

Q&A on H.R. 847, the 9/11 Health and Compensation Act

Thousands of first responders and others exposed to the toxins of Ground Zero are now sick and in need of treatment and compensation. The 9/11 Health and Compensation Act would provide long-term, comprehensive health care and compensation for those in need.

Q: What happened to the bill in the House of Representatives?

A: On September 29, 2010, the House passed the amendment in the nature of a substitute to H.R. 847 under regular order by a vote of 268-160, including support from 17 Republicans.

Q: Who are we talking about?

A. New York firefighters, police officers and EMTs, construction workers, clean-up workers, volunteers from across the country, federal and state employees, police and firefighters from other states and jurisdictions, U.S. military personnel, residents, area workers, and school children, among others.

Q: What illnesses do they have?

A. Illnesses include respiratory and gastrointestinal system conditions such as asthma, interstitial lung disease, chronic cough, and gastroesophageal reflux disease (GERD), and mental health conditions such as post-traumatic stress disorder (PTSD).

Q: How many are sick?

A: Nearly 14,000 responders and more than 2,500 survivors are currently sick and receiving treatment. Over 53,000 responders are currently in medical monitoring. 71,000 individuals are enrolled in the WTC Health Registry, indicating that they were exposed to toxins.

Q: Where are they from?

A: Although most of these people live in the New York/New Jersey area, at least 10,000 people came from around the country to help in the aftermath of the attacks. They hail from every state in the Union and nearly every congressional district. Many are sick and others are very concerned about their health.

Q. Why is it important to provide care through Centers of Excellence?

A. Experts have testified to Congress that up to 40 percent of WTC Responders who went to see only their family doctor, but later came to a Center of Excellence, were being misdiagnosed and given the wrong treatment for the illnesses caused by the unique exposures from the WTC site.

Q. Why does the bill create a new entitlement?

A. Thousands of people are now sick and will need care for years to come. We must provide stable support for ongoing treatment, just as we do for other federal health care programs.

Q. What about workers' compensation?

A. When a workers' compensation claim has been approved, workers' compensation will pay for it, because workers' compensation is the first payor under the bill. However, since workers'

compensation benefits often take a long time to be approved, the government can cover the expenses and then get reimbursed by workers' compensation.

Q. What about people's private health insurance?

A. People's private health insurance is the first payor if the illness is not work-related. Private insurance will not pay for work-related illnesses.

Q. What about the responsibility and contribution of New York City?

A. NYC is required to pay a 10% matching share of the total cost of the entire health program.

Q. How can we be sure that only those who are legitimately sick receive treatment?

A. There are many requirements to determining eligibility for treatment. First, the responder must be certified for and receiving monitoring. Once a responder is in monitoring, the patient can receive treatment only if 1) the condition is on the list of Identified WTC-related conditions in the bill and 2) the physician determines 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' in that patient. The physician's determination must be evaluated and characterized through the use of appropriate questionnaires and clinical protocols approved by the NIOSH Director. Last, a federal employee designated by the program administrator shall review the determination and provide certification for treatment if appropriate.

Q. Who would be served in the Survivor Program?

A. The Survivor Program serves individuals who live, work, or go to school within a geographic area established under the bill. The area includes areas of Manhattan that are south of Houston Street and the area in Brooklyn within a 1.5 mile radius of the World Trade Center site.

Q. Why should the federal government pay for survivors?

A. Survivors are people who were caught in the crossfire of an attack on our nation. The vast majority of them were living their lives, going to work, or going to school, just like we all do. They are sick from exposures from the exact same toxins that the responders breathed in. In the aftermath of the attacks, it was the federal government who told them the air was safe to breathe and encouraged them to go back home, to work, and to open up Wall Street to stabilize the economy. The government misled them, and they are no less deserving than the Responders.

Q. What is the reimbursement rate for health care services?

A. The reimbursement rate for health care services is the rate provided for under the Federal Worker's Compensation Act. This is the same reimbursement rate that providers receive for treating work-related injuries and illnesses for federal employees, including members of Congress. The same rate is used for all federal compensation programs including the Energy Workers' Compensation Program, Black-Lung, and the Longshore and Harbor Workers' Compensation Act.

Q. Why is the program under NIOSH?

A. NIOSH administers the WTC Health program that is already underway. They have the ability and expertise to continue and expand the program under the bill. They routinely

administer monitoring programs and will have the ability to contract out other duties with which they have less experience.

Q. What was the original September 11 Victim Compensation Fund (VCF)?

A. In the immediate aftermath of the September 11th terrorist attacks the Congress created the Victims Compensation Fund (VCF) to provide compensation for victims of 9/11. This fund provided aid to the families of 9/11 victims and to individuals who suffered personal injury. Among other things, aid from the fund pays for medical expenses and lost wages. In return for accepting these funds, recipients relinquished rights to any future litigation. The fund had a deadline for applicants of December 22, 2003.

Q. Why does it need to be reopened?

A. Many of the disease we now see in WTC responders did not develop until after the application deadline for the VCF had passed. These individuals should not be denied compensation just because they got sick after the deadline.

Q: What about the WTC construction contractors who worked to clear debris?

A. They are facing lawsuits by some 10,000 people who are sick because of Ground Zero toxins. The federal government had told them that their liability would be taken care of. Now they face great financial loss simply because they were there in the country's time of need.

Q. How does the bill take into account the current litigation system?

A. The amended bill will allow individuals who settled with the Captive Insurance fund and the other defendants to then go to the reopened VCF. Any future VCF award would be reduced or offset by the amount of the settlement award. However, there are many more individuals who are sick than those who have already filed lawsuits. Reopening the VCF would provide those who are sick a no-fault system to be compensated for their losses with minimal legal costs.

Q. What limits are there to size and growth of the programs?

A. Funding for the bill is capped in several ways: The healthcare spending is capped by the total dollars available, the number of patients who can get medical monitoring or treatment for their World Trade Center (WTC)-related injuries, and the total number of years the health program is administered. The Victim Compensation Fund also is capped by the total dollars available and the number of years the Fund operates.

Q. How much funding does this require?

A. The cost of the bill is \$7.4 billion over 10 years. The bill is PAY-GO compliant and will not add to the deficit. It is Capped mandatory funding that is offset completely.

Q. How will the bill be paid for?

The \$7.4 billion is offset completely by closing a loophole for companies incorporated in non-treaty foreign countries who do business in the U.S. Known as "treaty shopping," this occurs where a parent firm headquartered abroad routes its U.S.-source income through structures in which a U.S. subsidiary of the foreign multinational corporation makes a deductible payment to a country that is signatory to a tax-reducing treaty with the U.S. before ultimately sending these

earnings to the tax haven country where the parent firm is located. The provision does not hurt U.S. companies.