a fee in connection with certain other September 11th-related litigation and settlements may only charge that client for representation for the VCF if the attorney's total charge for both representations does not exceed 10% of the client's total award in the other September 11th-related litigation (for more information, see Section 406(e) of the Zadroga Act, as amended).

a. "Non-routine" expenses:

Under the VCF's regulations, attorneys may charge a claimant for expenses that are routinely incurred in the course of providing legal services, as long as those expenses and attorney fees do not exceed the 10% cap. This includes any fees related to proceedings in Surrogate's Court or probate court, including but not limited to the appointment of a Personal Representative or petitions to remove limitations in Letters of Administration.

The following expenses are never reimbursable for VCF claims:

- Obtaining routine supporting documents
- Costs of printing, mailing, delivery, messenger services, and telephone calls
- Staff expenses
- Any litigation expenses related to a claimant's 9/11-related lawsuit (e.g., court filing fees, depositions costs), as such expenses are not related to the submission of a VCF claim

The Special Master will allow an attorney to charge you for non-routine expenses in excess of the 10% limitation if the expense is considered to be outside of the normal expenses incurred in the course of submitting a claim to the VCF. One example of this type of expense is to obtain copies of medical records in order to:

- Demonstrate the severity of an eligible injury and/or whether the victim is disabled (i.e., unable to work at full capacity) because of the eligible injury
- Demonstrate the impact of the injury on the victim – including records of medical treatments, prognosis, and limitations on the victim's activities – for purposes of determining non-economic loss

The following expenses are reimbursable without prior approval of itemized expenses from the Special Master:

- Medical record expenses described above IF
 - the expenses consist only of the amount charged by the facility that maintains the records;
 - the records were obtained specifically for the VCF claim; and
 - the claimant/attorney made efforts to limit the request to those records that appeared necessary for the VCF claim.
- Translation expenses to have a document that is substantive to the claim and provided in a language other than English translated by a certified translator
- Fees for a certified interpreter to accompany a non-English speaking claimant to a hearing. Note: use of bilingual law firm personnel to serve as interpreters does not qualify for reimbursement.

The Special Master believes that other eligible non-routine expenses will be rare and requires that the reimbursement of all other expenses be specifically authorized by the Special Master. Possible examples might be:

- Travel expenses for necessary meetings with a client located more than 100 miles from the law firm office
- The costs of economist analysis/reports where the victim's economic loss requires the valuation of a business



If you believe your attorney has charged you for unapproved expenses, you may raise the matter with the VCF by calling the Helpline.

7.2 Changing, Adding, or Removing an Attorney

To add a new attorney or change the attorney on your claim, you will need to provide the VCF with the information about your new attorney and complete and submit a Claim Form Signature Page to allow the VCF to communicate with your attorney about your claim. Your attorney will need to complete and submit Exhibit C if the law firm has not already submitted this document to the VCF.

Follow the steps below based on your specific situation to update the attorney information in your claim:

- *If you did not previously have an attorney associated with your claim and you are adding one for the first time, you can add the attorney's name and contact information under "Claim Details" in your online claim. Once you log in to your claim, click on the VCF number in the left column of the Summary Table to access the "Claim Details" screen. Once you have added the information, call the VCF Helpline to request online access be granted to your claim for your attorney.*
- *If you previously authorized the VCF to communicate with an attorney and you now want to revoke this authorization because the attorney no longer represents you, you will need to complete the "[Change of Attorney Form](#)." You can also use this form to add a different attorney to your claim. Once you submit the form, the VCF will update the information in your claim. The form is available under "Forms and Resources" on the VCF website.*

If you need to change or remove the attorney on your claim, you should do so by submitting the [Change of Attorney Form](#). You should not submit a new registration or claim simply for purposes of changing your attorney. This applies even if your existing claim has already been paid and you intend to amend it to add a new condition or to seek additional compensation.

7.3 Changing who Receives Payment

If you submitted documents directing the VCF to pay your claim through your attorney, and you want to change these instructions, please read the information in Section [3.5](#): "Changing your payment information." You should be aware that, regardless of how you receive payment from the VCF, you are liable for any agreement related to attorney fees as specified in your contract with your attorney.

7.4 Online Access to your Claim

You can call the Helpline for assistance with any of the following:

- If your attorney registered you through the VCF's online claim system, and you would like to gain access to your claim.
- If you have hired an attorney to file a claim on your behalf and would like information on the status of your claim.



Section 8. Appendix

Appendix A – Instructions for Amending a Claim

Personal Injury Claims

You may amend your personal injury claim if you have already filed a claim and meet one of the following circumstances:

- 1) The WTC Health Program certifies you for a condition not previously certified, or you are diagnosed with a new 9/11-related injury or condition that qualifies for verification through the VCF [Private Physician process](#).
- 2) Your claim was denied or deemed inactive because you did not respond to the VCF's request for missing information and you are now ready to provide the requested documents.
- 3) You need to add, change, or remove the Personal Representative or parent/guardian on an existing claim.
- 4) Your injury or condition substantially worsens, resulting in loss that was not previously compensated, or you have incurred new or additional economic losses due to your eligible injury or condition.
- 5) You have new information in support of your claim that was not submitted to the VCF when your award was determined and that you believe would affect the amount of your calculated loss.
- 6) You have received the initial award determination on your claim and are seeking reimbursement for out-of-pocket medical expenses that total more than \$5,000.
- 7) You previously submitted a claim for one or more components of economic loss and now want to withdraw that portion of your claim.
- 8) You meet the criteria for the [WTC Health Program Disability Evaluation](#) Process and want to request consideration for that process, or you have received your WTC Health Program disability evaluation report and need to submit it for VCF review.
- 9) You responded to a "Missing Information" request from the VCF after the time period stated in the letter and the information you submitted was not considered by the VCF when calculating your award. Or, your online claim status is "Determination Made: Processing" and you have new documents you would like the VCF to review. After you receive the letter notifying you of your award, you will need to file an amendment to have the new documents reviewed. Note: If you submit documents after the VCF finalizes substantive review of your compensation claim, but before your award letter is issued, we will notify you in the award letter that the documents have not been reviewed and will instruct you to submit an amendment if you still want the VCF to review the documents.

Deceased Claims

In a deceased claim (i.e., claims filed on behalf of a victim who died as a result of his or her 9/11-related eligible condition), you will not be permitted to amend your claim after the VCF finalizes substantive review of the compensation claim (with limited exceptions, as explained in the "Exceptions" section below). A claim has reached the final stages of "substantive review" when the status in the online system moves to "Determination Made: Processing." **This means that when filing a new deceased claim, you must claim all losses and submit all supporting documentation before the VCF finalizes substantive review of the compensation claim.** You can amend your claim at any time *before* the VCF finalizes substantive review of the compensation claim, but the best way to ensure complete review of a claim filed on behalf of a deceased victim is to claim all losses and submit all supporting documentation when you file your claim form.

Exceptions:

The VCF will permit amendments on deceased claims after the VCF has finalized substantive review of the compensation claim in the following limited circumstances:

- 1) You received an award on a deceased claim and then filed an amendment **before December 9, 2019**. The VCF will review your amendment in the ordinary course. If you previously received an



award on a deceased claim but failed to seek all compensable losses prior to payment of your award, you may file an amendment to your claim on or before **March 9, 2020**. After that date, you will not be able to amend your deceased claim, except in the limited circumstances listed below.

- 2) You previously claimed wrongful death losses but the VCF found that there was not enough evidence to show that the victim's death was related to an eligible condition. In this situation, you may file an amendment to submit additional information showing that the victim's death was related to an eligible condition;
- 3) The victim had a 9/11-related physical health condition that was not on the list of presumptively covered conditions when the VCF finalized substantive review of the claim, the VCF therefore did not award compensation relating to that condition, and that condition has since been added by the WTC Health Program to the list of presumptively covered conditions. In this situation, you may file an amendment to seek compensation for losses relating to the newly added condition;
- 4) You want to request reimbursement for past out-of-pocket medical expenses the victim paid as a result of eligible conditions. Please see [Section 2.4\(a\)](#) for more information about filing a medical expenses claim;
- 5) You need to add, change, or remove the Personal Representative on your claim, including to add a Personal Representative when a victim passes away after filing a personal injury claim and the death is not due to an eligible 9/11-related condition; or
- 6) The Special Master determines that not permitting the amendment would result in substantial injustice.

Follow the instructions below to amend your claim. Be sure to carefully review the instructions so you are prepared to complete your amendment in full, including submitting any required supporting documents.

If you submitted your claim form Online:

Log in to your claim. Go to the Summary Table to check the current status of the specific section of your claim form (Eligibility or Compensation) that you need to amend. You will only be able to amend your claim if you have previously submitted the applicable section of the form. If the status shows as "Incomplete," you will not be able to amend your claim but can edit the information directly into the form before submitting it.

- **NOTE:** If the claim status shows as "On Hold – Claimant Passed Away," you will not be able to submit an eligibility or compensation amendment without first submitting an amendment to add a Personal Representative to the claim. You should only amend the personal injury claim if the claimant's death is **not** believed to have been caused by an eligible 9/11-related condition. Please see the VCF website for important [instructions](#) regarding steps to take if a claimant passes away after filing a personal injury claim.

Additionally, if the claim status shows as "Denied," you will not be able to submit either a registration or a compensation amendment without first submitting an eligibility amendment to add a new 9/11-related condition and/or to add other eligibility information. Once you have submitted your eligibility amendment(s), you **MUST** refresh the page, and you will then be able to submit any registration and/or compensation amendment(s).

When submitting an amendment online, please be sure to submit the amendment(s) before uploading any supporting documents to the online system. Submitting the amendment first ensures your claim will be properly prioritized for VCF review.

1. Click on your VCF number to get to the "Claim Details" page.
2. Click on the "Amendments" tab where you can view previously submitted amendments or submit a new amendment. Previously submitted amendments can be viewed by clicking on the amendment number, but they cannot be edited.

Registration Amendments

- **To Add or Change the Personal Representative or Guardian:**

NOTE: If you are adding a Personal Representative to a previously-filed personal injury claim because the claimant has passed away, you will only be able to submit the amendment if you believe the victim did not die of an eligible 9/11-related condition. If the victim's death is believed to be the result of an



eligible condition, or if you are unsure if the death is related to an eligible condition, you should not amend the personal injury claim but should instead submit a new wrongful death claim. Please carefully review the [instructions](#) on the VCF website for the steps to take if a claimant dies after filing a personal injury claim.

