

Myth vs. Fact for 9/11 Health and Compensation Act

Program

Myth vs. Fact #1

Myth #1: The James Zadroga 9/11 Health and Compensation Act creates a new entitlement.

Fact #1: Unlike other mandatory programs, funding for the bill is CAPPED. The health care program is capped in three ways: the total dollars available, the number of people who can get medical monitoring or treatment for their World Trade Center -related injuries, and the total number of years the health program is administered. The Victim Compensation Fund also is capped: the total dollars available and the number of years the Fund operates.

Capped mandatory spending is the fiscally responsible approach. It is the only way to ensure that the program will be paid for with offsetting receipts. Leaving it to be paid for with discretionary funding does not guarantee it will not add to the deficit. The sponsors agree that the pay-for must be provided for the entire capped cost of the bill. In addition, the bill requires that New York City pay a 10% matching share of the total cost of the entire health program.

Myth vs. Fact #2

Myth #2: Anyone can claim to have a WTC-related condition and get in the program.

Fact #2: There are many checks and balances in determining eligibility for treatment. First, the responder must be certified for and receiving monitoring. Next, a physician at one of the approved Centers of Excellence or who is a certified provider who has experience with WTC-related illnesses must diagnose the responder with a condition that is on the list of identified WTC-related conditions in the bill. In addition, the physician must find that exposure to airborne toxins, any other hazard, or any other adverse condition resulting from the attacks is substantially likely to be a significant factor in aggravating, contributing to, or causing the illness. The physician must use NIOSH approved questionnaires and clinical protocols in evaluating the patient and making determinations. Last, a federal employee designated by the program administrator shall review the determination and provide certification for treatment if appropriate. The Government Accountability Office has the power to audit the program to make sure that only those who are ill are enrolled in the program.

Myth vs. Fact #3

Myth #3: This program will replace private insurance and/or workers' comp.

Fact #3: Private health insurance and workers' comp are the first payors and this program is the payor of last resort. However, since workers' compensation benefits often take a long time to be approved, the government will cover the expenses and then get reimburse by workers' compensation. These funds must be used and exhausted before federal funds would cover care. The bill gives HHS enforcement authority to collect payments for 9/11 medical treatment that should have been paid by health insurers or workers' compensation providers.

Myth vs. Fact #4

Myth #4: The bill creates a special reimbursement rate for WTC-related medical services at hospitals in NYC.

Fact #4: The reimbursement for health services is set at the Federal Employee Compensation Act (FECA) rate, which is the rate the Federal government pays for services when federal employees are injured on the job. This is the same medical reimbursement rate adopted by Congress for the Energy Employees Occupational Illness Program Compensation Act, a similar program to provide healthcare and compensation to the cold war veterans who worked in the nation's nuclear weapons facilities. The bill uses FECA rates, rather than Medicare or Medicaid rates, because the medical determinations under the World Trade Center health programs are similar to those in workers' compensation cases where a causal relationship needs to be determined between the environmental exposures and an illness that emerges later. Under H.R. 847, doctors in the program are required to make and document a determination whether or not an illness is related to exposures at Ground Zero, which requires significant time and expertise. Based on the actual program experience, Medicare and Medicaid rates are not sufficient to cover the costs, and if they were used, the clinics could not provide the level of care necessary for the effective treatment of these complex medical conditions.

Myth vs. Fact #5

Myth #5: We fund the current health programs through the Appropriations process. Mandatory funding is not necessary.

Fact #5: Since the programs were established in the chaotic aftermath of 9/11, they have been funded annually through the appropriations process for a total of \$475 million through FY2010. An additional \$150 million has been requested for FY2011, but has not been funded. This process is unreliable in providing stable care for the people suffering from these ailments. The medical issues do not go away if the program is not funded. By requiring mandatory funding, those affected can know that they will receive continual, appropriate care from medical professionals with knowledge of WTC-related diseases.

Myth vs. Fact #6

Myth #6: The Victim Compensation Fund (VCF) is no longer needed because the settlement in NYC was accepted.

