THE JAMES ZADROGA 9/11 HEALTH AND COMPENSATION ACT OF 2009

HEARING

BEFORE THE

SUBCOMMITTEE ON HEALTH

OF THE

COMMITTEE ON ENERGY AND COMMERCE

HOUSE OF REPRESENTATIVES

ONE HUNDRED ELEVENTH CONGRESS

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CONTENTS

THE JAMES ZADROGA 9/11 HEALTH AND COMPENSATION ACT OF 2009

THURSDAY, APRIL 2, 2009

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON HEALTH,
COMMITTEE ON ENERGY AND COMMERCE,
Washington, DC.

The subcommittee met, pursuant to call, at 10:10 a.m., in Room 2322 of the Rayburn House Office Building, Hon. Frank Pallone Jr. (chairman) presiding.

Members present: Representatives Pallone, Engel, Weiner, Barrow, and Deal.

Staff present: Andy Schneider, Chief Health Counsel; Sarah Depres, Counsel; Elana Leventhal, Counsel; Alvin Banks, Special Assistant; Alli Corr, Special Assistant; Miriam Edelman, Special Assistant; Lindsay Vidal, Special Assistant; Aarti Shah, Minority Counsel; Jerri Couri, Minority Professional Staff; Chad Grant, Minority Legislative Analyst.

OPENING STATEMENT OF HON. FRANK PALLONE, JR., A REPRESENTATIVE IN CONGRESS FROM THE STATE OF NEW JERSEY

Mr. PALLONE. The subcommittee hearing will be called to order, and today we are having a hearing on the James Zadroga 9/11 Health and Compensation Act of 2009. First of all, let me say good morning to our colleagues who are at the desk there and to all of you who are here. I know how important an issue this is not only to the New York and New Jersey delegation, but I think also nationwide.

The bill was introduced by Ms. Maloney, Mr. Nadler, and Mr. King. And again I want to thank you for all you have done on this legislation. I think actually in my opening remarks I mention the hearing that Jerry had, that Mr. Nadler within maybe a month or so of the World Trade Center attack, and I remember going to the Federal Building—I think it was at the Federal Building—in New York, and you were bringing up—you were sort of raising all the issues that, at the time, were being denied by the EPA, and it turned out to be true. So it is often the case with Mr. Nadler that he brings issues to the attention that agencies deny, and then it turns out that he was absolutely right from the beginning.

Last year, the subcommittee had two hearings on this issue to examine medical monitoring and treatment programs for those affected by 9/11 diseases and a legislative hearing on a similar bill

to the one before us today. Both of these hearings provided us with vital information on this issue.

Eight years ago, as we all know, our country was struck by a horrible tragedy. People lost their lives, families were shattered, and our Nation responded. And individuals from all over the country rushed to the aid of those in need, not stopping to think about the effects on their health or lives. I know I will never forget those horrifying days. I was at the World Trade Center site with President Bush. I think the attack occurred on Tuesday, and we were there maybe Friday of that week. And, you know, I saw firsthand the dedication and determination of the rescue workers and the volunteers who pushed themselves to the brink of exhaustion and beyond.

The singular memory that when we arrived, I was standing next to a, like a yellow fire truck that was from Hialeah, Florida. And I thought, you know, how did that truck get up here in such a short time? I mean I guess it is possible to do, but it was people literally from all over the country.

In the month following the 9/11 attacks, I mentioned I attended a field hearing with Congressman Nadler in New York City to investigate the presence of hazardous waste and the health implications for those who were exposed. We did not know then if there would be any long-term effects or just how debilitating they would be. But we now have more in-depth understanding of how the dust, the glass fragments, and other toxins released into the air affected by responders and community residents. Studies have shown that individuals present during and immediately after the attack now suffer from new or worsened respiratory disease, gastroesophageal disorders, and mental health conditions including post-traumatic stress disorder.

We in Congress have an obligation to our Nation's heroes and to the victims of these attacks. It is our turn to step up to the plate and come to their aid, and the bill before us today is a vital step in that direction. H.R. 847 would establish a permanent program to monitor and screen eligible residents and responders and provide medical treatment for those suffering from World Trade Center related diseases. It would direct the Department of Health and Human Services to conduct and support research into new conditions that may be related to the attacks and to evaluate different and emerging methods of diagnosis and treatment.

The legislation would build upon the expertise of the Centers of Excellence, which are currently providing high quality care to thousands of responders and ensuring ongoing data collection and analysis to evaluate health risks.

Now, one of these centers is, as you know, is located in my district on the Bush Campus of Rutgers University in Piscataway and is run by Dr. Iris Utasin. It is the UMDNJ World Trade Center Medical Monitoring and Treatment Program, which was established in January 2003 to study, interpret, and treat medical symptoms commonly occurring in responders and volunteers. The center currently—this is the New Jersey center—currently serves approximately 1,370 patients. I visited the center a few times and have seen the work that Dr. Utasin and her team are doing to help our Nation's heroes.

I know she couldn't be here today. I think she is not in the country, so she wasn't able to come today. But at the center, the in-depth knowledge of these complex conditions is crucial to all the patients, and we must ensure that this program is permanently funded so that they can continue providing this excellent care.

So I just want to thank all the sponsors again for your tireless efforts, and Mr. Deal and I know how tireless you are because oftentimes a week does not pass by without you mentioning this issue on the floor. We want to thank the witnesses, not only our two colleagues, but those who will be on the next panel, in particular Mr. Torres who is from New Jersey and who was one of the first responders to the 9/11 attacks. We are going to be hearing his story today, and on behalf of everyone, I want to particularly thank you also for being here.

And I will now recognize the ranking member, Mr. Deal.

OPENING STATEMENT OF HON. NATHAN DEAL, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF GEORGIA

Mr. DEAL. Thank you, Mr. Chairman. Thank you for holding the hearing and thanks to our two colleagues for being on the first panel. I think we all understand the significance of the events of 9/11 and as we explore this bill, H.R. 847, we understand the long-term consequences in terms of health to those who rushed to the aid of others and to the consequences that they have suffered as a result of it.

My only regret is that, and I have to tell my colleagues as well as the other panel members, this just happens to be at the very same time that we are holding a full committee hearing on climate change of the Energy and Commerce Committee. And for those such as myself who are on the full committee but are not on the Energy Subcommittee, this is the only opportunity, this hearing that is going on right now, to participate in that particular important discussion. So I think that accounts for the fact that you probably will not have very many members here because of the full committee hearing on that important issue going on simultaneously. Wish it would have been otherwise, but we deal with the time constraints that we have.

The hearing today, of course, is to assess the current monitoring and treatment efforts that have been provided to individuals who were involved in the 9/11 catastrophe and to those who were within proximity to the World Trade Center on 9/11 and the weeks and months that followed. It is my understanding that to date, the federal government has allocated approximately $1 billion toward monitoring and treatment of first responders.

Although this legislation has yet to be scored by the Congressional Budget Office, CBO estimated last year that the impact of similar legislation, which was H.R. 7174, upon which the subcommittee held a legislative hearing last summer, that it would cost taxpayers over $11 billion within a 10-year timeframe. If the majority intends to move this legislation out of the committee for a vote, I hope that members on both sides of the aisle will be given the opportunity to hold another legislative hearing to receive the expert input from CBO regarding the true cost of the legislation.

I look forward to continuing to work with the members of the committee on this, and once again thank my colleagues for their interest and their attendance here today. I yield back.

Mr. PALLONE. Thank you, Mr. Deal. And let me reiterate what Mr. Deal said about conflicts today. Actually Lisa Jackson, I think, you know, was our—the Jersey commissioner now is the EPA administrators, I think, testifying this morning on, you know, on the global climate change in the full committee. So we are missing that, and I would appreciate the fact that Mr. Engel is here, but I—you are doing something with Hillary Clinton this morning, aren't you, in your other committee?

Mr. ENGEL. Foreign Affairs Committee has a full hearing with the Secretary of State. First time she is appearing before any committee, either in the House or the Senate.

Mr. PALLONE. So there is a lot going on. So forgive us. But even with that, Mr. Engel is here. And I want to also acknowledge his significant involvement in this legislation as well. Thank you, Eliot.

OPENING STATEMENT OF HON. ELIOT L. ENGEL, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF NEW YORK

Mr. ENGEL. Well, thank you, Mr. Chairman, and I want to thank you for holding this hearing today because you and I have had many talks about the importance of the 9/11 Health and Compensation Act. And I appreciate your willingness to hold a hearing to—in the midst of all the committee's work on many things but particularly on health reform. So I am glad that you are chairing this important subcommittee, and thank you for doing this.

I am also delighted to see my colleagues Jerry Nadler and Pete King, both of whom I have firsthand knowledge, being a colleague of theirs from New York, of the work that both of them have done in focusing on this very important issue of 9/11 health care, the 9/11 Health and Compensation Act, and all the other things that relate to the devastating attack on September 11, 2001, and particular, Mr. Nadler, the World Trade Center and the attacks are in his district, and he has played a front-and-center role on all these issues, not just on the health issues, but on all the issues pertaining to the attacks. So I want to thank Mr. Nadler and Mr. King for being here this morning.