1. Click on “Add or Modify a PR or Guardian.”
 2. Complete all required fields shown with a red asterisk. In addition to completing this information, **you must also submit the [required documents](#) that are needed in order for the VCF to validate the representative’s authority** to act on the victim’s behalf. If the supporting documents are not submitted, the claim will be deactivated and will not be reviewed until the necessary documents are submitted and determined to be sufficient.
 3. In the text box, enter information explaining the reason you are changing the authorized representative for the claim.
 4. Click “Submit Amendment” to submit your amendment. You will return to the “Amendments” screen where you can start a new amendment (if applicable) and view the submitted amendment.
- **To Remove the Personal Representative or Guardian:**
NOTE: You should only select the “Remove PR or Guardian” option if the victim no longer requires a Personal Representative or Guardian. If you need to identify a new individual to replace the current Personal Representative or Guardian, you should instead submit an amendment to “Add or Modify a PR or Guardian.”
 1. Click on “Remove PR or Guardian.”
 2. Select the individual you would like removed from the list of names displayed. Describe why you are requesting to remove the individual in the text box.
 3. Click “Submit Amendment” to submit your amendment. You will return to the “Amendments” screen where you can start a new amendment (if applicable) and view the submitted amendment.

Eligibility Amendments

- **To add a new 9/11-related condition:**
 1. Click on “Add New Condition.”
 2. Select the new condition(s) from the drop down list and click “Add Condition.” Enter additional details or information about your amendment in the text field provided.
 3. Click “Submit Amendment” to submit your amendment. You will return to the “Amendments” screen where you can start a new amendment (if applicable) and view the submitted amendment.

NOTE: If you are not being treated by the WTC Health Program for your new condition(s), you must seek certification for your condition(s) through the WTC Health Program in order for the VCF to evaluate the condition(s) as eligible for compensation. **Please do not amend your claim until the new condition has been certified for treatment by the WTC Health Program.** The VCF cannot review your newly claimed condition until you submit your WTC Health Program certification letter showing the condition has been certified for treatment, or you call the VCF Helpline to notify the VCF that your condition has been certified. In certain very limited circumstances, you may be able to seek verification of the condition through the VCF Private Physician process. Information about the criteria to be a candidate for the Private Physician process can be found on the VCF website under “Forms and Resources.”

- **To add other eligibility information:**

You should use this option if you are submitting new information related to your presence at the site, your participation in a 9/11-related lawsuit, or if your claim was previously denied and you are submitting new information for the VCF to review.

 1. Click on “Other Eligibility Amendment.”



2. Enter details about your amendment in the text box. It is also helpful if you list the filenames of any documents you are uploading in support of your amendment.
3. Click “Submit Amendment” to submit your amendment. You will return to the “Amendments” screen where you can start a new amendment (if applicable) and view the submitted amendment.

Compensation Amendments

Note: In deceased claims, the VCF will not accept any amendments that are filed after the VCF has finalized substantive review of your compensation claim. See [Section 5](#) of the VCF Policies and Procedures for details.

- **To add new compensation information, claim additional losses, seek reimbursement for out-of-pocket medical expenses, withdraw a prior claim for lost earnings, request review of compensation information that was previously submitted but not reviewed by the VCF as noted in your award letter, or to request or provide information regarding the WTC Health Program Disability Evaluation Process:**
 1. Click on “Compensation Change.”
 2. Use the check boxes to indicate the specific change(s) you would like the Special Master to consider:
 - a. Reimbursement for Out-of-Pocket Medical Expenses
 - b. Withdraw prior claim for Lost Earnings
 - c. Loss of Earnings – **Note: if you are amending a prior non-economic loss only claim to now seek lost earnings, you must complete and submit Part III of the VCF claim form or the VCF will not have the information needed to review your amendment.**
 - d. Request for consideration for the WTC Health Program Disability Evaluation Process
 - e. Submit WTC Health Program Disability Evaluation Report
 - f. Replacement Services
 - g. Non-Reimbursed Burial and Memorial Services Costs (for deceased claims only)
 - h. Collateral Offsets
 - i. Non-Economic Loss
 3. In the text box, provide details of the amendment and the changes you are requesting. Specific instructions are provided for each type of compensation amendment. **Be sure to follow the instructions and include all appropriate documentation when submitting your amendment.** It is helpful if you also list the filenames of any documents you are uploading in support of your amendment in the text box.
 4. Click “Submit Amendment” to submit your amendment. You will return to the “Amendments” screen where you can start a new amendment (if applicable) and view the submitted amendment.
- **To convert a prior claim for wrongful death losses to a claim for personal injury losses prior to death:**
 1. Click on “Compensation Change.”
 2. Use the check boxes to indicate the type(s) of loss you are claiming specific to the **personal injury** claim for the decedent:
 - a. Reimbursement for Out-of-Pocket Medical Expenses
 - b. Loss of Earnings
 - c. Submit WTC Health Program Disability Evaluation Report
 - d. Replacement Services
 - e. Collateral Offsets
 - f. Non-Economic Loss
 3. In the text box, explain that you are requesting to convert the prior claim for wrongful death losses to one for personal injury losses only. Specific instructions are provided for each type of compensation you are seeking. **Be sure to follow the instructions and include all appropriate documentation when submitting your amendment.** It is helpful if you also list



the filenames of any documents you are uploading in support of your amendment in the text box.

4. Click "Submit Amendment" to submit your amendment. You will return to the "Amendments" screen where you can start a new amendment (if applicable) and view the submitted amendment.

Uploading Documents in support of the Amendment

All amendments require some type of supporting documents or information. The Amendment screen lists the documents you need to submit based on your amendment type. You may also review the Document Checklist ([Personal Injury](#) or [Deceased Claim](#)) to identify the applicable documents. Although the checklist is intended for first-time claim submission, the documents listed are generally the same when submitting an amendment.

When submitting an amendment online, please be sure to submit the amendment(s) before uploading any supporting documents to the online system. Submitting the amendment first ensures your claim will be properly prioritized for VCF review.

From the "Amendments" tab:

1. Click on "Upload File(s)" on the top right tool bar.
2. Select "Add Files" and then choose the file(s) from your computer that you would like to upload.
3. You will need to select the appropriate document type for each file based on the type of amendment you are submitting. Document types are listed in alphabetical order. Once you have selected the document type(s), click on "Start Upload" to begin the file upload process. You will see a green confirmation check mark for each file that was successfully added to your claim.
4. Once you have completed uploading the documents, you can view all documents submitted on the claim by clicking the "View Documents" button next to "Upload Files." You can also view supporting documents under the "View Documents" tab in the Claim Details view.

If you submitted a Hard Copy Claim Form or need to submit your Amendment in Hard Copy:

- **To add a new 9/11-related condition:** Submit a cover letter requesting to amend your claim to add the new condition(s). If you are being treated by the WTC Health Program for the condition, submit your WTC Health Program certification letter or call the VCF Helpline to notify the VCF that your condition has been certified.

NOTE: If you are not being treated by the WTC Health Program for your new condition(s), you must seek certification for your condition(s) through the WTC Health Program in order for the VCF to evaluate the condition(s) as eligible for compensation. **Please do not amend your claim until the new condition has been certified for treatment by the WTC Health Program.** The VCF cannot review your newly claimed condition until you submit your WTC Health Program certification letter showing the condition has been certified for treatment, or you can call the VCF Helpline to notify the VCF that your condition has been certified. In certain very limited circumstances, you may be able to seek verification of the condition through the VCF Private Physician process. Information about the criteria to be a candidate for the Private Physician process can be found on the VCF website under "Forms and Resources."

- **To add other eligibility information:** Submit a cover letter requesting to amend your claim and provide details about the new information you are submitting. Mail the letter with the required supporting documents based on the type of amendment.
- **To add, change, or remove the Personal Representative or Parent/Guardian:** Complete and submit Part I of the VCF Claim Form. In addition to completing this information, **you must also submit the [required documents](#) that are needed in order for the VCF to validate the representative's authority to act on the victim's behalf.** If the supporting documents are not submitted, the claim will be



deactivated and will not be reviewed until the necessary documents are submitted and determined to be sufficient. A detailed explanation of the [documents required](#) by the VCF when a claimant files a claim on the victim's behalf can be found on the VCF website under "Forms and Resources."

- **For all other amendments to your claim:** Call the VCF Helpline at 1-855-885-1555 for instructions.



Appendix B – What is the WTC Health Program Disability Evaluation Process?

What is the WTC Health Program Disability Evaluation Process?

The VCF has worked with the WTC Health Program to implement a disability evaluation process, which is designed to help provide qualifying claimants with a disability determination for an eligible condition in order to support an economic loss award in a VCF claim.

This program is not for everyone. It is intended for claimants who do not already have a disability determination for an eligible condition from one of the standard third-party entities or sources (e.g., Social Security Administration, FDNY/NYPD, a state Workers' Compensation program, or insurance company). Claimants who have a disability decision based on an ineligible condition may be candidates for the program if their eligible condition has become disabling.

Who is eligible for this process?

