



The September 11, 2001 Terrorist Attacks: Reauthorization of Health and Injury Compensation Programs

Background

The September 11, 2001, terrorist attacks claimed nearly 3,000 lives that day, at the World Trade Center (WTC) in New York City, the Pentagon, and a field in Shanksville, Pennsylvania. Rescue, recovery, and clean-up operations took more than a year and involved thousands of workers.

Figure 1. New York City Firefighters at WTC Site
September 14, 2001



Source: Federal Emergency Management Agency (FEMA) Multimedia Library, <http://www.fema.gov/media-library>.

Shortly after the attacks Congress established the September 11th Victim Compensation Fund (VCF, P.L. 107-42, Title IV) to compensate families of those who died in the attacks, and survivors who suffered disabling injury during or in the immediate aftermath of the attacks.

Over time it became apparent that some people who worked at the WTC site, or who lived or worked near it, had become ill, possibly as a result of exposure to toxins and other hazards in the aftermath of the attack. Starting in 2004, the Centers for Disease Control and Prevention (CDC) provided grants to a group of occupational medicine clinics in the New York City area to provide care for WTC responders for these exposure-related illnesses.

In 2011 Congress passed the James Zadroga 9/11 Health and Compensation Act (the Zadroga Act, P.L. 111-347). It replaced the CDC grant program with the World Trade Center Health Program (WTCHP). Through a mandatory funding mechanism, the WTCHP funds a program of health services for responders at the three crash sites, as well as for residents and others in the vicinity of the WTC site (called “survivors”), for health conditions related to exposures from the attacks and the response. The Zadroga Act also reopened the VCF to provide compensation for lost wages and other economic losses experienced by these responders and survivors.

WTCHP authority sunsets at the end of FY2015. However, annual funding caps have not been met, and unexpended funds may be carried into FY2016. Compensation under the reopened VCF is available for applications filed by October 3, 2016. Awards under the reopened VCF are capped at \$2.775 billion in total. As of March 31, 2015, about \$1 billion in total had been awarded.

The WTC Health Program (WTCHP)

The WTCHP consists of the following:

- Medical services for responders and survivors, including (1) periodic medical monitoring for responders; (2) initial health evaluation for survivors and medical monitoring if indicated; and (3) medically necessary treatment for WTC-related health conditions, including mental health conditions, for responders and survivors.
- Caps on new enrollments (responders and survivors) after enactment, and “grandfathering” of enrollees in the original CDC program. (See **Table 1.**)
- A network of Clinical Centers of Excellence and Data Centers to provide medical services, develop treatment protocols, and conduct research (among other activities), and a nationwide program for responders and survivors who live outside the New York City area.
- A Scientific/Technical Advisory Committee, data analysis, research, outreach to eligible individuals, quality assurance, continued support for the WTC Health Registry (a roster of people directly exposed to the WTC site), and other specified activities.
- A list of conditions that may be presumed to be related to exposures after the attacks (depending on individual circumstances), and procedures to list new conditions. As enacted the list did not include any types of cancer, but a number of types of cancer were subsequently listed administratively. (See 42 C.F.R. §88.1 for current list.)
- Payment for medical services provided to enrollees, less any payments available from workers’ compensation, private health insurance, Medicaid, or the Children’s Health Insurance Program (CHIP). The WTCHP assumes all applicable costs for Medicare beneficiaries. As of 2014, all enrollees must have health insurance coverage pursuant to the Affordable Care Act (P.L. 111-148, as amended).
- Mandatory funding, with annual and aggregate federal spending caps, from the last quarter of FY2011 through FY2015, and a 10% matching requirement for New York City. If spending caps are not met, unexpended funds may be carried into FY2016. (See **Table 2.**)

- Administration of most program functions by the Director of the CDC National Institute of Occupational Safety and Health (NIOSH). The Centers for Medicare & Medicaid Services (CMS) disburses payments to providers. (See 76 *Fed. Reg.* 31337.)