You know, as devastating as that day was, there are few days I have been more proud to be an American than on September 11. I said that in my first statement on the House floor a day or two after the attacks where I spoke from the heart, not by reading anything. Within minutes of crashes into the Twin Towers, New York's first responders mobilized to save those trapped within the World Trade Center, putting themselves in unspeakable danger. And of course, too many lost their lives that day.

Within days, over 40,000 responders from across the Nation descended upon Ground Zero to do anything possible to help with the rescue, recovery, clean up. I remember those bittersweet days. I was there in New York City, where I was born and bred. I was happy to be in New York City on September 11 and remember seeing Americans lined up around blocks to donate blood. The attack was on Tuesday. That Friday, the New York Delegation stood with

President Bush at Ground Zero, that very famous picture of President Bush with the firemen and the bullhorn. We were all there right by his side. Particularly Mr. Nadler, I remember, flew in the helicopter that day. There were things we all remember.

I remember the chaos as no one knew quite what to do, only that we had to do something, anything to help our Nation rise up from the assault by the terrorists. I was very, very proud to be in New York on that day.

The past seven years though have not been to so many of the first responders who put themselves in harm's way. It is estimated that up to 400,000 people in the World Trade Center area on 9/11 were exposed to extremely toxic environmental hazards including asbestos, particulate matter, and smoke.

You know it is a funny thing. Those of us in the New York City delegation, we kept going back to the World Trade Center, the devastation while we saw people running around. And, you know, they gave us these little kind of helmets. None of us wore them, and we kept going back. We were assured at the time by Christy Todd Whitman that everything was fine. And so even those of us in Congress were exposed to these things. I am not saying that we were exposed the way the first responders were who were there every day. But we were there, you know, half a dozen times or more, and we were exposed to it as well.

Years later the exposure though to the 400,000 people has left a significant number of first responders with severe respiratory ailments including an asthma rate that is 12 times the normal rate of adult onset asthma, lung disease, and persistent cough. Also common are PTSD and depression. This has all been well documented in a scientific, peer-reviewed published work regarding the long-term health effects of 9/11 by Mt. Sinai Hospital, the fire department of the city of New York, and the World Trade Center health registry.

We really don't know the long-term effects of exposure to the toxins from 9/11. Many of us fear that there may be significant late emergent diseases, both in our first responders and members of the community, such as cancer, that will require treatment for years to come.

While these illnesses should sadden all of us, what pains me most is that our Nation has failed to provide our first responders and community members, Mr. Nadler's constituents, with a sustainable and reliable source of federal funding for a health care monitoring and treatment program. The GAO has documented the failure of HHS to provide consistent care in multiple reports. It certainly sends a chilling message to those who fearlessly volunteered for our country that nearly eight years later, they are still fighting for medical care that should just be a given.

So I am proud to join with my New York colleagues, lead by Representatives Maloney, Nadler, and so many others in introducing the 9/11 Health and Compensation Act. This comprehensive bill would ensure that those exposed to the Ground Zero toxins have a right to be medically monitored and all that are sick have a right to treatment.

It would also rightfully provide compensation for loss by reopening the 9/11 compensation fund. No more fragmented health care,

no more excuses. We must and shall do what is right, and I thank you, Mr. Chairman, for bringing this to the floor, and I thank my colleagues, Mr. Nadler and Mr. King, for coming here today. I yield back.

Mr. PALLONE. Thank you, Mr. Engel. We are going to now turn to the first panel, and obviously I am very pleased that you are with us here today and all that you have done. I guess I should mention—I think we already mentioned it—that Representative Carol Maloney could not be here because she has a bill. I think one of her other bills is being marked up—credit card bill, another important bill that is being marked up. But we have her statement, so without objection, I will ask unanimous consent to submit that for the record.

[The prepared statement of Ms. Maloney follows:]

Testimony of Rep. Carolyn B. Maloney
Before the House Energy and Commerce Subcommittee on Health
On H.R. 847, the James Zadroga 9/11 Health and Compensation Act
April 22, 2009

Chairman Pallone, Ranking Member Deal, members of the Health Subcommittee, I want to thank you for inviting me to testify here today on H.R.847, the James Zadroga 9/11 Health and Compensation Act, which I introduced with Representatives Nadler, Peter King and McMahon, with the support of the entire New York Delegation. I also want to thank Chairman Waxman, Ranking Member Barton and the Committee for tackling the important issue of health care for World Trade Center responders and community members, and I am always grateful to Speaker Pelosi for the strong support that she has shown for caring for the heroes of 9/11.

On September 11, 2001, thousands of people tragically lost their lives. Over seven years later, we know that thousands more have lost their health.

Within hours of the collapse of the World Trade Center fire fighters, police officers and EMTs labored alongside construction workers, volunteers, and others without regard for their own health or safety. All were told the "air was safe to breathe."

Unfortunately, we now know better. The cloud they worked in was a poisonous cocktail of thousands of tons of coarse and fine particulate matter, pulverized cement and glass, asbestos, lead, and other toxic pollutants. To the mix were added 24,000 gallons of burning jet fuel and plastics which created a dense plume of black smoke containing a specific combination of toxins probably never seen before and hopefully that we will never see again.

And all of this went into the mouths, throats, and lungs of tens of thousands of first responders. In addition, thousands of residents, area workers and school children breathed in the very same toxic air.

Although most of these people live in the New York/New Jersey area, at least 10,000 people came from across the country to help in the aftermath of the attacks. They hail from every state in the Union and nearly every Congressional District.

Now, over seven years later, we are seeing the potentially deadly effects of those toxins. There are numerous peer-reviewed, scientific studies showing that the exposures at Ground Zero are causing people to become very ill. Their illnesses include respiratory and gastrointestinal conditions such as asthma, interstitial lung disease, chronic cough and GERD (gastroesophageal reflux disease), and mental health conditions such as post-traumatic stress disorder.

H.R. 847 helps the sick by proving medical monitoring and treatment to WTC responders and community members who were exposed to the toxins of Ground Zero. To do this, it builds on the existing monitoring and treatment program by delivering expert medical

care for these unique exposures at Centers of Excellence. The bill also provides compensation for those who suffered economic loss by reopening the September 11 Victims Compensation Fund (VCF).

The solutions I have offered in H.R. 847 are neither easy nor inexpensive, but they are part of our country's moral obligation, as the wealthiest country in the world, to care for those who respond to an act of war. We must take care of the people who took care of us following 9/11. It is the least we can do as a grateful nation.

Thank you.

Mr. DEAL. Mr. Chairman, I would ask unanimous consent that members of the committee be given five days in which to submit their statements for the record in this hearing.

Mr. PALLONE. Without objection, so ordered. We are going to start with the Congressman Nadler.

STATEMENTS OF HON. JERROLD NADLER, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF NEW YORK; AND HON. PETER KING, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF NEW YORK

STATEMENT OF JERROLD NADLER

Mr. NADLER. Well, thank you, Mr. Chairman. Mr. Chairman, Ranking Member Deal, members of the subcommittee including my fellow New Yorker, Mr. Engel, thank you for convening this hearing and inviting my colleagues and me to testify before you this morning. I also want to thank everyone who has worked on this bill to help us achieve our long-standing goal of providing a stable, long-term program to help the responders, the residents, area workers, students, and others who were injured by the attack on our country on September 11.

Representative Maloney and I along with Representatives King and McMahon have introduced H.R. 847, the 9/11 Health and Compensation Act of 2009 to ensure that the living victims of the September 11 terrorist attacks have a right to health care for their World Trade Center related illnesses and the root to compensation for economic losses.

Now, as many of my colleagues know and as many of us sitting in this room know, today's panelists have come together many times since the towers fell almost eight years ago, holding press conferences, testifying at hearings, and releasing countless pages of information detailing the environmental impacts and health effects created by the attack on the United States.

For eight years, those of us here today have testified about the toxins that were inhaled by those near Ground Zero in the days and weeks following the attacks. We warned then that the air wasn't safe and that our courageous first responders were not being afforded the proper protection from dangerous toxins as they were working on the pile.

But the federal EPA kept assuring everyone wrongly that the air was safe. We spent years working to try to convince public officials that the asbestos, fiberglass, mercury, manganese, and other toxins that traveled far and settled into the interiors of residences, workplaces, and school and that a proper testing and clean-up program was required to eliminate the continuing health risks to area residents, workers and students.

We demanded that the government acknowledge the fact, supported by a mountain of peer-reviewed research, that thousands of our Nation's citizens are today sick because of 9/11 and that many more will likely become sick in the future.

We explained to whoever would listen that our 9/11 heroes were struggling to pay health care costs because they could not longer work and had lost their health insurance or because they had had their worker's compensation claims contested. We have argued vig-

orously that the federal response to date has been dangerously limited, piecemeal, and unpredictable, both in terms of preventing further health impacts from potentially persistent indoor contamination, and most notably in terms of a lack of comprehensive long-term approach to providing health care and compensation for those already affected.