You must meet the following criteria to be eligible for a WTC Health Program disability evaluation:

- 1. You are a member of the WTC Health Program.**
- 2. The VCF has deemed you eligible for at least one physical condition** that is certified by the WTC Health Program.
- 3. You do not already have a disability determination based on an eligible condition from a third-party entity**, such as Social Security, FDNY, NYPD, NYCERS, or a Workers' Compensation program.
- 4. You are not currently working or you are earning materially less income** than what you earned before your 9/11-related condition affected your ability to work and there is a reasonable basis to believe that it is your 9/11-related condition that is preventing your return to work, either in whole or in part.
- 5. Your condition certified by the WTC Health Program could reasonably be found to be disabling.**
- 6. You are not eligible for WTC retirement or WTC reclassification by the FDNY, NYPD, NYCERS, or NYSLRS.** If you are claiming lost earnings based on employment with one of these four entities, and you either did not apply for WTC retirement or reclassification or you were denied WTC retirement or reclassification, you generally are not eligible for this process. Because there is an alternative, formal process available to you to seek a disability determination due to eligible conditions, you do not qualify for a separate disability evaluation through the WTC Health Program. Additionally, if your claim is based on FDNY or NYPD employment, and you have a WTC retirement or reclassification based solely on an *ineligible condition* but have not yet reclassified for an eligible condition, you are not eligible for the WTC Health Program disability evaluation process because these two entities provide the option to reclassify to change the condition. Exceptions to this may be warranted on a case-by-case basis, on appeal only.
- 7. You are not claiming lost earnings based on FDNY or NYPD Employment.** If you are claiming lost earnings based on your employment with one of these entities, you are generally not eligible for this process. Because there is an alternative, formal process available to you to seek a disability determination due to eligible conditions, even if you have already retired due to ineligible conditions, you do not qualify for a separate disability evaluation through the WTC Health Program. This applies even if you retired due to an ineligible condition because these entities provide the option to reclassify to change the condition. Exceptions may be warranted on a case-by-case basis, on appeal only.
- 8. You are not eligible for WTC retirement or WTC reclassification by NYCERS or NYSLRS.** If you are claiming lost earnings based on one of these entities, and you either did not apply for WTC retirement or reclassification or you were denied WTC retirement or reclassification, you generally are not eligible for this process. Because there is an alternative, formal process available to you to seek a disability determination due to eligible conditions, you do not qualify for a separate disability evaluation through the WTC Health Program. An exception may be made in those cases where you



already have a WTC retirement or WTC reclassification, but it is due solely to an ineligible condition, if all of the other above criteria are met.

What do I have to do to be considered for the process?

If you think you are a suitable candidate and have confirmed you meet the criteria to be eligible for the disability evaluation, you may request that the VCF consider you as a candidate for the process by doing one of the following:

- **If you are submitting a new claim:** When submitting your claim, answer the question in the compensation portion of the claim form. This can be found by selecting the “Loss of Earnings” checkbox on the first tab of that section. Select “Loss of Future Earnings.” On that tab, you will see a question asking if you are interested in seeking a disability evaluation through the WTC Health Program. Selecting “Yes” will indicate to the VCF that you are interested in having the VCF evaluate you as a candidate for the disability evaluation program. You must also upload the information described below.
- **If you have already submitted your claim:** You will need to submit a compensation amendment through the online system. Click on “Amendments” and then “Compensation Change.” Select **“Request consideration for the WTC Health Program Disability Evaluation Process.”** In the text box at the bottom of the page, provide any additional details about your request. It is also helpful if you list the filenames of all documents you are uploading in support of your request. You must also upload the information described below.

In addition to requesting consideration for the program, you also must submit the following information:

- A statement confirming that you have not received a disability determination that is based on a condition deemed eligible in the VCF.
- Documentation showing your work and/or earnings history to show that you are not currently earning an income that approximately equals or exceeds the income you earned prior to your alleged disability. If you have not already done so, you must submit the Social Security Administration (SSA) Consent Form (Exhibit 1). You may also submit tax returns or W2s; a document showing your work history year-by-year including, for example, the Social Security work history that you can get online from the SSA; or an affirmative statement discussing your past and current work and/or earnings history.
- Documents that show that the condition certified by the WTC Health Program supports a good faith assertion of disability and that there is a reasonable basis to believe that it is your VCF-eligible condition that is preventing your return to work, either in whole or in part. This can be based on the nature of your certified condition (e.g., cancer in active treatment), medical records showing the severity of the certified condition (e.g., test results, physician statements), or detailed personal statements when accompanied by corroborating documents.
- Any other letters or documents in support of the request that you believe will help the VCF evaluate your request.

You should upload these supporting documents to your claim as one file – with the exception of the Social Security Administration Consent Form (Exhibit 1), which should be uploaded separately. When uploading the file with the supporting documents, select the document type **“WTCHP Disability Evaluation Request.”** The Social Security Administration Consent Form (Exhibit 1) should be uploaded as document type **“Exhibit 1: Social Security Administration Form.”**

How does the process work?

Outlined below are the high level steps in the process:

- **Step 1.** The VCF will review your request and make a determination as to whether you are an appropriate candidate for the disability evaluation process.



- i. If the VCF determines that you are not a candidate for the disability evaluation process, we will deny the request and send you a letter explaining that you are not eligible for the process. The denial of a request for consideration for the disability evaluation process is not subject to appeal.
- ii. If the VCF confirms that you are a candidate for the disability evaluation process, we will notify the WTC Health program and place your claim in an “On Hold” status pending the outcome of the disability evaluation. We will also send you a letter explaining the process and inviting you to make an appointment for an evaluation.

Step 2. You decide whether or not to proceed with the evaluation. If you want the evaluation, you contact your WTC Health Program clinical center to make an appointment and it will follow up with you directly regarding its procedures. If you decide you do not want the evaluation, you must notify the VCF so we can remove your claim from the “On Hold” status and continue processing it in order to render a decision.

Step 3. You go to the WTC Health Program for your appointment and have the evaluation.

Step 4. The clinic produces the disability evaluation report, including the physician’s summary, and it sends the report directly to you.

Step 5. You must submit a **compensation amendment** using the online system and upload the report to your claim. Click on “Amendments” and then “Compensation Change.” Select “**Submit WTC Health Program Disability Evaluation Report.**” When uploading the report, select the document type “**WTCHP Disability Evaluation.**” If needed, you can mail the report to the VCF instead.

Note: If we do not receive the report within four (4) months of the date you were notified that you are a candidate for the disability evaluation process, the VCF will remove your claim from the “On Hold” status and continue processing the claim based on the documentation in the file, unless you have notified the VCF that you need additional time to submit the evaluation.

Step 6. We remove your claim from the “On Hold” status and reactivate the claim for review. We will notify you of the decision on your claim.

How long does the process take?

This is not expected to be a lengthy process once the appointment with the WTC Health Program physician is held. Please note, however, that the clinics are solely responsible for the appointment schedule. Once your appointment is held, it takes about two weeks for the clinic to produce the report and send it to you. If you schedule an appointment and do not show up without notifying the clinic in advance, the clinic will notify the VCF and we will render a decision on your claim without the disability evaluation.



Appendix C – When to Appeal vs. When to Amend

I. General Guidance

You should appeal **if you are challenging the VCF’s determination on your claim.**

You should amend **if you are seeking a new determination based on new information.**

*If you file a compensation appeal, your claim **will not be paid** until after a decision is made on your appeal. If you file an eligibility appeal, compensation review **will not commence** until after a decision is made on your appeal. The only circumstance in which a claim will be paid while under appeal is if the claimant has been approved for expedited status after meeting the applicable criteria. In all cases, filing an amendment will not affect payment on the original determination.*

When considering whether to appeal or to amend, consider whether you are waiving or compromising a particular claim or argument by accepting payment on the original determination and choosing to pursue an amendment rather than an appeal. For example, if you believe that the earnings basis that the VCF used to calculate lost earnings was too low and you do not appeal, you will have waived the right to raise that argument during a future appeal if you subsequently amend your claim and the VCF issues a revised determination. In that case, you are challenging the determination already made and you should appeal. Conversely, if you believe that the percentage of disability attributable to your eligible conditions used by the VCF was too low and you have information not previously submitted that you believe supports a higher disability percentage, you will not compromise your claim to a higher disability percentage if you accept payment on the determination already made while submitting proof relating to a request for a higher percentage as an amendment. In that case, you are accepting the determination already made because it was based on the information contained in your claim at that time, and also seeking a new determination based on new information, and you should amend. Note that in deceased claims (i.e., a claim filed on behalf of a victim who died as a result of his or her 9/11-related condition), you will not be able to amend after the VCF has finalized substantive review of the compensation claim except in limited circumstances, which are described in [Section 5](#) of the VCF Policies and Procedures document.

If you have a legitimate basis to appeal – meaning you are challenging the basis of the determination already issued on your claim – the appeal request must be filed within **30 days** of the decision letter using the Appeal Request Form that was included in the determination letter. Failing to file the appeal form within the required 30-day period will waive your right to appeal that determination and the VCF will begin processing any applicable payment on the claim. As explained in [Section 4](#) of the VCF Policies and Procedures document, you must then complete and submit your Appeal Package within **60 days** of the determination letter (i.e., an additional 30-days from expiration of the initial appeal request window). Your Appeal Package must include a written Explanation of Appeal, your completed Pre-Hearing Questionnaire, and all supporting documentation. Failure to submit your complete Appeal Package by the applicable deadline will result in summary denial of your appeal request.

II. You should not appeal the decision on your claim as a way to seek a faster review of an amendment that is unrelated to the decision already made. Appeals filed solely for purposes of seeking consideration of an amendment on an unrelated issue are invalid, and you will be notified that your appeal is cancelled, that your right to appeal that determination is deemed waived, and, if an award determination has already been made, that your claim is moving to payment. **Appealing an Eligibility Determination.**

In general, for eligibility determinations, an appeal is appropriate if you meet all three of the following criteria:

- (a) Your claim was found to be ineligible, and
- (b) There is no further documentation you can provide to support eligibility, and
- (c) You believe that the only way to do so is through testimony at a hearing.

For example, appropriate cases in which to appeal an eligibility denial include:



- Your claim was denied because of lack of sufficient proof of presence within the New York City Exposure Zone or at one of the other crash sites, or because of lack of proof of exposure for the required time periods set forth by the World Trade Center (“WTC”) Health Program as necessary to support the verification of an eligible physical condition; and
- You have already submitted all of the documentation you have to establish these eligibility requirements; and
- You believe that the only way to demonstrate your presence or period of exposure is through testimony at a hearing.

Similarly, an appeal is appropriate if:

- Your claim was denied because the medical records submitted demonstrate that you first had symptoms of your non-cancer condition after the maximum time interval set forth by the WTC Health Program as necessary to support the verification of an eligible physical condition; and
- There is no further documentation you can submit to establish that your symptoms began at an earlier time, and
- You believe that the only way to demonstrate the timing when your symptoms first began is through testimony at a hearing.