Fact #5: The settlement with Captive Insurance Fund was agreed to on November 19, 2010. The settlement only provides compensation to those who filed suit years ago. It does not provide medical monitoring, treatment, or research into WTC-related diseases. Additionally, there are thousands of responders and community members who were not part of the settlement and are facing economic losses due to declining health.

People who accepted the settlement would be allowed to apply for the VCF. Any award received from the VCF would be offset by the amount received from the settlement.

Myth vs. Fact #7

Myth #7: The people who will have the most benefit from the settlement are the lawyers.

Fact #7: The bill limits attorney's fees to 10% of the total compensation paid out from both the settlement and the VCF.

Offset

Myth vs. Fact #1

Myth #1: The proposal would cause foreign governments to withdraw from bilateral tax treaties and would harm foreign investment in the United States. .

Fact #1: The nonpartisan Joint Committee on Taxation states in their analysis of the economic impact of the proposal that "proximity to customers may tend to dominate the tax issues addressed in the legislation, thus providing incentives to interested foreign parties to restructure their offshore operations and/or work to extend or deepen the U.S. bilateral treaty network, rather than to withdraw or diminish their overall investment in the United States."

Myth vs. Fact #2

Myth #2: The proposal would override existing tax treaties.

Fact #2: Over \$460 billion of annual payments are made from the United States to tax treaty partners. The proposal would affect 0.1 % of these payments -99.9% of payments to treaty partners would continue to enjoy the benefits negotiated under U.S. income tax treaties. With respect to the 0.1 % of payments that would be affected, the Model U.S. income tax treaty provides that "internal law principles of the source Contracting State may be applied to identify the beneficial owner of an item of income." At its core the treaty proposal would simply modify internal law principles to provide that the direct recipient of a deductible related-party payment is not the beneficial owner if a foreign parent corporation that is located outside the U.S. treaty network controls the recipient.

Myth vs. Fact #3

Myth #3: The proposal would raise the cost to foreigners investing in the United States.

Fact #3: The proposal would have no effect on direct investment in U.S. businesses. The rates of tax on dividends and capital gains from equity investments would not be affected. Loans from unrelated foreign corporations and related foreign corporations with corporate parents that are located within the U.S. treaty network would also not be affected by the proposal. The proposal would only affect an extremely narrow class of deductible payments (e.g., interest and royalty payments) that are made to related entities that are owned or controlled by foreign parent corporations located outside the U.S. treaty network.

Myth vs. Fact #4

Myth #4: The proposal would harm some foreign-owned U.S. businesses.

Fact #4: The nonpartisan Joint Committee on Taxation states that the treaty proposal "has mixed effects on the relatively small amount of affected capital flows, in part because the provision generally would not affect a U.S. corporation that reinvests earnings from U.S. operations back into U.S. activity."

Myth vs. Fact #5

Myth #5: The proposal is unnecessary because existing tax treaties contain provisions to prevent treaty shopping.

Fact #5: The Joint Committee on Taxation has estimated that the United States will lose more than \$7.4 billion in tax revenue over the next ten years unless Congress makes this change. The Bush Administration and the Obama Administration have put forth numerous legislative proposals that would combat earnings stripping by foreign corporations.

Myth vs. Fact #6

Myth #6: Congress should not legislate to address abuses of the tax treaty network and should instead step back to allow the Treasury Department to address any abuses through renegotiating tax treaties.

Fact #6: The United States is a party to over 60 tax treaties. Renegotiating and ratifying each of these tax treaties would take a significant amount of time. While these treaties are being negotiated, companies would be able to continue to avoid taxes. The House of Representatives has a responsibility to act swiftly to ensure that taxpayers are not abusing the tax treaty network to avoid taxes.

Myth vs. Fact #7

Myth #7: Taking legislative action to address abuses of the tax treaty network would be unprecedented.

Fact #7: Congress has enacted legislation as recently as 1997 to address problems with the tax treaty network. In 1997, Congress passed legislation denying tax treaty benefits to certain abusive hybrid entity structures.