Yet each time we presented our case for comprehensive solution, we were told better luck next year. Well, a new year has come, and we are here again on behalf of those who continue to suffer. Undaunted and due to considerable efforts by all of the stakeholders, we have modified the bill to achieve what have been our dual goals from the beginning. One, to establish a stable, long-term approach that builds on successful existing programs to provide much-needed care for those who were affected by the attacks, regardless of whether they are first responders or area workers, residents, students, or others. And two, doing this in a fiscally responsible manner.

We are hopeful that today's hearing marks the beginning of the end of our collective eight-year struggle. We are hopeful that this is the first step in finally passing this critical legislation to give those men, women, and children who live with the daily reminders of that terrible day in 2001 the support and care they deserve.

Although the devastating 9/11 attacks on the World Trade Center occurred within the bounds of my congressional district, it was our Nation as a whole that was attacked. And the ramifications stretch well beyond the bounds of my district or indeed of New York. Every member in New York's down state delegation represents hundreds if not thousands of people who live, work, attend school, or were otherwise present in lower Manhattan and the affected parts of Brooklyn and were exposed to the toxic brew in the air.

But it doesn't end there. Because people from all across the country came to New York City to help, there are now citizens in every state, in fact, in 431 congressional districts that we know about—431 out of 435 who were exposed to the toxic fumes of 9/11 and were concerned enough about it to register with the World Trade Center health registry.

So this is not just a problem for members from New York and New Jersey. This issue should concern every member of the House. Because this is unquestionably a national problem, it has always required a national response. Yet the previous administration declined to develop a comprehensive plan to deal with the growing public health problem, forcing the New York delegation year after year to come to Congress to test its luck during the annual appropriations process.

Thankfully with growing bipartisan support for that funding, we have had some key successes. And with those funds, we have seen some critical first steps in federally funded health care programming, but quite simply this disjointed and unpredictable approach to securing critical funding is not a tenable course of action.

Both our heroes and the excellent health care programs that are now in place to serve them deserve better. Passage of the 9/11 Health and Compensation Act would mark an end to this problematic approach and ensure that a consistent source of funding is

available to monitor and treat the thousands of first responders and community members already affected by World Trade Center related illnesses as well as those who illnesses may become apparent in the future.

And it would ensure that no matter where an affected individual lives in the future, he or she could get care. Building on the expertise of the Centers of Excellence, the bill would fill gaps in how we are currently providing treatment and monitoring. The bill would also provide for substantial data collection regarding the nature and extent of related illnesses. This is a particularly critical provision as there is still much we have to learn about these illnesses and how they affect different exposure populations.

And finally, as you know, this legislation would provide an opportunity for compensation for economic damages and losses by reopening the 9/11 Victims' Compensation Fund. As you will hear from the other panelists, the needs here are abundantly clear. About 16,000 first responders are currently being treated for illnesses, and about 40,000 more—and more than 40,000 are being monitored through a consortium of providers lead by Mt. Sinai Hospital and the New York City Fire Department.

And we already have nearly 3,400 sick community members being treated by a program funded in part by the federal government, the World Trade Center Environmental Health Program at Bellevue Hospital. As you may know, the bill has been modified several times in order to ensure that those in need receive the care they deserve and that the cost is feasible and responsible.

First, the bill limits the radius, the geographical radius within which individuals who reside go to school or work would be eligible for services. Second it caps the total number of new treatment slots to 35,000, which incidentally is the same level as the responder program. Finally, the bill creates contingency funds with strict dollar limits and caps other kinds of spending.

Today every member of the subcommittee has an opportunity. You can decide that you are going to join with those of us in this room who have been fighting for this funding for eight long years, with those back in New York and throughout the country who continue to grapple with the consequences of the 9/11 attacks.

With your help, we can finally give the heroes and victims of 9/11 the peace of mind they deserve by providing for their health needs and other losses. I urge you to please join us in supporting the 9/11 Health and Compensation Act and helping us to move this important legislation forward so that it can finally be brought to the whole House for a vote.

Thank you again, Mr. Chairman, and members of the subcommittee for holding this hearing, and I look forward to the testimony of my colleagues and other witnesses today. I yield back the balance of my time.

[The prepared statement of Mr. Nadler follows:]

TESTIMONY OF U.S. REPRESENTATIVE JERROLD NADLER (D-NY 08)

Before the Energy and Commerce
Subcommittee on Health

9/11 Health and Compensation Act of 2009

April 22, 2009

Chairman Pallone, Ranking Member Deal and the members of the Subcommittee, including my fellow New Yorkers Mr. Engel and Mr. Weiner – thank you for convening this hearing and inviting my colleagues and me to testify before you today. I also want to thank everyone who has worked on this bill to help us achieve our long-standing goal of providing a stable, long-term program to help the responders, the residents, area workers, students and others who were injured by the attack on our country on September 11th.

Representative Maloney and I, along with Representatives King and McMahon, have introduced H.R. 847, the *9/11 Health and Compensation Act of 2009*, to ensure that the living victims of the September 11th terrorist attacks have a right to health care for their World Trade Center-related illnesses and a route to compensation for their economic losses.

Now, as many of my colleagues know – and as many of us sitting in this room know – today's panelists have come together many times since the towers fell almost eight years ago, holding press conferences, testifying at hearings and releasing countless

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Yet each time we presented our case for a comprehensive solution, we were told, "Better luck next year." Well, a new year has come and we are here again on behalf of those who continue to suffer.

Undaunted, and due to considerable efforts by all of the stakeholders, we have modified the bill to achieve what have been our dual goals from the beginning: 1) establishing a stable, long-term approach that builds on successful, existing programs to provide much needed care for those who were affected by the attacks, regardless of whether they are first responders, area workers, residents, students or others, and 2) doing this in a fiscally responsible manner.

We are hopeful that today's hearing marks the beginning of the end of our collective eight-year struggle. We are hopeful that this is the first step in finally passing this critical legislation to give those men, women and children who live with the daily reminders of that terrible day in 2001 the support and care they deserve.

Although the devastating 9/11 attacks on the World Trade Center occurred within the bounds of my Congressional district, it was our nation as a whole was that attacked. And the ramifications stretch well beyond the bounds of my district. Every Member in New York's downstate delegation represents hundreds, if not thousands, of people who live, work, attend school, or were otherwise present in Lower Manhattan and the affected parts of Brooklyn, and were exposed to the toxic brew in the air. But it doesn't end there. Because people from all across this country came to New York City to help, there are

now citizens in every state – in 431 Congressional Districts – who were exposed to the toxic fumes of 9/11, and who were concerned enough about it to register with the World Trade Center Health Registry. So, this is not just a problem for Members from New York and New Jersey; this issue should concern every Member in this room.

Because this is unquestionably a national problem, it has always required a national response. Yet, the previous Administration declined to develop a comprehensive plan to deal with this growing public health problem, forcing the New York delegation, year after year, to come to Congress to test its luck during the annual appropriations process. Thankfully, with growing bi-partisan support for that funding, we have had some key successes. And with those funds, we have seen some critical first steps in federally-funded health care programming. But, quite simply, this disjointed and unpredictable approach to securing critical funding is not a tenable course of action. Both our heroes and the excellent health care programs that are now in place to serve them deserve better.

Passage of the *9/11 Health and Compensation Act* would mark an end to this problematic approach and ensure that a consistent source of funding is available to monitor and/or treat the thousands of first responders and community members already affected by WTC-related illnesses, as well as those whose illnesses may become apparent in the future. And it would ensure that no matter where an affected individual lives in the future, he or she could get care. Building on the expertise of the Centers of Excellence, the bill would fill gaps in how we are currently providing treatment and monitoring. The

bill also would provide for substantial data collection regarding the nature and extent of WTC-related illnesses. This is a particularly critical provision as there is still much we have to learn about these illnesses and how they affect different exposure populations. And finally, as you know, this legislation would provide an opportunity for compensation for economic damages and losses by reopening the 9/11 Victim Compensation Fund.

As you will hear from the other panelists, the needs here are abundantly clear. Approximately 16,000 first responders are currently being treated for WTC-related illnesses and more than 40,000 are being monitored through a consortium of providers, led by Mt. Sinai Hospital and the New York City Fire Department. And we have nearly 3,400 sick community members being treated by a program funded in part by the federal government – the World Trade Center Environmental Health Program at Bellevue Hospital.

As you may know, the bill has been modified several times in order to ensure that those in need receive the care they deserve and that the cost is feasible and responsible. First, the bill limits the radius within which individuals who reside, go to school or work (including commuters from throughout the tri-state area) would be eligible for services. Second, it caps the total number of new treatment slots at 35,000 – which, incidentally, is the same level as the responder program. Finally, the bill creates contingency funds with strict dollar limits, and caps other kinds of spending.

Today, every member of this Subcommittee has an opportunity. You can decide that you are going to join with those of us in this room who have been fighting for this funding for eight long years, and with those back in New York and throughout the country who continue to grapple with the consequences of the 9/11 attacks. With your help, we can finally give the heroes and victims of 9/11 the peace of mind they deserve by providing for their health needs and other losses.

Please join us in supporting the *9/11 Health and Compensation Act*, and please help us move this important legislation forward so that it can finally be brought to the whole House for a vote.

Thank you again, Mr. Chairman and members of the Subcommittee, for holding this hearing, and I look forward to the testimony of my colleagues and other witnesses today.