An appeal would not be appropriate, however, if you have additional documentation that you have not previously submitted to the VCF and that you think would establish that you are eligible for compensation. In this situation, the proper course is to amend. So, for example, an amendment is appropriate in the following cases:

- Your claim was denied because of lack of sufficient proof of presence or because of lack of proof of sufficient time periods of exposure, and you have located acceptable proof that was not filed before the original determination was made (for example, log books, additional affidavits, or other employer documentation to verify your presence).
- Your claim was denied because the documentation you previously submitted indicated that the first time you had symptoms of your 9/11-related condition was outside the time periods set forth by the WTC Health Program (that is, before the latency period for cancer conditions and after the maximum time interval for non-cancer conditions), and you have located additional medical records or obtained physician statements which demonstrate that your symptoms developed within the required WTC Health Program time periods.
- Your claim was denied for failure to comply with the lawsuit settlement/dismissal policy and you have proof of the timely lawsuit settlement, release, or dismissal date, which was not submitted prior to the VCF rendering the eligibility determination on your claim.
- Your claim was denied for lack of an eligible condition and you have since been certified for treatment by the WTC Health Program for an eligible condition, or you have additional certified injuries and/or conditions that were not considered in the original determination and that you believe are eligible for compensation.

III. Appealing a Compensation Determination.

In general, for compensation determinations, an appeal is appropriate if you meet the following criteria:

- (a) You believe there was an error in the VCF’s calculation of the award and you therefore disagree with the amount of the award determination; and
- (b) You can provide additional documentation that directly supports your argument that the award was calculated incorrectly; and/or
- (c) You believe that testimony would be useful in establishing a basis for the VCF to recalculate your award.

For example, you would appeal the award determination if you believe that the VCF used an incorrect income amount to calculate lost earnings, or did not include in the calculation specific information regarding



employer-provided benefits that was included in your claim submission. In cases such as this, you are required to submit additional explanatory or detailed information to support your appeal as part of your Compensation Appeal Package. Similarly, if you believe that the VCF incorrectly accounted for the severity of your condition when issuing a non-economic loss award, *and you submitted recent medical records at the time you submitted your claim*, an appeal is appropriate.

If your circumstances have changed since the VCF issued a determination on the claim, or if you wish to seek compensation for a new injury or a new loss, you should file an amendment. So, for example, an amendment is appropriate in the following situations:

- Your original claim was filed for non-economic loss only, you did not submit medical records with the claim and you now have recent medical records to demonstrate the severity of your condition.
- Your original claim was filed for non-economic loss only and you now want to claim economic loss because you have been found to be disabled or because you now meet the criteria for a WTC Health Program disability evaluation. See [Appendix B](#) of the VCF [Policies and Procedures](#).
- Your original claim was filed for economic loss and the VCF did not award economic loss (or awarded only a portion of your economic loss claim) because insufficient evidence was submitted to allow the VCF to calculate the loss or the full extent of the loss claimed. For example, the VCF assumed that you were 50% disabled due to your eligible conditions based on the general presumptions it applies when evaluating disability determinations. You claim that you are 100% disabled due to your eligible conditions and have a letter from your treating physician explaining that you are totally disabled due to these conditions, but the letter has not yet been uploaded to your claim.
- Your original claim was filed for certain components of economic loss but did not include a claim for other components of the loss (e.g., medical expenses). Note that if you filed a deceased claim, once the VCF completes substantive review of your compensation claim, you may not submit an amendment seeking compensation for any components of economic loss that you did not claim before the VCF finalized its review except in limited circumstances. See [Section 5](#) of the VCF Policies and Procedures for additional details.
- You now have new losses as a result of a newly eligible condition.

IV. VCF Procedures

If your Appeal Request Form is timely filed within the 30-day appeal period, and you submit your complete Appeal Package within 60 days of the date of the decision letter, the VCF will review the package and determine whether the appeal appears to be valid. An appeal is considered valid if it is an attempt to challenge the determination already issued and if there is a reasonable basis for the challenge as described in the Appeal Package. An appeal is considered not valid if it appears to be an attempt to seek a new determination on new information.

- If the VCF determines your appeal to be valid, your hearing will be scheduled.
- If the VCF determines your appeal is not valid, and that it is actually an amendment, we will notify you that a hearing will not be scheduled, that the submission will be treated as an amendment, and that by filing an invalid appeal, your right to appeal the determination that has already been issued has been waived. The VCF will begin processing any applicable payment on your claim and will convert your submission as an amendment.
- It may be the case that the VCF will determine that, even though your appeal is valid, it is not efficient or productive to proceed with a hearing. For example, if you filed an amendment that is pending review, and review of that amendment will necessarily involve a re-evaluation of issues involved in the original determination that you are challenging on appeal, the VCF may notify you that we are canceling the hearing and issuing payment on the original determination, and that we will reconsider those issues in conjunction with the pending amendment. We will not treat these cases as “deferred,” “stayed,” or “postponed” hearings. Rather, we will issue a new determination on the amendment(s) and those issues will be subject to appeal (if desired) of the amended determination.



If the VCF determines that it is appropriate to treat your submission as both a valid appeal and an amendment, or if your valid appeal is scheduled for a hearing and you subsequently file an amendment before the hearing is held, the VCF will decide the most appropriate course of action based on what we believe is the most efficient way to review and resolve your claim. Depending on the nature of the claim, we may advise you to take one of the following actions:

- Continue your appeal and file your amendment, and each will be considered in the appropriate course.
- Continue your appeal and file your amendment, and the amendment will be considered as part of the appeal. In this situation, you will not have the right to appeal the determination on the amendment; the post-hearing decision, which will include consideration of the amendment, is final.
- Defer your appeal and file your amendment. In this situation, **payment will not be processed** on your original determination. The VCF will make an effort to prioritize your amendment, and the determination issued on the amendment will include an appeal right for both the new determination and the original determination. In this scenario, which is expected to be rare, where your appeal is deferred pending consideration of an amendment, we will cancel your scheduled hearing and provide written confirmation that the appeal is being deferred.

Following are some examples of situations where there might be both a valid appeal and an amendment:

- You applied for and received an award for non-economic loss and filed an appeal to challenge it because you believe it is too low and does not appropriately account for the severity of your condition. Subsequent to filing your appeal, but before your hearing is held, the WTC Health Program certifies you for an additional condition which you believe warrants an increase in your non-economic loss award. In this case, we are likely to advise you to continue your appeal on the non-economic loss award and we will consider the amendment as part of the appeal.
- You applied for and received an economic loss award and filed an appeal to challenge it because you believe that the VCF used an incorrect earnings basis to calculate lost earnings. In support of this appeal, you submit new documents from your employer that provide additional details regarding your earnings basis. Subsequent to filing your appeal, but before your hearing is held, you realize that your original claim did not include a request for pension loss and you file an amendment seeking such an award. In a case such as this, where lost earnings may need to be recalculated, it may be most efficient for the VCF to defer your appeal, pending resolution of the pension loss amendment. In such a case, because there is still a potentially valid appeal, payment will not be processed on the original determination. The VCF will issue a determination on the amendment that will both trigger a new appeal from that determination and revive the previous earnings basis appeal.
- You applied for and received an award comprising both economic and non-economic loss and filed an appeal challenging the percentage of disability included in the economic loss calculation and the amount of the non-economic loss award. You also filed an amendment requesting consideration for the WTC Health Program Disability Evaluation process. In this case, we will cancel the hearing and consider the disability percentage as part of the amendment. Because there may be new information that supports a change to the underlying award decision, proceeding with a hearing before that information is available and reviewed is not an efficient or effective way to proceed. Both the economic loss and non-economic loss calculations will be subject to challenge on appeal of the amendment determination. Payment will be issued on your original award while we consider the amendment.

The VCF's decision about the best way to proceed will be guided in each case by an assessment of the most efficient way to review and resolve your claim. If you have a question about the appropriate course to take for your claim, please contact the VCF Helpline.



Appendix D – Information and Instructions: Steps to take if a personal injury claimant passes away after filing the claim

When a claimant who has filed a personal injury claim dies, the VCF will stop processing the claim and/or payment of that claim until a Personal Representative of the deceased claimant (“decedent”) is appointed and validated by the VCF. This protects the decedent’s personal information and ensures details about the claim are shared only with those who are authorized to access the information.

When the VCF learns that a claimant has passed away, we will send a letter to the decedent’s last known address that explains the current status of the personal injury claim, and the steps that need to be taken in order for the VCF to continue processing a claim for the decedent. Because each claim has unique circumstances, please review the correspondence you receive from the VCF and contact the VCF Helpline if you are uncertain how to proceed with the claim. *This document provides general information only.*

In all cases the steps below must be completed in order for the VCF to begin the process of validating the Personal Representative. If you are unsure if the decedent’s death was caused by an eligible 9/11-related condition, you should follow the steps specific to victims who are believed to have died as a result of an eligible condition. If the VCF determines that the cause of death is not related to an eligible condition, we will update the claim and process it accordingly.

Step 1. Identify the authorized Personal Representative. The Personal Representative is the only individual authorized to submit a claim or receive payment on behalf of a deceased individual. This is normally the individual who is appointed by a court, such as a state surrogate or probate court, as one of the following: (1) the Personal Representative of the decedent's will or estate; (2) the Executor of the decedent's will; or (3) the Administrator of the decedent's estate.

Step 2. Submit the information the VCF needs in order to validate the Personal Representative’s authority.

- a. If the cause of death is not believed to be due to an eligible 9/11-related condition, the Personal Representative should submit a Personal Representative amendment on the decedent’s personal injury claim to identify him/herself as the Personal Representative. ***Only amend the personal injury claim if the decedent’s death is not believed to be the result of an eligible 9/11-related condition.***
- b. If the cause of death is believed to be due to an eligible 9/11-related condition, the Personal Representative will need to complete and submit a new deceased claim by beginning a new registration with a new VCF number, and then completing all of the information in the eligibility and compensation portions of the claim. ***Only register a new deceased claim if the decedent’s death is believed to be the result of an eligible 9/11-related condition.***

Need Help?
<ul style="list-style-type: none"> • Need online access to the personal injury claim or prefer to file your claim in hard copy? Call our Helpline at 1-855-885-1555 • Visit www.vcf.gov for forms, instructions, Frequently Asked Questions, and other resources

All Personal Representatives must also submit the following documents:

- Decedent’s Death Certificate: An original or certified copy is required. If possible, please submit the “long form” version of the death certificate, which lists the cause of death.
- Letters of Administration, Letters Testamentary, or other Court Order showing the appointment as the Personal Representative, Executor of Will, or Administrator of the Estate. A copy is sufficient for the VCF to validate the Personal Representative. An original or certified copy is required before any payment can be issued.
- Proof of Decedent’s Cause of Death: This may be included on the death certificate. If it is not included on the death certificate, other documents sufficient to show proof of cause of death may include a hospital discharge summary, or the decedent’s final medical records.