Table 1. WTCHP Enrollment Data

As of December 31, 2014

| Enrollees | Responders in NYC | Survivors in NYC | Nationwide Enrollees | Total |
|-----------------------------|-------------------|------------------|----------------------|--------|
| “Grandfathered” | 50,693 | 4,697 | 5,654 | 61,044 |
| Enrolled since July 1, 2011 | 4,449 | 3,152 | 2,307 | 9,908 |
| Cap on new enrollees | (25,000) | (25,000) | Note ^a | — |
| Total enrollees | 55,142 | 7,849 | 7,961 | 70,952 |

Source: Prepared by CRS from WTCHP statistics at <http://www.cdc.gov/wtc/reports.html>.

- a. Nationwide enrollees may be either responders or survivors.

Table 2. WTCHP Funding: Federal Contribution

(dollars in millions)

| FY11 | FY12 | FY13 | FY14 | FY15 | Total, FY11-FY15 | FY16 |
|-----------------------------|-------|--------------------|--------------------|--------------------|----------------------|--------------------|
| Authorized amounts | | | | | | |
| 71.0 ^a | 318.0 | 354.0 | 382.0 | 431.0 | 1,556.0 ^b | NA ^c |
| Program expenditures | | | | | | |
| 71.0 ^a | 187.6 | 230.7 ^d | 235.7 ^d | 243.4 ^d | 968.3 ^b | 267.7 ^e |

Source: Prepared by CRS from CDC congressional budget justifications, <http://www.cdc.gov/fmo/>.

Notes: Amounts for FY2012 through FY2016 reflect a CDC budget realignment and are comparable. The FY2011 amount is not comparable to amounts for subsequent fiscal years.

- Final quarter of FY2011.
- Because the statutory cap of \$1.556 billion was not reached in FY2015, unexpended funds may be carried into FY2016.
- Not applicable. Funding authority sunsets when the statutory cap of \$1.556 billion is reached or at the end of FY2016, whichever is sooner. (Public Health Service Act Sec. 3351)
- Amounts reflect sequestration of mandatory funds.
- Estimated amount for FY2016 is less than the unexpended amount that could be carried over.

The Victim Compensation Fund

The VCF, as originally enacted, provided compensation for physical injuries or death during or immediately following the attacks, as an alternative to litigation. The original program, which was not capped, stopped accepting claims in December 2003.

As reopened by the Zadroga Act, the VCF will accept claims through October 3, 2016, to compensate for prior and future economic losses, and certain noneconomic losses, resulting from physical illness, injury, or death caused by exposures at sites of the attack over specified periods of time. The reopened VCF, which is capped at \$2.775 billion, often uses the same definitions for eligibility and the same list of presumptive WTC-related health conditions as provided in law or regulation for the WTCHP. (See the VCF final rule, 76 *Red. Reg.* 54112.)

As of March 31, 2015, the reopened VCF had received 11,771 actionable eligibility claims (i.e., claims having adequate information) and had approved 10,549 (89.6%) of them. Among eligible claimants, the VCF had received 5,881 actionable compensation claims, and had made compensation decisions for 4,415 (75.1%) of them. (Remaining compensation claims were pending. The VCF had not denied compensation to any eligible claimant.) The total value of compensation at that time was about \$1.058 billion. Most of that amount (\$973 million, or 92%) was awarded to 3,775 responders to the WTC site. (See <http://www.vcf.gov/newsandreports.html>.)

Reauthorization Bills

In April 2015, substantively identical bills (S. 928 and H.R. 1786) were introduced in each chamber to reauthorize the Zadroga Act. The bills would, among other things, permanently reauthorize the WTCHP in the amount of \$431 million for FY2015, with amounts for subsequent years indexed to medical inflation.

In addition, the bills would remove the statute of limitations on filing claims under the VCF, and eliminate the cap on total program payments.

Finally, the bills would exempt both the WTCHP and the VCF from any sequestration ordered pursuant to the Balanced Budget and Emergency Deficit Control Act of 1985 (Title II of P.L. 99-177).

For More Information

CRS Report R41292, *Comparison of the World Trade Center Medical Monitoring and Treatment Program and the World Trade Center Health Program Created by Title I of P.L. 111-347, the James Zadroga 9/11 Health and Compensation Act of 2010*

WTCHP website: <http://www.cdc.gov/wtc/index.html>
WTC Health Registry website: <http://www.nyc.gov/html/doh/wtc/html/registry/registry.shtml>
WTCHP regulations: 42 C.F.R. Part 88

VCF website: <http://www.vcf.gov/>
VCF regulations: 28 C.F.R. Part 104

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