Mr. PALLONE. Thank you, Congressman Nadler. And next is Congressman Peter King, and again thank you for your major efforts on this legislation. And of course you also make it bipartisan, which is very important. Thanks.

STATEMENT OF PETER KING

Mr. KING. Thank you, Mr. Chairman. I will thank you and the ranking member for holding this hearing today. Obviously I see Congressman Weiner is here, Congressman Engel, who know firsthand just how devastating this attack has been on New York and New Jersey, but as Congressman Nadler said, on the entire Nation.

Also let me commend Jerry Nadler and Carolyn Maloney because they really have been there from the start. If I could just add one humorous note in a very serious issue, passage of this bill protects so many members in the House floor from being accosted by Jerry Nadler. After seven and a half years, if he spots anyone standing still, he comes up to them and urges the adoption of this bill. So there is a very selfish interest in passing this legislation.

But seriously Congressman Nadler and others have worked so hard on this because it is such a vital issue. And it is really an issue whose time has come. It actually came many years ago, and there really is no excuse at all for going further with this. And on a bipartisan note, I am a Republican on this bill, but also Dr. Burgess on your committee has been very helpful. And I know he strongly supports this bill. I saw him this morning, and he asked me to point that out.

What Congressman Nadler said about the thousands and thousands—also Congressman Engel—of first responders who went to the scene that day and stayed there for the next eight, nine, ten months, I mean day in and day out working in some cases almost around the clock at the time without real concern for their safety. They just wanted to get the job done, and when the time limit for the Victims' Compensation Fund expired, most of these people had no idea of the underlying illnesses that they had.

But we have seen thousands coming forward. I mean so many firefighters know of serious pulmonary illnesses, men who were really in the prime of life, absolutely perfect physical condition. Now some of them can barely breathe, and you just see the impact it has had. And it has all come in the last two, three, four years.

Just the other night—this is anecdotal, but I happened to be at an event. There were two police officers there, and they did not even work around the clock at the World Trade Center. They were there the day of the attack, and they were in charge of bringing dignitaries and government officials to the site over the next six or seven months. They both came down with the same type of serious sinus disorder, and, you know, the odds are—of that happening, of two people being struck with that type of—and it is a rare type of sinus disorder. So I just said anecdotally. And there are so many other stories like that we hear, and there is really no reason to delay this any further.

We have an obligation to the country. We have an obligation to those who came forward. We have an obligation to the contractors who also put a lot on the line when they came down there. And, you know, it happened in New York now. It could happen in any

other state in the country at any time. And I believe when a situation like this happens, it is imperative and it is incumbent upon the country to come together.

And as Jerry said, 431 congressional districts in this country have been affected by this, and I would just hope that people not see this as a New York issue or a New Jersey or a Northeast issue. It really is an American issue. And also as Congressman Nadler said, this bill has been refined. It has been, I think, finely tuned. But if there is any specific objection that anyone has or question, I would just we resolve that and not put this on the back burner again and not come back to it next year or the year after.

We are so close to the finish line right now, so close to getting this done, and we really—I think it would be outrageous and disgraceful not to complete the job and not to get it done. We owe it to those who were there that day. Jerry, of course, knows firsthand the people in his district who suffered. But as I said, in the entire region, in the entire country, so many others put their lives on the line and did it unquestioningly. They deserve this type of response.

And we owe it also to future generations if, God forbid, something like this should ever happen again. So let people know that America does stand by those who respond to the call of duty.

So with that, I thank you for holding this hearing today and really also thank, you know, the men and women who are here to testify, the men and women who have done so much, and the men and women who have really never stopped sacrificing for their country and unfortunately are still suffering because of that sacrifice. And with that, I yield back. Thank you, Mr. Chairman.

[The prepared statement of Mr. King was unavailable at the time of printing.]

Mr. PALLONE. Thank you, Congressman King. Thank you both. We normally don't ask questions of our colleagues, so unless someone objects, I am going to move on. But thank you so much really. And you know we do intend to move the bill. I mean we are not just having a hearing as you know.

Mr. NADLER. Thank you, Mr. Chairman.

Mr. KING. Thank you, Mr. Chairman.

Mr. PALLONE. Could the next panel come forward? We will get the nametags so you know where to sit, but I guess it doesn't matter. You can sit wherever you like. We are missing a chair? You have to come up. We will get you a chair. Yes, Mr. Torres, sorry. I don't know what happened to the nametags, but hopefully we will have some. There is a problem with the printer, so I think we are going to start without the nametags. Can we just—can we remove the ones that are there? He is going to do it, Charlie? Thank you. Thanks, Charlie. Thank you. All right, they may not be—here we go, OK.

Now we will warn you that you are not sitting in the order that I have, so I am going to follow the order that I have in terms of your testimony. So let me introduce each of you, and the way I introduce you is the order that you are going to speak. OK, first is Mr. Edwardo Torres from Jersey City, who is over on my right. And then there is Dr. Jacqueline Moline, who is vice chair, Community and Preventative Medicine Director of the WTC Medical Monitoring and Treatment Program Clinical Center at Mt. Sinai

and also director of the New York/New Jersey Education and Research Center at Mt. Sinai School of Medicine in the School of New York.

Then we have Dr. Joan Reibman, who is associate professor of medicine and environmental medicine, director of the NYU Bellevue Asthma Center and director of Health and Hospitals Corporation for the World Trade Center Environmental Health Center at Bellevue Hospital in New York City. And then we have Dr. Jim Melius who is administrator for the New York State Laborers' Tri-Funds in Albany, New York. And finally is Caswell Holloway, who is special advisor to New York City Mayor Michael Bloomberg and chief of staff to New York City Deputy Mayor for Operations Edward Skyler. A long resume here for many of you.

So I think you know it is five minutes opening statements. We are going to try to keep to that if possible. And if you want to submit, you know, testimony for the record, you know, we will do that as well. And then we will have questions after by members of the panel. And we will start with Mr. Torres. Thanks for being here. You need a mike. Just turn that that way and then just press the button until the light comes on there. That should do it. Maybe move it a little closer to him. It might be a little—yes.

Mr. TORRES. How is that? Can you hear me?

Mr. PALLONE. Yes, even a little closer.

Mr. TORRES. OK, how is that?

Mr. PALLONE. That is good.

STATEMENTS OF EDWARDO TORRES, RESIDENT OF JERSEY CITY, NEW JERSEY; JACQUELINE MOLINE, M.D., MSC, VICE CHAIR, COMMUNITY AND PREVENTIVE MEDICINE, DIRECTOR, WTC MEDICAL MONITORING AND TREATMENT PROGRAM, CLINICAL CENTER AT MOUNT SINAI, DIRECTOR, NY/NJ EDUCATION AND RESEARCH CENTER, MOUNT SINAI SCHOOL OF MEDICINE, NEW YORK; JOAN REIBMAN, M.D., ASSOCIATE PROFESSOR OF MEDICINE AND ENVIRONMENTAL MEDICINE, DIRECTOR, NYU/BELLEVUE ASTHMA CENTER, DIRECTOR OF HEALTH AND HOSPITALS CORPORATION, WTC ENVIRONMENTAL HEALTH CENTER, BELLEVUE HOSPITAL, NEW YORK; JIM MELIUS, ADMINISTRATOR, NEW YORK STATE LABORERS' TRI-FUNDS, ALBANY, NEW YORK; AND CASWELL F. HOLLOWAY, SPECIAL ADVISOR TO NEW YORK CITY MAYOR MICHAEL R. BLOOMBERG, CHIEF OF STAFF TO NEW YORK CITY DEPUTY MAYOR FOR OPERATIONS EDWARD SKYLER.

STATEMENT OF EDWARDO TORRES

Mr. TORRES. Thank you, Mr. Chairman Pallone, members of the committee. Good morning and thank you for the opportunity to testify before you today. My name is Edwardo Torres. I am 47 years old, and I am a resident of Jersey City. I am a construction worker and a trade member of the Plumbers Local Union 14 AFL/CIO based in Lodine, New Jersey. I am testifying before you today in support of the James Zadroga 9/11 Health Commission Compensation Act of 2009.

I come before you this morning as a citizen wanting to do my part to assist the victims of 9/11 terrorist attack of the World Trade

Center and assist their responders. But now I am suffering from serious health effects due to the exposure of Ground Zero toxins and the breathing of the toxins and the pulverized building materials.

My story begins in September 2001. I arrived at Ground Zero from New Jersey at 11:00 a.m. Workers were being recruited from my job site and my local union to assist the rescue efforts. Upon the arriving to Manhattan from New Jersey, I immediately began to assist the police, firemen, and rescue attempts of possible survivors trapped in the ruble of the World Trade Center and to move debris from the pile.

I was assigned to the bucket brigade, which slowly and painstakingly removed debris from certain areas via a long line of people passing one bucket after another. And I performed this task up to 8:00 p.m. that evening. I returned to the pile on September 13, 14, and 15, and over the course of those four days, I performed the same exact task for approximately 60 hours.