Step 3. Complete and submit the Claim Form Signature Page and any required Exhibits and/or supporting documents applicable to the claim.

- a. **If filing an amendment to the personal injury claim**, the Personal Representative must complete and submit a new [Claim Form Signature Page](#) and a complete [Claim Form Appendix A](#).



- b. **If registering and filing a new deceased claim**, the [Document Checklist](#) should be reviewed to identify the specific documents that must be submitted in order for the VCF to process the claim.

In both cases, if the Personal Representative is represented by an attorney, the attorney may need to submit an Exhibit C – “Attorney Certification of Compliance with Provision on Limitation on Attorney Fees” for the law firm if one is not already on file with the VCF

- Step 4. Submit payment information for the Personal Representative.** The Personal Representative should submit payment information so the VCF can process any payment on the claim. This may be a VCF ACH Payment Information Form or an authorization to pay a law firm account if the Personal Representative has such an agreement.

The VCF will review the Personal Representative information submitted and will send a letter confirming that the Personal Representative has been validated as the person authorized to represent the decedent for the VCF claim. The VCF will contact you to request any missing information, and will notify you of any actions you need to take on the claim.

General Claim Processing Guidelines

The VCF has established several guidelines for the processing of claims when a claimant passes away:

- (1) **Stop the personal injury claim at the earliest point possible.** The VCF will place the claim “On Hold” or mark it as a “duplicate” claim in our system. The action taken will depend on the information available to the VCF at the time we are notified the individual has passed away. This is done to minimize confusion, reduce the risk of an incorrect action being taken on the claim, and ensure any communications about the claim are directed only to the individual who is authorized as the Personal Representative of the decedent.
- (2) **Issue any outstanding payment on the personal injury claim as soon as the proper Personal Representative is validated.** If the VCF previously sent a letter notifying the claimant of the amount of his/her award, but payment had not yet been made on the claim, the VCF will issue payment as quickly as possible once the Personal Representative is validated, and in accordance with any restrictions or limitations in the Personal Representative’s Letters of Administration.
NOTE: If the decedent’s death is **not** believed to have been caused by an eligible 9/11-related condition, the VCF will process the full payment of any amount due on the personal injury claim. If the decedent’s death **is** believed to have been caused by an eligible 9/11-related condition, the VCF will try whenever possible to issue payment of the non-economic loss portion of the award, recognizing that the economic loss must await review of the deceased claim. We are committed to trying to issue some payment to the family while waiting for the deceased claim to be submitted and processed.
- (3) **If a deceased claim registration has been submitted for the decedent, the VCF will assume the cause of death is believed to be the result of an eligible 9/11-related condition, and the deceased claim will move forward for processing.** In this situation, any open amendments on the personal injury claim will be reviewed as part of the deceased claim. The VCF will also close any Personal Representative amendments filed on the personal injury claim and will validate the Personal Representative during review of the deceased claim.

If a Personal Representative amendment is filed on the personal injury claim, and a deceased registration has not been filed for the decedent, the VCF will assume the cause of death is not believed to be the result of an eligible 9/11-related condition, and only the personal injury claim will move forward for processing. If you believe the cause of death is related to an eligible 9/11-related condition, but you do not intend to seek wrongful death losses (if, for example, you know the award would be negated by a large life insurance or a 9/11-related lawsuit settlement offset) and have therefore submitted a Personal Representative amendment to the personal injury claim, you should notify the VCF in writing of that decision.

During review of the documents provided to support validation of the Personal Representative, if the VCF believes the cause of death is different than what is indicated in the claim, we will contact you to confirm the actions to be taken on the claim.



Following these guidelines, the VCF will determine the appropriate actions to take on the claim based on the following:

- (1) Whether or not the death is believed to have been caused by an eligible 9/11-related condition;
- (2) The status of the claim at the time the VCF is notified of the decedent's death; and
- (3) The information available to the VCF at the time of notification of the decedent's death.



Appendix E – Instructions for Letters of Administration with Limitations

In order to process a claim filed on behalf of a deceased individual, the Special Master must first “validate” the Personal Representative of the decedent. To validate the Personal Representative, the Special Master evaluates the letters of administration, letters testamentary, court orders or other similar documentation issued by a court. Many Letters of Administration and court orders contain limitations that affect the VCF’s ability to process or make payment on the claim. Below are examples of common types of limitations, what effect those limitations have on a VCF claim, and what action you must take in order for the VCF to process and/or pay your claim.

Limitations on the Personal Representative’s Authority to File, Prosecute and/or Compromise Any Action or Claim on Behalf of the Decedent: If there are limitations regarding the Personal Representative’s authority to file, compromise or prosecute a claim on behalf of a decedent, the VCF may accept the Letters in certain circumstances, described below.

- **Letters of Administration or court order issued by a New York State probate or Surrogate’s Court:** If you were appointed as Personal Representative by a probate or Surrogate’s Court in the State of New York, the VCF may process your claim *if* there is sufficient documentation in the file confirming that the decedent passed away as a result of his/her eligible 9/11-related conditions. We are able to accept letters of administration issued in New York with these limitations where there is documentation confirming that the decedent died due to his/her eligible conditions because of the specific provision in the NY Statute, EPTL 5-4.6. You may submit various types of documents to show cause of death. For example, a long-form death certificate might provide the relevant cause of death. Or, the cause of death may be documented with medical records (including a letter from the decedent’s physician).
 - If the VCF determines that the decedent’s death is related to his/her eligible conditions, the VCF will notify you by letter that you have been “validated” as the Personal Representative of the decedent for purposes of the VCF claim, and will continue to process the claim.
 - If the VCF determines that the decedent’s death is not related to his/her eligible 9/11-related conditions based on the documentation submitted, the VCF will notify you by letter that you must obtain revised Letters of Administration or a court order that does not contain such limitations. The VCF will not process the claim until you submit acceptable revised Letters of Administration or court order.
 - If it is not clear to the VCF whether the decedent’s death is related to his/her eligible 9/11-related conditions based on the documentation submitted, the VCF will notify you by letter to request clarifying documentation regarding the cause of death and to obtain revised Letters of Administration or a court order that does not contain such limitations. The VCF will not process the claim until you submit acceptable revised Letters of Administration or court order or sufficient documentation that the decedent died due to his/her eligible conditions.
 - If you know that the decedent did not die from an eligible condition, please provide that information to the VCF. This will help us to address the claim quickly.
 - If the Letters of Administration or court order specifically prohibits you from filing a VCF claim, you must obtain new Letters of Administration or a court order that authorizes the pursuit of a VCF claim. The VCF will not process the claim until you submit acceptable revised Letters of Administration or court order.
- **Letters of Administration or court order issued by a probate or surrogate’s court outside of the State of New York:** If you were appointed as Personal Representative by a probate or surrogate’s court outside of the state of New York, you must obtain revised Letters of Administration or a court order permitting you to pursue a claim with the VCF on behalf of the decedent. The VCF will not process the claim until you submit acceptable revised Letters of Administration or court order.



Monetary Limitations: If the Letters of Administration or court order limits the amount of money that the Personal Representative can collect, the VCF will generally accept the documents for purposes of evaluating the claim, but will not make any payment on the claim in excess of the dollar limit specified, without further order of the court. For example, if the Letters of Administration or court order restricts you from collecting more than \$25,000 and the VCF issues you a loss determination letter indicating a total loss of \$500,000, the VCF will only issue a \$25,000 payment without further court order. This policy applies regardless of the state in which you were appointed and regardless of the cause of death (in other words, this applies even if the Letters of Administration were issued in New York and the decedent's death was caused by an eligible condition).

Time-Limited Court Orders/Letters of Administration: If the Letters of Administration or court order contains an expiration date – that is, the documents indicate that they have expired or will expire before payment will be issued – you must obtain revised Letters of Administration or a court order that extends your authority to collect assets or administer the estate. This policy applies regardless of the state in which you were appointed and regardless of the cause of death (in other words, this applies even if the Letters of Administration were issued in New York and the decedent's death was caused by an eligible condition).



Appendix F – Information on appointment of a Personal Representative

The Special Master will appoint a Personal Representative only in very limited circumstances. You must first attempt to obtain an appointment from the state probate or surrogate court where the decedent lived.

In general, states have procedures for individuals to open a simple or small estate in order to obtain an appointment. To open such a proceeding in New York, you must file a Petition for Letters of Administration (if the decedent did not have a will), Petition for Probate and Letters Testamentary (if the decedent had a will), or Voluntary Administration (if the decedent's estate meets certain requirements). There is a fee for opening these estate proceedings but, in many cases, the fee will be quite low. In New York, if the value of the estate is less than \$10,000, you will have to pay \$45.00 to open the proceeding. Additionally, if the value of the estate is less than \$30,000 (or \$20,000 if the decedent passed away before January 1, 2009), and the estate does not include certain property, you can file a Voluntary Administration in order to be appointed the Personal Representative of the decedent's estate. Please note, the VCF will accept Letters of Voluntary Administration in very limited circumstances. If you submit Letters of Voluntary Administration, the document must explicitly permit the filing and processing of the VCF claim, and you will be required to petition for Letters of Administration or Letters Testamentary that permit you to collect the VCF award once an award determination is made on your claim. The forms required to open an estate proceeding in New York, as well as additional information on opening an estate proceeding, can be found at the following website:
<https://www.nycourts.gov/COURTS/nyc/surrogates/index.shtml>.

Other states have their own procedures for opening an estate. If the decedent's domicile (permanent residence) was in a location other than New York, you should consult that state's rules regarding opening a probate or surrogate court proceeding.

Sometimes courts will issue Letters of Administration with limitations. For example, the letters might prohibit you from compromising any claim. Follow the instructions [here](#) if you have received Letters of Administration with any limitations.

In limited circumstances, if you are unable to open an estate proceeding, you can request that the Special Master appoint you as the Personal Representative of the decedent for purposes of filing a VCF claim. To do so, you must submit a sworn or notarized statement to the VCF and provide certain documentation as described below.