The first day on the pile, I wore a simple dust mask and a hard hat. The three following days, I wore a two-canister filter respirator and a hard hat. Through this time, we dug through the pile by hand because shovels simply didn't work well. The entire time I was filling up buckets and we were instructed to carefully sift through and review the material and attempt to identify remains.

Although the environment I was working in was surreal, the weather was actually—couldn't have been nicer out. It was clear, sunny, and shiny. The first day, the level of dust that appeared to the naked eye had been reduced, although the smoke and the smell of the fumes were intense at times. There was a false sense of security and the frenzied dedication of the workers sometimes forced us to remove our respirators. We also removed them when we ate or drank water, both of which occurred right on the pile.

I was completely unaware of the health hazards presented in the air, and although the dust appeared to be minimal, I would be reminded of the massive amount of dust in the air when I washed my face on an hourly basis. And when I would dry with a paper towel I would see heavy grey cover on it. I wiped massive amounts of soot from my face on a regular basis.

When I went to Ground Zero on September 15, I was proud to volunteer every ounce of my energy over the last four days helping victims of the attacks. That day was the last day that I went to volunteer at Ground Zero.

I returned to my home that Saturday, and I attempted to go back to the pile on September 16, but there was no longer running ferries from New Jersey and much of the workers and so less volunteers were being recruited. I returned to work on Monday, September 17.

It is important to note I never had any health problems prior to 9/11. In fact, I considered myself to be in great shape. I jogged approximately three times a week, and I never had any problems breathing. For the first four months after 9/11, I had no symptoms or health problems of any kind.

That changed with what I would describe as an on-again-off-again sore throat starting from February of 2002 in which I would lose my voice on occasion. 2002, I started having stomach pains,

not comfortable but pains similar to a worse type of acid reflux or heartburn. And I had no stomach problems at all prior to 9/11.

This persisted and got consistently worse in the course of the next three years. 2005, my throat, my stomach problems were consistently more problematic at the time of receiving a physical at March of 2005.

The worst came in November of 2005, a period of time, I could no longer walk up more than one flight of stairs. Work was becoming much more difficult. The winter, I lost about six or seven days of work because it was too cold in the weather that simply I couldn't breathe. In fact, at one point during the dance performance, my chest pains and ability to breathe forced me to stop performing.

There are days that I couldn't even run with my kids, participate in sports, and sleep cycles have been disturbed due to my respiratory problems. The only medicine I had at this time was acid reflux, but symptoms got worse. And at the time, I visited a lung specialist who performed a PET scan. On March 2006 and October of 2006, I was diagnosed with having modules in my lungs resulting in lung opacity and lung scarring. The doctors however did not say it was a result of my exposure.

After finding this problem and recognizing in my opinion that they were a result of my working at Ground Zero, I decided to attend Mt. Sinai Medical Monitoring Program for examination and was accepted into the program in May of 2006.

At this time, I was diagnosed with two World Trade Center-related conditions—gastro-esophageal reflux disorder (GERD) and chronic respiratory restriction. My treatment began at this time, and I was taking prescription medicine to treat the constant throat pain that I was suffering. Eventually I had surgery which was paid for by the Medical Monitoring Fund in October of 2006. And the surgery removed a mass or polyp on my throat. It was not cancerous. After the surgery, I was out for six weeks of work.

I found the caregivers of the World Trade Center Monitoring Program very compassionate. Also, unlike my first doctor, they had a thorough understanding of the context in which the medical examinations and treatments were required. These caregivers understood the 9/11 association and how to treat these problems specifically.

The program also performed an extensive breathing analysis, or a PFT test, pulmonary function test. Every 3 months I received a checkup and a CAT scan, and I met with doctors. Since May of 2006, I have been to the program 24 times. The program pays for the treatment and the monitoring. My insurance through my union pays for the CAT scans. I have never paid anything out of pocket with the exception of prescription drug co-payments. And they have a program in Piscataway, but prefer the one in New York City because it is a shorter drive for me.

Under the James Zadroga 9/11 Health and Compensation Act of 2009 legislation, I will continue to receive medical monitoring since both of my diagnosed conditions are on the list of identified World Trade Center conditions specifically in this bill.

This would allow me to continue the course of the medical treatment paid for but would also assist other affected workers who are currently struggling. For workers like me and others participating

in this program, the monitoring of treatment is essential. Furthermore, under this bill, we would be allowed to receive non-treatment core services such as education on my condition, counseling and advice on how to identify and obtain benefits if needed from workers' compensation, health insurance, disability insurance and public, private and social service agencies.

In closing, I would like to repeat a question a nurse gathering research from me had asked at Mt. Sinai Hospital and ask you to put this in context as you deliberate this legislation. I was asked on August 2008 during a checkup at the monitoring program if I understood the health effects resulted from your Ground Zero volunteering, would you still have gone? And I responded yes before she could even have a chance of finishing the question. Despite all the pain that it has caused me, I would not have changed a day. Those people needed me. My country needed me. I had to do the right thing. And now respectfully I ask you to respond to the health needs by also saying yes when this bill comes up to vote. Thank you.

[The prepared statement of Mr. Torres follows:]

Testimony of Edwardo Torres before the Subcommittee on Health
Wednesday, April 22, 2009
"James Zadroga 9/11 Health & Compensation Act of 2009."

Chairman Pallone and members of the Committee, good morning and thank you for the opportunity to testify before you today. My name is Edwardo Torres. I am 47 years old and I am a resident of Jersey City, New Jersey. I am a construction worker by trade, and a member of Plumbers Local Union 14, AFL-CIO, based in Lodi, New Jersey. I am testifying before you today in support of the "James Zadroga 9/11 Health & Compensation Act of 2009."

I come before you this morning as a citizen who simply wanted to do their part to assist the victims of the 9/11 terrorist attack on the World Trade Center and to assist responders. But now I am suffering serious health effects due to the exposure to Ground Zero toxins, and the breathing in of these toxins and pulverized building materials.

My story begins on September 12, 2001.

I arrived at Ground Zero from New Jersey at 11:00 a.m. Workers were being recruited from my job site through my local union to assist in the rescue efforts. Upon arrival in Manhattan by ferry from New Jersey, I immediately began to assist police and firemen in their rescue attempts of possible survivors trapped in the rubble of the World Trade Center and to move debris from the "pile."

I was assigned to the "bucket brigade," which slowly and painstakingly removed debris from certain areas via a long line of people, passing one bucket after another of material down the line. I performed this task until 8:00 p.m. that evening.

I returned to the "pile" on September 13, September 14 and September 15. Over the course of these four days, I performed the same exact task for approximately 60 hours combined.

The first day on the "pile," I wore a simple dust mask and a hard hat. The three following days, I wore a two canister filter respirator and a hard hat. Through this time, we dug through the "pile" by hand because shovels simply didn't work well. The entire time, I was filling up buckets, we were instructed to carefully sift through and review all the materials, in an attempt to identify remains.

Although the environment I was working in was surreal – the weather actually couldn't have been nicer out. It was very clear out and the sun was shinning. Also, after the first day, the level of dust in the air appeared to the naked eye to have been reduced –although smoke and the smell of fumes were intense at times. This false sense of security and the frenzied dedication to our work sometimes forced us to remove our respirators. We also removed them when we ate and drank water – both of which occurred right on the "pile." I was completely unaware of the health hazards that were present in the air. And although the dust appeared to be minimal, I would be reminded of the massive amount of dust in the air when I washed my face on an hourly basis – and when drying it with a paper towel – I saw a heavy grey cover on it. I wiped massive amounts of soot from my face on a regular basis.

When I went home from Ground Zero on September 15, I was proud to have volunteered every ounce of energy I had over those last four days helping victims of the attacks. That day was the last that I volunteered at Ground Zero.

I returned to my home late Saturday, September 15 and I attempted to go back to the "pile" on September16th, but they were no longer running ferries from New Jersey, and much of the work was now being contracted out, so less volunteers were being recruited. I returned to work on Monday, September 17th.

It's important to note that I never had any health problems prior to 9/11. In fact, I would consider myself to be in great shape and I jogged approximately 3 times a week. I never had any problems breathing.

For the first four months after 9/11, I had no symptoms or health problems of any kind. That changed with what I would describe as a on again, off again sore throat, starting in February of 2002, in which I would loose my voice on occasion.

Then in late 2002, I started having stomach pain – not discomfort – but pain. Similar to the worst type of acid reflux or heartburn. I had no stomach problems at all prior to 9/11.

This persisted and got consistently worse over the course of the next three years. In 2005, the throat and stomach problem got considerably more problematic. At this time I decided to see a physician, and that was March 2005.

These health problems started to dramatically effect my day-to-day lifestyle – sometimes being too sick to attend family events, for example. Also, I was having a hard time at work communicating with other workers due to my throat problem.

The worst then came in November of 2005. Over the period of time leading up to this, there were times I could no longer walk up more than one flight of stairs and work was becoming much mor difficult. That winter, I lost about 6 or seven days of work, because in the cold weather I simply couldn't breathe.

In fact, at one point, during a dance performance, massive chest pain occurred and the inability to breathe forced me stop the performance.

I also now had extreme difficulty lifting materials and often had to stop working.

There are days now that I can't run with my kids, participate in sports, and my sleep cycles have been disrupted due to respiratory problems.

In 2005, my doctor gave me a full check up, including lung and throat tests. He indicated restricted lung capacity, but no diagnosis was made at the time. A CAT scan of my throat came back with nothing. Unfortunately, symptoms persisted.

The only medicine I was on at this time was acid reflux, but symptoms got worse. At this time, I visited a lung specialist who performed a PET scan and CAT scan in March 2006 and October 2006, and was then diagnosed with having two modules or cysts in my lungs, about 6 x 8 millimeters in size – resulting in lung opacity as well as lung scaring. The doctors however did not say this was a result of my exposure.

After finding these problems and recognizing in my opinion that they were a result of my work at Ground Zero, I decided to attend the Mt. Sinai World Trade Center Medical Monitoring Program for an examination and was accepted into the program in May of 2006.

At this time I was diagnosed with two WTC-Related Health Conditions – Gastro-esophageal reflux disorder (GERD) and Chronic respiratory disorder.

My treatment then began at this time and I was taking prescription medications to treat the constant throat pain I was suffering from.

Eventually, I had surgery – which was paid for by the medical monitoring fund in October 2006. The surgery removed a mass or polyp on my throat – it was not cancerous. After surgery, I was out of work for six weeks.

I found the care givers from the World Trade Center Medical Monitoring Program to be very compassionate. Also, unlike my first doctor, they had a thorough understand of the context in which medial examinations and treatments were required. These care givers understood the 9/11 association and how to treat these problems specifically.

The program also performed an extensive breathing analysis, or a PFT test, pulmonary function test. Every 3 months I receive a check up, CAT scan and meet with doctors. Since May 2006, I have been to the program 24 times. The program pays for this treatment and monitoring and my insurance through my union pays for the CAT scans. I have never paid for anything out of pocket, with the exception of prescription drug co-payments. I have been to the program in Piscataway, but prefer New York City because it's a shorter drive.

Under the "James Zadroga 9/11 Health & Compensation Act of 2009 legislation" I would continue to receive the medical monitoring, since both of my diagnosed conditions are on the list of identified WTC conditions specified in the bill.

This would allow me to continue to have the costs of my medical treatment paid for, but would also assist other affected workers who are currently struggling.

For workers like me and others participating in this program, the monitoring and treatment are essential. Furthermore, under the bill, we would be allowed to receive non-treatment core services such as education on my condition, counseling and advice on how to identify and obtain benefits if needed from workers' compensation, health insurance, disability insurance or public or private social service agencies.

In closing, I would like to repeat a question a nurse gathering research from me asked at Mt. Sinai Hospital and ask you to put in context as you deliberate this legislation. I was asked in August 2008 during a check-up at the monitoring program, "If you understood the health effects resulting from your Ground Zero volunteering, would you have still went?" I responded "yes" before she even had a chance to finish the question. Despite all the pain this has caused me, I would not have changed a thing. Those people needed me. My country needed me. I had to do the right thing. I now respectfully ask you to respond to our health needs, by also saying "yes" when the bill comes up for a vote.

Thank you.

Mr. PALLONE. Thank you, Mr. Torres. Thank you for relating your story, which I am sure is very much like what a lot of other responders have been going through. Thank you. Dr. Moline.

STATEMENT OF JACQUELINE MOLINE

Dr. MOLINE. Chairman Pallone and Ranking Member Deal and members of the committee, I would like to thank you for inviting me to present testimony today. My name is Dr. Jacqueline Moline. I am an occupational medicine specialist at Mt. Sinai School of Medicine in New York City, and I direct Mt. Sinai's Clinical Center of the World Trade Center Medical Monitoring and Treatment Program.

We are the flagship of a regional and national consortium that is supported by NIOSH, the National Institute for Occupational Safety and Health through February 28, 2009 has diagnosed and treated nearly 27,000 World Trade Center responders throughout this country. I am here today to testify in support of H.R. 847, which in my view is the best vehicle to meet the need for continued medical care of the responders and ensure that the 9/11 responders receive the high quality medical care they rightfully deserve.

On or after September 11, 2001, an estimated 60,000 to 70,000 traditional first responders and not-so-traditional responders came from every state in the Nation, including tens of thousands from the New York metropolitan area, working for days, weeks, and months in and around Ground Zero. Their hard work and bravery got New York and our Nation back on its feet, and we owe them tremendous gratitude.

They were exposed to a complex and unprecedented mixture of toxic chemicals including dust, glass shards, and carcinogens like benzene, asbestos, and dioxin. The collapse of the towers in the morning and then a third building in the afternoon created a dust cloud turning a bright sunny day into night. The pulverized cement had a pH equivalent to lye. Fires burned for three months. Rubble operations, removal operations lasted through May 2002, repeatedly exposing these workers to dust.

In addition to the physical exposures, they had extreme psychological stress. They came upon human remains. Their stress was compounded by fatigue as they worked hour after hour, day after day. Among those most affected have been the non-traditional responders, those not trained for any emergency, let alone a disaster the scale posed by 9/11. Mt. Sinai, through its Center for Occupational and Environmental Medicine designed and developed what stands today as the federal government's health response to 9/11, a model based on experience and expertise of academic physicians with specialty training in occupational medicine, surrounded by specialists in various disciplines.

Our regional consortium of clinical Centers of Excellence in New York and New Jersey, together with the national program that initially was coordinated by Mt. Sinai and is now coordinated by LHI has provided 46,858 monitoring exams to 26,651 responders in all 50 states. Mt. Sinai alone has provided over 30,000 of these exams to over 17,350 responders.

Since the New York and New Jersey Metropolitan Area Consortium treatment programs began, we have provided nearly 90,000

physical, mental and social work services in our consortium. Even now, approximately 150 new eligible responders join our program every month. Many of these responders continue to suffer health effects with attendant social and financial effects. We have seen asthma, sinus problems, GERD. Breathing tests still are abnormal in 25 percent of our patients. Mental health consequences are at rates seen in our returning veterans from Afghanistan.

If we look at six months of conditions in approximately 4,400 patients undergoing treatment in our programs, we see GERD or reflux in 53 percent. 35 percent have mental health problems. Lower respiratory conditions in 46 percent, upper respiratory conditions in 69 percent, social disability, no health insurance in 22 percent, and 64 percent have multiple medical conditions. Some have responded, but thousands have received treatment and still require care.

One of my patients, Mr. S, is a carpenter. He worked for a New York City agency and was in great health. Never had a health problem. Never had shortness of breath. He developed GERD, reactive airways, sinus problems, anxiety, couldn't work in a dusty environment and thus could no longer be a carpenter. He lost his health insurance, fell behind on his bills, couldn't obtain worker's compensation because it controverted his case. He couldn't afford medication, his necessary tests.

Through this program, he is receiving the care he needs, and his health is stable. He is not back to normal. He can't work anymore, but at least he is able to care for himself and his family.

We know that new conditions, things marked by longer latency, will emerge among 9/11 responders since they were exposed to carcinogens, neurotoxins, and other chemicals toxic to the respiratory track in concentrations and combinations never before encountered. The future health outlook for responders remains uncertain, and the long-term consequences of an unprecedented mixture of toxicants is not known. All of us must remain vigilant for these problems.

Through the medical findings I have summarized this morning and the persistence of illness that we are seeing in a substantial number of responders, we must have stable, predictable federal funding for a medical program for the responders. We establish these programs. We have established ties with our patients, gained their trust in our care for them, and we hope to continue doing this without interruption of care.

We are also coordinating data. This is the only way we are going to know what has happened to the 9/11 responders. We, in real time, collect data on the outcomes, looking for medical trends, patterns of disease. We can assess the efficacy of treatments. We can inform the medical community, the scientific community, and the legislative community of these findings. We disseminate these regularly in medical journals, and this will provide essential guidance in helping us in any future disasters.

All of the good work is impossible without the Centers of Excellence. We are providing state-of-the-art medical care to men and women who risk everything for us in a time tantamount to war. Our goal in these programs is simple: we want to provide the best care possible to these men and women and not worry we won't be

there if they need care for World Trade Center related diseases. Passage of H.R. 847 will ensure that the heroes of 9/11 are never forgotten. Thank you.

[The prepared statement of Dr. Moline follows:]

MOUNT SINAI
SCHOOL OF
MEDICINE

TESTIMONY

before

The United States House of Representatives

Committee on Energy and Commerce

Subcommittee on Health

Hearing on

HR 847 "James Zadroga 9/11 Health and Compensation Act of 2009"

Washington, D.C.

April 22, 2009

Presented By

Jacqueline Moline, M.D., M.Sc.

Vice Chair and Associate Professor

Department of Community and Preventive Medicine, Mount Sinai School of Medicine

Director

World Trade Center Medical Monitoring and Treatment Program at Mount Sinai

Good morning Chairman Pallone, Ranking Member Deal, Members of the Committee, and other Representatives, I would like to thank you for inviting me to present testimony today.