I. Prepare a written statement that addresses each of the items listed below and explains the reason you are asking the Special Master to appoint the Personal Representative:

- Your name and relationship to the decedent
- Why you were unable to obtain a court appointment
- Whether the decedent had a will, and:
 - If the decedent had a will, whether you know of anyone else who has been named Executor of the decedent's will
 - If you do not know whether the decedent had a will, whether a diligent search has been conducted for a will, including a search of any safety deposit boxes used by the decedent
- That you have searched the records of the court with proper jurisdiction, and:
 - Whether, after searching the records of the court with proper jurisdiction, anyone else has been appointed or has applied to be appointed as Personal Representative or Administrator of the decedent's estate
- Whether any of the individuals below survive the decedent (indicate the individuals' names and locations):
 - Spouse (husband/wife)
 - Children (list all, minor and adult)
 - Descendants of any predeceased children (must include marital, non-marital, and adopted)
 - Any children of the decedent adopted by persons related to the decedent
 - Mother/Father
 - Sisters or brothers, either of whole or half blood, and children of predeceased sisters or brothers
 - Grandmother/Grandfather



- Aunts or uncles, and children of predeceased aunts and uncles (first cousins)
- First cousins once removed (children of first cousins)

The statement must either be notarized (including the State and County in which the document was signed and notarized) **or** must include the following sworn statement:

- If signed within the United States, its territories, possessions, or commonwealths, add this language: “I declare under penalty of perjury that the foregoing is true and correct. Executed on [date signed].”
- If signed outside the United States, add this language: “I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed on [date signed].”

The statement must include the printed name of the individual who is submitting it and the individual's signature.

II. Submit the following documentation with the statement:

- The decedent's will, if applicable
- Documentation demonstrating proof of your relationship to the decedent:
 - For a spouse, a copy of the marriage certificate or joint tax return
 - For a child, a copy of the child's birth certificate or the decedent's tax return
 - For a parent, a copy of the decedent's birth certificate
 - For a brother or sister, a copy of the brother's or sister's birth certificate and the decedent's birth certificate



Appendix G – Required Documents to Support Lost Earnings for Certain Unions and Employers

If your union or employer appears in this chart, then the VCF has already received some of the information necessary to calculate pension loss. Therefore, if you are submitting a claim for loss of future earnings/benefits, **please see the chart for the documents you must submit in order for the VCF to calculate your loss.** The chart below only lists documents related to loss of pension and other benefits. As with all other claims for lost earnings, **you must also submit documents establishing a disability and earnings history.**

If your union or employer does not appear on this chart and you are claiming loss of a defined benefit pension, submit the Summary Plan Description (SPD) for your pension plan and annuity fund, if applicable. You will also need to submit documentation of all information required to calculate a pension benefit under your plan. VCF will review the SPD to determine what information is required.

Information for victims who were employed by the City of New York or the federal government, including the military, is provided in the main policy document. See Section 2.2.c for FDNY, 2.2d for NYPD, 2.2e for members of the New York City Employees Retirement System, and 2.2f for federal employees including the military and military reserve.

Union or Employer	Required Documents
32-BJ – Building Services Program A	<ul style="list-style-type: none"> • A document or letter showing: • Confirmation that victim is a member of Pension Plan Program A • Union membership start date (“fund hire date”) • Date last worked in covered employment • Retirement or membership end date • Confirmation if victim is a Commercial or Residential worker • Number of vested credits • Hours history report showing the number of hours worked by year and credited for pension purposes • Confirmation if victim participated in the Early Retirement Incentive Program • Date of start of pension, amount of pension, and type of pension that victim receives (e.g. service, disability) • If receiving a disability pension, the condition forming the basis of the disability if not based on SSA • If victim is not receiving a pension, please indicate so • Pension option letter, if available, and indication of the final option chosen
Local 1 – Plumbers of New York City	<ul style="list-style-type: none"> • Work history showing the hours worked in every year of work • A document or letter showing: <ul style="list-style-type: none"> • Member’s start date with union • Member’s retirement date • Pension credits earned • Date of start of pension, amount of pension, and type of pension that victim receives (e.g. service, disability) • If receiving a disability pension, the condition forming the basis of the disability if not based on SSA • If victim is not receiving a pension, please indicate so • Pension option letter, if available, and indication of the final option chosen



<p>Local 3 - IBEW</p>	<p>Members with an “A” rate of pay/classification:</p> <p>The VCF needs the following information and documents to calculate pension loss, if applicable, from the Local 3/JIBEI pension fund, the National Electrical Benefit Fund, the IBEW Pension Fund, and the National Electrical Annuity Plan:</p> <ol style="list-style-type: none"> 1. Membership start date 2. Job level (e.g. journeyman) 3. Member’s Division: <ol style="list-style-type: none"> a. Fixture, Manufacturing, or Supply divisions, or b. Electrical Industry 4. Local 3/JIBEI Pension fund: <ol style="list-style-type: none"> a. Hours history report showing the number of hours worked by year and credited for pension purposes. b. Indication of whether victim is vested and years of vesting service. c. Total service credits/years of credited service earned. d. If victim is receiving a disability or retirement pension or has received a lump-sum pension: <ol style="list-style-type: none"> i. Start date of pension ii. Method chosen for payment (lump-sum, monthly benefit, etc.) iii. Joint/survivor pension option selected and monthly pension amount with option chosen. iv. Type of pension (disability, retirement, etc.) 5. NEBF Pension Fund: <ol style="list-style-type: none"> a. Hours history report showing the number of hours worked by year and credited for pension purposes. b. Indication of whether victim is vested and years of vesting service. c. Total service credits/years of credited service earned. d. If victim is receiving a disability or retirement pension or has received a lump-sum pension: <ol style="list-style-type: none"> i. Start date of pension ii. Method chosen for payment (lump-sum, monthly benefit, etc.) iii. Joint/survivor pension option selected and monthly pension amount with option chosen. iv. Type of pension (disability, retirement, etc.). <p>Note: if victim receives a disability pension from the NEBF, the VCF will assume that the pension was based on victim’s Social Security disability unless the victim submits documents showing a different basis (e.g., medical records submitted with the disability pension application)</p> 6. IBEW Pension Fund <ol style="list-style-type: none"> a. Indication of whether victim is currently vested (through membership dues) b. Total years of vesting service/total years of continuous credited “A” membership c. If victim is receiving a disability or retirement pension or has received a lump-sum pension: <ol style="list-style-type: none"> i. Start date of pension ii. Method chosen for payment (lump-sum, monthly benefit, etc.) iii. Joint/survivor pension option selected and monthly pension amount with option chosen. iv. Type of pension (disability, retirement, etc.). <p>Note: if victim receives a disability pension from the IBEW Pension Fund, the VCF will assume that the pension was based on victim’s Social Security</p>
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Union or Employer	Required Documents
	<p>disability unless the claimant submits documents showing a different basis (e.g. medical records submitted with the disability pension application)</p> <p>The above information will allow the VCF to calculate pension loss as well as a \$0.25/hour contribution to the National Electrical Annuity Plan. Additionally, the VCF will be able to calculate losses from the Local 3 Annuity Plan, the Local 3 401(k) plan, the Health Savings Plan, the Additional Security Benefits Plan, and potentially a higher loss from the National Electrical Annuity Plan if the victim submits:</p> <p>7. Wage cards or the operative collective bargaining agreement from the victim's date or retirement through the present</p> <p>Members with a rate of pay/classification that is not "A"</p> <p>The VCF needs all of the above information, including #7, to calculate pension and other benefit loss. That is, while the VCF can calculate pension loss for A members without the wage cards or collective bargaining agreements, it cannot do so for non-A members.</p>
<p>Local 6 – New York Hotel Trades Council</p>	<ul style="list-style-type: none"> • "History of pension credits and years of vesting service" which includes: <ul style="list-style-type: none"> • hours worked each year (or functions served in the case of banquet waiters) • pension credits, year by year and total • vesting years for each year • job category • A document or letter showing: <ul style="list-style-type: none"> • Membership date • Type of employment (e.g. Banquet Waiter, Checkroom/Washroom Attendant, or Hours-Members) • If a pension has been received: type (e.g., regular, service, or disability), amount, and effective date • If receiving a disability pension, provide the condition forming the basis of the disability if not based on SSA • If victim is not receiving a pension, please indicate so • Pension option letter, if available, and indication of the final option chosen
<p>Local 11 – District Council of Iron Workers of Northern New Jersey</p>	<ul style="list-style-type: none"> • "<i>Pension Credit Report</i>" - yearly history which includes: <ul style="list-style-type: none"> • Hours worked by year • Pension credits by year • Total pension credits • Vested credits by year • Total vested credits • A document or letter showing: <ul style="list-style-type: none"> • Start date with Union (on membership ID card) • If receiving a pension: type of pension (e.g., regular, service, or disability), benefit amount, and start date • If receiving a disability pension, provide the condition forming the basis of the disability if not based on SSA • If victim is not receiving a pension, please indicate so • Pension option letter, if available, and indication of the final option chosen



Union or Employer	Required Documents
<p>Local 12A – Asbestos Workers</p>	<ul style="list-style-type: none"> • Letter from Local 12A confirming that victim was an Asbestos worker and member of Local 12A, or paystubs showing itemized deduction for union dues for Local 12A • Membership start date • Member Work History Report showing the number of hours for the victim, by work period and employer • Pension calculation worksheet, if available • Pension option letter, if available, and indication of the final option chosen • Date of start of pension, amount of pension, and type of pension that victim receives (e.g. service, disability) • If receiving a disability pension, provide the condition forming the basis of the disability if not based on SSA • If victim is not receiving a pension, please indicate so
<p>Local 14 14B – International Union of Operating Engineers Benefit Fund</p>	<ul style="list-style-type: none"> • Pension Benefit Statement – yearly history which includes: <ul style="list-style-type: none"> • Employer contribution amounts, by year • Hours worked by year • Pension credits by year • Total pension credits • A document or letter showing: <ul style="list-style-type: none"> • Start date with Union • If receiving a pension: type of pension (e.g., regular, service, or disability), monthly pension amount, and start date of pension • If receiving a disability pension, the condition forming the basis of the disability if not based on SSA • If victim is not receiving a pension, please indicate so • Pension option letter, if available, and indication of the final option chosen