My name is Jacqueline Moline, MD. MSc. I am Vice Chair and an Associate Professor in the Department of Community and Preventive Medicine and also an Associate Professor of Internal Medicine at the Mount Sinai School of Medicine in New York City. I am a board certified specialist in Occupational Medicine and in Internal Medicine. I serve as Director of Mount Sinai's Clinical Center of Excellence within the World Trade Center Medical Monitoring and Treatment Program. This Center is the flagship of a regional and national consortium that has been supported by a series of grants from the National Institute for Occupational Safety & Health (NIOSH) since early 2002, and that through February 28, 2009 has diagnosed and treated nearly 27,000 WTC responders in the New York metropolitan area and across the United States.

I am here today to testify in strong support of HR 847. I will discuss the health status of the 9/11 responders and the current extent of WTC-related illnesses in these brave men and women. I will discuss with you the critical need for continuing to provide medical care for the responders. I will emphasize the importance of stable, long-term federal support for the Centers of Excellence, where the necessary expertise and unique experience have been developed to provide the complex, high-quality medical follow-up and treatment that the 9/11 responders need and so rightfully deserve. In my view, HR 847 represents the best vehicle for meeting the continuing medical needs of the 9/11 responders and for ensuring that these needs will be reliably met in the years ahead.

The Diverse Population of 9/11 Responders

In the days, weeks, and months that followed September 11, 2001 an estimated 60,000 to 70,000 people from across the U.S. responded selflessly – without concern for their own lives or well-being – when our

nation needed them. Workers and volunteers, they included traditional first responders - firefighters, law enforcement officers, paramedics, the National Guard - and the not so traditional, including a large and highly diverse force of ironworkers, operating engineers, laborers, telecommunications workers, transit and sanitation workers, building cleaners and more. Many more volunteered their services, helping out however they could. They came from across America – tens of thousands of men and women from New York, New Jersey, and Connecticut, and from every state in the nation. They toiled for days, for weeks and months in and around Ground Zero, the Staten Island landfill and adjacent areas -- engaged in rescue and recovery operations, the restoration of critically needed essential city services, and debris removal and clean up. Their hard work and bravery got New York and our nation back on its feet, and we owe them tremendous gratitude.

The Exposures

Much has been written about what these heroes were exposed to: it was a complex and unprecedented mix of toxic chemicals. The combustion of 90,000 liters of jet fuel created a dense plume of black smoke containing volatile organic compounds - benzene, metals, and polycyclic aromatic hydrocarbons. The collapse of the Twin Towers and then of a third building (WTC 7) produced an enormous dust cloud – filled with pulverized cement comprising 60 to 65% of the total dust mass. Trillions of microscopic glass fibers and glass shards, asbestos, lead, polycyclic aromatic hydrocarbons, hydrochloric acid, polychlorinated biphenyls or PCBs, organochlorine pesticides, furans and dioxins were also included. Levels of airborne dust were highest immediately after the attack, at estimated concentrations of 1,000 to > 100,000 $\mu g/m^3$ according to the US Environmental Protection Agency – creating the thick airborne "soup" as a bright sunny day turned into night. The high content of pulverized cement made the dust extremely caustic, with a pH similar to lye (pH 10–11). Fires burned both above and below ground until December of 2001, exposing

thousands of workers to noxious chemicals. Rubble-removal operations continued until May 2002 repeatedly re-aerosolized the dust, creating continuing (intermittent) exposures over many months.

In addition to these extraordinary physical exposures, the 9/11 responders suffered extreme psychological stress. Responders lost friends and family in the attack, and were frustrated by the fact that there were few survivors found. During the desperate search and rescue operations, thousands of them came upon human remains. Stress was compounded by fatigue as these dedicated workers remained at the site, working for hour upon hour, day after day. Among those most affected are the non-traditional responders - those not previously trained for any emergency, let alone a disaster of the scale posed by 9/11.

Centers of Excellence

Mount Sinai, through its Center for Occupational and Environmental Medicine that had been in place since the 1970's and was the largest center for occupational medicine in the New York metro area at the time of the attacks, took a leading role in medically evaluating and treating affected workers and volunteers in the wake of 9/11. This work began within days after the attack, many months before any federal program was in place. Our dedicated physicians and staff designed and developed what stands today as the federal government's flagship health response to 9/11, a model based on the experience and expertise of academic physicians with specialty training in occupational medicine, surrounded by a team of specialists in disciplines ranging from pulmonary medicine, to psychiatry and rehabilitation medicine as well as nurses, social workers and support staff. We have been proud to work as a partner with all of you – legislators, federal agencies, and importantly the stakeholders, the affected responders and many organizations that represent them to provide a program that brings experience and excellence in its provision of service. We have striven to assure to the best of our ability the same quality of care for every responder, and have developed a consortium to make it easier for patients to be seen in areas that are convenient for them.

Our regional consortium of Clinical Centers of Excellence – Mount Sinai School of Medicine, SUNY Stony Brook, Queens College/Center for Biology of Natural Systems, University of Medicine and Dentistry of New Jersey and Bellevue Hospital, together with a national program for responders that until recently we coordinated and is now contracted through Logistics Health International, has provided, as of February 28, 2009, over 46,858 monitoring examinations to 26,651 responders in all 50 states. Mount Sinai alone has provided over 30,758 of those medical evaluation services – to 17,367 responders. Since the New York and New Jersey Metropolitan area consortium treatment programs began, we have provided nearly 90,000 physical health, mental health, and social work services consortium-wide[1]. At Mt. Sinai alone, we have provided 63,548 treatment services - some through our privately-supported program, before federal funding was in place; 38,475 of these have been provided since federal funding began in the fall of 2006.

Much of what we know today about the health effects of the attacks on the WTC has been learned through this program and our sister program at the Fire Department of New York. Our physicians have diagnosed and carefully documented diseases in responders and linked these conditions to exposures sustained at the World Trade Center. We provide expert integrated medical, mental health and social work treatment that is, unfortunately, needed by tens of thousands of affected responders, and we provide this wide range of services regardless of patients' ability to pay. We remain constantly vigilant for newly emerging diseases and for trends of illness in the 9/11 responder population.

Demand for our Medical Monitoring and Treatment Program remains strong. Even now, almost 7 and a half years after 9/11, an average of approximately 150 new eligible registrants join the program each month.

[1] Most of the clinical centers began treatment programs for WTC responders with philanthropic funding. The first such program was initiated at MSSM in January 2003.

Health Effects

9/11 responders developed adverse health affects in 2001, and many continue to suffer. In addition, there have been social and financial impacts resulting in those whose health has been affected, adding to a list of loss and devastation for many responders, magnifying the health problems they face.

Respiratory conditions, including both upper and lower respiratory diseases, were prominent among the health effects that we began to see in responders as soon as our program began in 2002. We documented the health effects in responders from 2002-2004 a report published in 2006 in *Environmental Health Perspectives,* the respected peer-reviewed medical journal of the National Institute of Environmental Health Sciences. That report highlighted the following observations:

- New or worsened upper respiratory symptoms were experienced by 63% of program participants;
- New or worsened lower respiratory symptoms were experienced by 47% of participants, conditions such as asthma, RADS and COPD;
- Over one-quarter of responders had abnormal pulmonary function test results;
- Decreased forced vital capacity, a particular breathing abnormality, was found 5 times more frequently in non-smoking WTC responders than in the general, non-smoking population of the United States.

Mental health consequences also afflict a large percentage of 9/11 responders enrolled in the monitoring program. A paper that we published in 2008 in *Environmental Health Perspectives* documents, among over 10,000 Medical Monitoring patients, the presence of post-traumatic stress disorder (PTSD) in 11% of responders and depression in 9%, up to five years after September 11th. These rates are comparable to rates of PTSD among our veterans returning from Afghanistan.

Although many responders have shown signs of recovery, physical and mental health problems persist to the present time in a substantial proportion of the 9/11 responders. Rates of disease among responders who have returned for follow-up examinations, or who are coming in for the first time, have remained consistent and disturbingly high. A paper published in Chest in February 2009 compared pulmonary function tests, an objective measure of lung function in responders who have had two monitoring evaluations. The rate of breathing test abnormality was still close to 25%, much higher than the rates of disease in the nation as a whole, and certainly higher than we would expect among workers who are performing physically demanding work.

Statistics among patients actually in treatment in the New York/ New Jersey Consortium Clinical Centers – as evident by a six month snapshot of conditions seen among 4,398 patients between July 1, 2008 and December 31, 2008, highlight additional concerns:

- Gastrointestinal conditions affected 53% - most cases of GERD or gastro-esophageal reflux disorder.
- 35% were affected by mental health problems – including PTSD and major depression.
- Lower respiratory conditions affected 46% of patients.
- Upper respiratory conditions affected 69%.
- Social disability was unfortunately common, with over 22% of responders being unemployed/laid off, or on sick leave/disability during the observation period.
- 21% had no medical insurance at some point during the period.
- 64% suffered from multiple WTC-related covered conditions.

Because most of our patients are being treated for more than one WTC-covered condition, it is critical that they receive this care in Centers of Excellence where providers understand the complexity of the physical

and emotional needs of the responders. A majority of patients in our program receive treatment on an outpatient basis, but we have also had several inpatient admissions for conditions such as asthma attacks, complicated sinus surgeries, and for treatment of the mental health consequences, such as severe depression and attempted suicides.