Union or Employer	Required Documents
<p>Local 15 - International Union of Operating Engineers</p>	<ul style="list-style-type: none"> • “Participant Basic Data Report” • An indication of the member’s category before retiring (Cement League or General Contractors Association (G.C.A.); Building Contractors Association (B.C.A.); Contractors Association of Greater New York (C.A.G.N.Y.); Steel; or Utility) • If victim receives a pension from the Central Pension Fund: <ul style="list-style-type: none"> • Letter from the Central Pension Fund providing amount, start date, and type (e.g., regular, service, or disability) of pension (if victim receives a pension) • If receiving a disability pension, provide the condition forming the basis of the disability, if not based on SSA. • Pension option letter, if available, and indication of the final option chosen • The Central Pension Fund “Calculation Worksheet” showing how the pension was calculated. If the victim’s pension amount has changed at any point in time (for example, if the member received a disability pension prior to reaching age 55, and then received a different amount after turning 55), the claimant should submit a Calculation Worksheet for each time the amount changed. • If victim does <u>not</u> receive a pension from the Central Pension Fund: <ul style="list-style-type: none"> • The final Semi-Annual Benefit statement the victim received from the Central Pension Fund
<p>Local 30 – International Union of Operating Engineers Benefit Fund</p>	<ul style="list-style-type: none"> • Pension Benefit Statement – yearly history which includes: <ul style="list-style-type: none"> • Employer contribution amounts, by year • Hours worked by year • Pension credits by year • Total pension credits • Pension calculation worksheet, if available • Pension option letter, if available, and indication of the final option chosen • A document or letter showing: <ul style="list-style-type: none"> • Start date with Union • If receiving a pension: type of pension (e.g., regular, service, or disability), monthly pension amount, and start date of pension • If receiving a disability pension, the condition forming the basis of the disability if not based on SSA • If victim is not receiving a pension, please indicate so



Union or Employer	Required Documents
<p>Local 40 and 361 Benefit Fund – New York City Iron Workers</p>	<ul style="list-style-type: none"> • “<i>Pension Credit Printout</i>” which contains the following information by year: <ul style="list-style-type: none"> • Hours credited • Benefit credits (and also cumulative) • Vesting credits (and also cumulative) • Notes about any breaks in service/credits lost • Pension option letter, if available, and indication of the final option chosen • A document or letter showing: <ul style="list-style-type: none"> • Amount, type (e.g., regular, service or disability), and start date of pension if receiving a pension • If receiving a disability pension, the condition forming the basis of the disability if not based on SSA • If victim is not receiving a pension, please indicate so • <i>Member Employment History</i> or other document providing: <ul style="list-style-type: none"> • Union membership date/hire date (on membership card) • Job level, whether Journeyman/Foreman/Assistant Foreman, or Apprentice
<p>Local 46 – Metal Lathers</p>	<ul style="list-style-type: none"> • “Member Inquiry” document, which shows the following information: <ul style="list-style-type: none"> • Initiation date • Monthly pension amount (if victim receives a pension) • Date retired • Pension credits earned to date • Vesting credits earned to date and year that victim became vested • Date last worked • “Member Service Credit” document, which shows the following information by year: <ul style="list-style-type: none"> • Hours worked • Taxable gross wages • Pension credits • Vesting service credits • Pension option letter, if available, and indication of the final option chosen • A document or letter showing: <ul style="list-style-type: none"> • Confirmation of whether victim was a journeyman/foreman or apprentice • Type of pension that victim receives (e.g. service, disability) • If receiving a disability pension, the condition forming the basis of the disability if not based on SSA • If victim is not receiving a pension, please indicate so



Union or Employer	Required Documents
<p>Local 66 – General Building Laborers</p>	<ul style="list-style-type: none"> • “Pension Credit History” document showing hours worked and credits earned per year • “Participant Monthly History Inquiry” • Letter from Fund Office of Local 66 showing membership date, individual’s level (e.g. laborer), and amount, start date, type (e.g., regular, service, or disability) of pension (if victim receives a pension). If victim is not receiving a pension, please indicate so • If receiving a disability pension, provide documentation of the condition forming the basis of the disability if not based on SSA • Pension option letter, if available, and indication of the final option chosen • Hourly employer contribution rates toward the Annuity Fund, provided in the wage cards or other union document
<p>Local 78 - Asbestos, Lead & Hazardous Waste Laborers and Local 79 - General Building Laborers’</p>	<ul style="list-style-type: none"> • Mason Tenders’ DC Pension Fund “Pension Work History” printout, showing hours worked and vested and credited service per year • Mason Tenders’ DC Trust Funds “Personal Statement of Contributions” showing detailed hours worked per year • Letter from Mason Tenders’ District Council Trust Funds indicating pension start date and disability (or other) pension amount awarded (if victim receives a pension) • If receiving a disability pension, documentation of the condition forming the basis of the disability if not based on SSA • If victim is not receiving a pension, please indicate so • A screenshot from the Mason Tenders District Council Annuity Fund showing annuity contributions, forfeitures, payouts, investment return and balance (<i>this is helpful but not mandatory</i>) • Pension option letter, if available, and indication of the final option chosen
<p>Local 94 - International Union of Operating Engineers</p>	<ul style="list-style-type: none"> • “Participant Basic Data Report” • If victim receives a pension from the Central Pension Fund: <ul style="list-style-type: none"> • Letter from the Central Pension Fund providing amount, start date, and type (e.g., regular, service, or disability) of pension (if victim receives a pension) • If receiving a disability pension, provide the condition forming the basis of the disability if not based on SSA • The Central Pension Fund “Calculation Worksheet” showing how the pension was calculated. If the victim’s pension amount has changed at any point in time (for example, if the member received a disability pension prior to reaching age 55, and then received a different amount after turning 55), the claimant should submit a Calculation Worksheet for each time the amount changed. • Pension option letter, if available, and indication of the final option chosen • If victim does <u>not</u> receive a pension from the Central Pension Fund: <ul style="list-style-type: none"> • The final Semi-Annual Benefit statement the victim received from the Central Pension Fund



Union or Employer	Required Documents
<p>Local 197 - Stone Derrickmen and Riggers</p>	<ul style="list-style-type: none"> • Work history showing the hours worked in every year of work • Pension calculation worksheet, if available • Pension option letter, if available, and indication of the final option chosen • A document or letter showing: <ul style="list-style-type: none"> • Member's start date with union • Member's retirement date • Pension credits earned • Date of start of pension, type of pension (e.g., service or disability), and amount of pension • If receiving a disability pension, the condition forming the basis of the disability if not based on SSA • If victim is not receiving a pension, please indicate so
<p>Local 282 - New York City & Long Island Teamsters</p>	<ul style="list-style-type: none"> • Pension fund statement which includes the following by plan year (2/1 to 1/31): <ul style="list-style-type: none"> • Hours worked • Pension credits • Vesting credits • Monthly amount for each year of pension credit • Pension option letter, if available, and indication of the final option chosen • A document or letter showing: <ul style="list-style-type: none"> • Membership start date • Amount, type (e.g., regular, service, or disability), and start date of pension if receiving a pension]. • If receiving a disability pension, the condition forming the basis of the disability if not based on SSA • If victim is not receiving a pension, please indicate so • Annual annuity contribution rates made by employer • If claimant worked for another employer and received related pension credits such that a <i>reciprocal reduction factor</i> is applied to the claimant's monthly pension benefit (which will reduce claimant's pension amount). <ul style="list-style-type: none"> ○ In such a case, claimant will typically have two pension fund statements, one based on benefit credits which include the related pension credits, and one based on Local 282 pension credits only. ○ For the related pension credit entries on the statement, the "plan code" field typically will be blank/not filled in.



Union or Employer	Required Documents
Local 456 – Teamsters	<ul style="list-style-type: none"> • “Pension Credit History” – yearly history which includes: <ul style="list-style-type: none"> • Hours worked by year • Pension credits by year, and total pension credits • A document or letter showing: <ul style="list-style-type: none"> • Total Vesting Credits • Membership date with union • If receiving a pension, a document or letter showing: <ul style="list-style-type: none"> • Type of pension (e.g., regular, service, or disability). If receiving a disability pension, provide the condition forming the basis of the disability if not based on SSA • Start date of pension • Monthly pension amount • If victim is not receiving a pension, please indicate so • Pension calculation worksheet, if available • Pension option letter, if available, and indication of the final option chosen
Local 469 - Teamsters	<ul style="list-style-type: none"> • Pension fund statement which includes the following by plan year: <ul style="list-style-type: none"> • Hours worked • Employer contributions • Multiplier • Normal monthly accrual (employer contributions times multiplier) • Pension credits • Vesting credits • Documentation of membership start date • Pension calculation worksheet, if available • Pension option letter, if available, and indication of the final option chosen • Amount, type (e.g., regular, disability), and start date of pension if receiving a pension • If receiving a disability pension, documentation of the condition forming the basis of the disability if not based on SSA • If victim is not receiving a pension, please indicate so
Local 580 - Architectural and Ornamental Iron Workers	<ul style="list-style-type: none"> • “Pension Credit History” document showing hours worked and credits earned per year • Pension calculation worksheet, if available • Pension option letter, if available, and indication of the final option chosen • Letter from Fund Office of Local 580 showing membership date, individual’s level (e.g. journeyman), and amount, start date, and type (e.g., regular, service, or disability) of pension (if victim receives a pension) • If receiving a disability pension, documentation of the condition forming the basis of the disability if not based on SSA • If victim is not receiving a pension, please indicate so



Union or Employer	Required Documents
Local 638 - Steamfitters Construction Trades	<ul style="list-style-type: none"> • Documentation identifying whether victim belongs to the Construction Trade Branch or the Metals Trade Branch • “Member Work History Annual Rollup Report” showing hours, wages and credits per year • Quarterly statements from Steamfitters’ Industry Fund showing paid hours and supplemental retirement contributions • Pension calculation worksheet, if available • Pension option letter, if available, and indication of the final option chosen • A document or letter showing: <ul style="list-style-type: none"> • Member’s start date with union • Member’s level at time of retirement (journeyman; temp heat and air conditioning; apprentice) • Date of start of pension, type of pension (e.g., service or disability), and amount of pension (in single life annuity form), if any • If receiving a disability pension, documentation of the condition forming the basis of the disability if not based on SSA • If victim is not receiving a pension, please indicate so
Local 731 - Excavators	<ul style="list-style-type: none"> • “Pension History” – yearly history screenshot which includes: <ul style="list-style-type: none"> • Hours worked by year • Total pension credits (“Units”) • Total vesting credits (“Pen FS”) • Pension start date (“Pen Date”) • Initiation date with Union • Pension option letter, if available, and indication of the final option chosen • Documentation of the amount, type (e.g., regular, disability), and start date of pension, if any • If receiving a disability pension, documentation of the condition forming the basis of the disability if not based on SSA • If victim is not receiving a pension, please indicate so
Local 780 - Cement Masons	<ul style="list-style-type: none"> • “Member Eligibility Report” – yearly history which includes: <ul style="list-style-type: none"> • Hours Worked by year • Pension credits by year • Total pension credits • Pension calculation worksheet, if available • Pension option letter, if available, and indication of the final option chosen • A document or letter showing: <ul style="list-style-type: none"> • Member’s start date with union • Member’s retirement date • Date of start of pension, type of pension (e.g., regular, service, or disability), and monthly amount of pension • If receiving a disability pension, provide the condition forming the basis of the disability if not based on SSA • If victim is not receiving a pension, please indicate so



Union or Employer	Required Documents
Local 825 – International Union of Operating Engineers Benefit Fund	<ul style="list-style-type: none"> • Pension Benefit Statement – yearly history which includes: <ul style="list-style-type: none"> • Employer contribution amounts, by year • Hours worked by year • Pension credits by year • Total pension credits • Pension calculation worksheet, if available • Pension option letter, if available, and indication of the final option chosen • Documentation of start date with Union • If receiving a pension: documentation of type of pension (e.g., regular, service, or disability), monthly pension amount, and start date of pension • If receiving a disability pension, documentation of the condition forming the basis of the disability if not based on SSA • If the victim is not receiving a pension, please indicate so
Local 831 – Uniformed Sanitationmen’s Association and Teamsters Joint Council 16	<ul style="list-style-type: none"> • A document or letter showing: <ul style="list-style-type: none"> • Membership date, for both Local 831 and JC 16 • Final salary • Year by year history of hours worked, pension credits, and vested credits, for both Local 831 and JC 16 • Amount, type (e.g., regular, service, or disability), and start date of pension if receiving a pension [including disability pension], for both Local 831 and JC 16 • If receiving a disability pension, the condition forming the basis of the disability if not based on SSA • If not receiving a pension, please indicate so • Pension calculation worksheet, if available • Pension option letter, if available, and indication of the final option chosen • If eligible to receive retirement benefits under any other plans maintained by an affiliate, the amount of benefits
Local 1010 and 1018 – Pavers and Road Builders District Council Benefit Fund	<ul style="list-style-type: none"> • Pension Benefit Statement – yearly history which includes: <ul style="list-style-type: none"> • Employer contribution amounts, by year • Hours worked by year • Vested and Service Pension credits by year • Accrual Rate used in each year with pension credits • Total pension credits • Pension calculation worksheet, if available • Pension option letter, if available, and indication of the final option chosen • Documentation of start date with Union • If receiving a pension: documentation of type of pension (e.g., regular, service, or disability), monthly pension amount, and start date of pension • If receiving a disability pension, documentation of the condition forming the basis of the disability if not based on SSA • If victim is not receiving a pension, please indicate so



Union or Employer	Required Documents
<p>1199 Service Employees International Union (SEIU) – Health Care Employees</p>	<ul style="list-style-type: none"> • A document or letter showing: <ul style="list-style-type: none"> • Union membership start date/hire date, and end date if the employee was terminated or retired • Current accrual rate • Past service accrual rate • Total credited service • Total vesting service • Average final pay • Pension calculation worksheet, if available • Pension option letter, if available, and indication of the final option chosen • If receiving a pension: documentation of type of pension (e.g., regular, service, or disability), start date of pension, and monthly pension amount • If receiving a disability pension, documentation of the condition forming the basis of the disability if not based on SSA • If victim is not receiving a pension, please indicate so
<p>New York City District Council of Carpenters consisting of the following locals: Local 20 - United Brotherhood of Carpenters and Joiners of America; Local 45 - United Brotherhood of Carpenters and Joiners of America; Local 157 (including former members of Local 608) - United Brotherhood of Carpenters and Joiners of America; Local 740 - Millwright & Machinery Erectors; Local 926 - United Brotherhood of Carpenters and Joiners of America; Local 1556 - Dockbuilders and Timbermen; Local 2287 - Resilient Floor Coverers; Local 2790 - United Brotherhood of Carpenters and Joiners of America Shop and Industrial</p>	<ul style="list-style-type: none"> • “Pension Statement” showing hours worked, contribution amounts, credits earned, and benefit amounts by year, as well as information on the monthly pension amount available to the member under various pension options <i>Note: this document can be downloaded from the New York City District Council of Carpenters Benefit Funds website</i> • “Participant Work History Detail Report” • Letter from New York City District Council of Carpenters Benefit Funds showing membership date, individual’s level (e.g. journeyman), and amount, start date, and type (e.g., regular, service, or disability) of pension (if victim receives a pension) • If receiving a disability pension, documentation of the condition forming the basis of the disability if not based on SSA • If victim is not receiving a pension, please indicate so <p><i>Note: The VCF will calculate pension and annuity loss for the Carpenters trades using Carpenter Building Commercial Rates. If you believe your loss should be calculated using other rates, you must inform the VCF and provide documentation showing which rates should be applied and why.</i></p>
<p>Employer</p>	<p>Required Documents</p>



Union or Employer	Required Documents
Consolidated Edison (CECONY Management and CECONY Weekly – Local 1-2)	<ul style="list-style-type: none"> • Whether Victim was a Management or Weekly participant • The “Consolidated Edison Retirement Plan” printout or, at minimum documentation of: <ul style="list-style-type: none"> • Service date (typically date of hire) • Termination or retirement date if no longer working • Salary and variable pay by year to compute final average salary • If currently receiving a pension, the type (e.g., regular, service, or disability), amount, and start date of pension • If victim received a disability pension, a decision by the pension fund granting the disability pension and showing what conditions/injuries that decision is based upon if not based on SSA • If victim is not receiving a pension, please indicate so
Lockheed Martin	<ul style="list-style-type: none"> • Statement of pension benefit calculation details including: <ul style="list-style-type: none"> • Hire Date • Amount and start date of pension benefit if receiving one, and whether it is service or disability • Estimated vested pension at time of retirement, if not receiving pension • Early retirement reduction factor • Final average pensionable earnings • Documentation of short-term and long-term disability benefits received, if applicable, including the condition forming the basis for disability, amount, and duration • Whether the company is paying for health insurance benefits during retirement, and through what age or date
Metropolitan Transportation Authority Police	<ul style="list-style-type: none"> • A document or letter showing: <ul style="list-style-type: none"> • MTA Membership Date • Unit within MTA: Long Island Railroad (LIRR), Metro-North, or another unit • Original Date of Retirement • Years of Credited Police Service at retirement • Confirmation that Victim was vested at time of retirement/termination • Earnings for the year of the start of the loss and (up to) four years prior • 3 Year Final Average Salary (FAS) at time of loss • If receiving a retirement benefit, type of retirement, retirement start date, and retirement benefit amount. • If receiving a disability pension, the condition forming the basis of the disability if not based on SSA • If victim is not receiving a pension, please indicate so



Union or Employer	Required Documents
<p>Participating employers in the New Jersey Police and Firemen’s Retirement System (“PFRS”)</p>	<ul style="list-style-type: none"> • A document or letter showing: <ul style="list-style-type: none"> • Membership date • Tier number • “Final Compensation” amount used to calculate pension amount • Years of Allowable Service at retirement • Confirmation that victim was vested at time of retirement • 3 Year Average Salary (FAS) at time of loss • Start date of pension benefits • Amount of pension benefits • Type of pension being received (e.g. disability, service) • Documents showing the condition forming the basis of the disability pension (if victim receives a disability pension), if not based on SSA. • If victim is not receiving a pension, please indicate so
<p>Participating employers in the New York State and Local Retirement System (“NYSLRS”) (Full list available here)</p>	<ul style="list-style-type: none"> • A document or letter showing: <ul style="list-style-type: none"> • Membership date • Tier number and identification of whether the individual is part of the Employees’ Retirement System (“ERS”) or the Police and Fire Retirement System (PFRS) and specific pension plan to which the individual belonged • Final Average Salary (“FAS”) amount used to calculate pension amount • How annual benefit was calculated • Credited and vested years of service • If applicable, whether the victim is a member of any of the following: section 381(b), 384(d), 384(e) or 384(e)(b) • Pension option letter showing how the victim chose to receive payments (i.e., payable at a reduced continuing benefit and payable to spouse upon death, etc.) • If victim is not receiving a pension, please indicate so • Individuals who have a disability pension from NYSLRS should also submit: <ul style="list-style-type: none"> • If available, the physician’s statement of disability (RS 6401) or other evidence submitted in support of the disability application • A copy of the NYSLRS disability application showing the condition(s) claimed as the basis of the disability application • Letter from NYSLRS informing them that their application for a World Trade Center Accidental Disability Retirement has been approved
<p>Participating employers in the New York State Teachers Retirement System (“NYSTRS”)</p>	<ul style="list-style-type: none"> • “Summary of NYSTRS Retirement Data” including: <ul style="list-style-type: none"> • Number of Service Credits (i.e., years and months) • Three-year Final Average Salary (FAS) • Retirement plan claimant is a member of (e.g., Tier 4, Article 15) • Documentation of membership start date • Pension option letter, if available, and indication of the final option chosen • Amount, type (e.g., regular, service, or disability), and start date of pension if receiving a pension • If receiving a disability pension, documentation of the condition forming the basis of the disability if not based on SSA • If victim is not receiving a pension, please indicate so



Union or Employer	Required Documents
Verizon	<ul style="list-style-type: none">• “Verizon Pension Plan Pension Calculation Statement” including:<ul style="list-style-type: none">• Credited Service (i.e., net credited service, service applied to pension band)• Monthly Value of Pension Band• Pension Band• Supplemental payments (if applicable)• Net Credited Service date• Pension option letter, if available, and indication of the final option chosen• Amount, type (e.g., regular, service, or disability), and start date of pension if receiving a pension• If receiving a disability pension, documentation of the condition forming the basis of the disability if not based on SSA• If victim is not receiving a pension, please indicate so