These medical findings in the 9/11 responders fit with scientific understanding of the exposures that the responders sustained at Ground Zero. These findings are consistent also with the results of studies undertaken by the FDNY, the New York City Department of Mental Health and Hygiene, the Bellevue WTC Environmental Clinic and other independent researchers. The percentage of individuals afflicted by physical and mental health problems has been remarkably consistent across the various published studies, whether they are examining firefighters, construction workers, police officers, or office clean-up workers. Some responders have, of course, recovered. Many have been helped by the treatments that the Centers of Excellence provide. But the persistence of WTC-related physical and mental illness in thousands of responders nearly 7.5 years after the attack is no longer in question.

The possibility is real that new conditions – diseases marked by longer latency – will also emerge among the 9/11 responders. We know that responders were exposed to carcinogens such as asbestos and benzene, as well as neurotoxins, and chemicals toxic to the respiratory tract in concentrations and in combinations that never before have been encountered.

Longer term conditions we might see could include cancers, auto-immune disorders, and pulmonary fibrosis. The future health outlook for responders still remains uncertain. The long-term consequences of such unique exposures are not yet fully known. Because physicians and scientists have never before studied an unprecedented mixture of toxicants like this-- which resulted from the attack and collapse of the

most computerized office tower complex in the world, with vast numbers of compounds and potentially toxic agents inside released at Ground Zero. It will take decades to determine any collective tally of exactly what the health effects might be. It is for these reasons that all of us in the Centers of Excellence must remain constantly vigilant.

I'd like to describe for you two of my patients, who suffer from health consequences that are similar to so many others in our Centers of Excellence. Mr. H. is an ironworker who had actually retired in 1999. He returned to Ground Zero in September 2001 to provide assistance, since he had a skill set that was essential to the rescue and recovery effort. He stayed at Ground Zero for 3 months, working long days. Mr. H. had childhood asthma, but he had never had significant symptoms in over forty years of work as an ironworker. That all changed after the exposures he sustained at the WTC site. He now has severe asthma, has been hospitalized twice for asthma attacks, and takes multiple medications to treat not only his asthma but new onset sinus problems and GERD. Mr. S, a carpenter for a NYC agency, was in good health before he worked at the WTC site. He served there for 45 days. He was never bothered by dust, which was a daily part of his job. He developed severe GERD, reactive airways, rhinosinusitis, and anxiety. He was unable to work in a dusty environment anymore, and thus could no longer work as a carpenter. He lost his health insurance. He fell behind on his bills. He had difficulty obtaining care through his worker's compensation insurance, which controverted his claim, and he could not afford his medication or necessary tests. This program has provided him the care he needs, and his health is now stable. While it is not back to normal, and he can not work any longer, he has improved with comprehensive care, and can now take care of his family, and himself.

Conclusion

The medical findings in the 9/11 responders that I have summarized this morning, and most importantly, the persistence of WTC-related illness in a substantial proportion of the responders, underscore the critical importance and the urgent need for stable, predictable, multi-year federal support for a medical program for the responders. The complexity of these conditions and the difficulty of their treatment strongly support the need for provision of this care in the setting of an established medical monitoring and treatment program that is based in Centers of Excellence, and led by experienced physicians with specialty training in Occupational Medicine. Through the years that these programs have been in existence, we have identified countless health problems, and saved lives. We have developed relationships with our patients- and they trust us to provide them with the best care we can, and trust that we will be positioned to determine the magnitude of health problems they collectively face, and what we should be looking our for. HR 847 will accomplish these goals.

Data coordination is a second very powerful reason to sustain the Centers of Excellence model for provision of medical care to the 9/11 responders. The Centers of Excellence are highly skilled and experienced in the medical tracking and epidemiological monitoring of the responders' health as well as in overseeing the quality and in monitoring the outcomes of the care provided to the responders. Through the work of the epidemiologists, statisticians, and data base experts in our WTC Data and Coordination Center at Mount Sinai we have tracked medical trends and patterns of disease in responders. We have assured, as best we are able, uniform quality in services for all program participants. We have assessed the efficacy of our treatments. All of the data collected through the Data and Coordination Center are analyzed. Key findings are regularly disseminated to the medical community, policy-makers and the public through publication in major, peer-reviewed biomedical journals. This dissemination of findings and recommendations for diagnosis and treatment permits us to share our knowledge and to optimize medical

care. This shared knowledge and experience provides invaluable guidance in preparing for disaster planning for the future. Again, HR 847 can do this.

All of this good work would be impossible in the absence of Centers of Excellence. These Centers of Excellence are a national treasure. They are providing state-of-the-art medical care to the men and women who risked everything for all of us in a time tantamount to war. Our goal is to provide the best care possible to these men and women, and not have to worry that we won't be there for them if they still need care for their WTC-related diseases. This bill, *HR 847 "James Zadroga 9/11 Health and Compensation Act of 2009*, will ensure that the work of the Centers of Excellence can continue. Passage of HR 847 will ensure that the heroes of 9/11 are never forgotten.

Thank you.

I am pleased to answer any questions

Mr. PALLONE. Thank you, Dr. Moline. Dr. Reibman is next.

STATEMENT OF JOAN REIBMAN

Dr. REIBMAN. Good morning, Chairman Pallone, Ranking Member Deal, members of the committee. My name is Joan Reibman, and I am an associate professor of medicine and environmental medicine at New York University. And I am an attending physician at Bellevue Hospital, a public hospital on 27th Street in New York City.

I am a specialist in pulmonary medicine, and for the past 17, almost 18 years now, I have directed the NYU/Bellevue Asthma Center and am pleased to be able to testify on behalf of the local workers, the residents, and the students of downtown New York who are exposed to World Trade Center dust and fumes.

I am very pleased to be here today to support H.R. 847, The James Zadroga 9/11 Health and Compensation Act which would provided needed long-term funding for the monitoring and treatment of those members of the community exposed to toxic substances as a result of 9/11. Many of these individuals unfortunately have become patients with long-term health needed related to respiratory as well as other physical and mental health illness.

Let me talk a little bit about populations at risk. You have heard a lot about the heroes who helped in the recovery of our city and our country. I would like to tell you a little bit about the people that we serve, the local workers, residents, and the students exposed to the World Trade Center dust and fumes. On the morning of 9/11, about 300,000 individuals were at work in the area or in transit to their offices. Many were caught in the initial massive dust cloud as the buildings collapsed. We now call these people the dust cloud people. These are the thousands whom you saw in the videos and the still photographs coated in white running for their lives.

In the great outpouring of pride and patriotism after 9/11, many local workers returned to work one week later. The massive World Trade Center cleanup and rescue operation still in full force and not all the buildings completely cleaned or decontaminated.

As you also know, lower Manhattan is a dense residential community. Almost 60,000 people of diverse race and ethnic backgrounds live south of Canal Street. They are economically diverse, some living in large public housing complexes, others in new co-ops. Lower Manhattan is also an educational hub.

There are almost 15,000 or more school children, large numbers of university and college students. Many of these students were locked in their building. Others were told to run for their lives. The dust of the towers settled on streets, playgrounds, cars, and buildings, entered apartments, schools, and office buildings through windows, building cracks and ventilation systems. The World Trade Center buildings burned through December. Each of these groups have potential for exposure to the dust, both indoors and outdoors, and to fumes from the fires that continued to burn.

So what were the initial health effects in these populations? As pulmonologists in a public hospital, we sought to determine whether the collapse of the buildings posed a health hazard, and we worked to monitor the effect on the local residents in collaboration

with the New York State Department of Health and with funds from the Centers for Disease Control and looked at the rate of new respiratory symptoms in the local residents after 9/11.

This first study was completed just over a year after 9/11 and has also been reported in three peer-reviewed publications. We were able to document that individuals who lived near the area compared to those who lived away from the area had a more than three times the number of reported incidents of eye irritation, nasal irritation, sinus congestion, nosebleeds, headaches, a threefold increase in lower respiratory symptoms including cough, shortness of breath, a six and a half fold increase in wheezing. These are people who were previously healthy, and this was also associated with an almost twofold increase in unplanned medical visits and use of medications prescribed for asthma.

Residents reporting a longer duration of dust or odors or multiple sources of exposure had greater risk for symptoms compared to those reporting a shorter duration. Data from a New York City Department of Health and Mental Hygiene World Trade Center registry further documented adverse health effects in building evacuees, school children, and support our original findings.

What do we now know about these populations and their illness? After 9/11, we began to treat residents who felt they had World Trade Center related illness in our Bellevue Hospital asthma clinic. We then developed a community collaboration and together began an unfounded program. We were subsequently awarded American Red Cross liberties disaster relief grant in 2005 to set up a medical treatment program. And a year later, we received major funding from the city of New York.

In the last year, we have just received our first federal funding support for five years for a treatment program from the National Institute for Occupational Safety and Health. I am sorry, providing three years of support. We know have an interdisciplinary medical and mental health program that has evaluated and is treating approximately 3,500 patients. We continue to receive inquiries each week. Most come from local people; however, we have received calls from individuals living in about 20 other states.

To enter our program, one has to have a medical or now mental health complaint. We are not a screening program for asymptomatic individuals. To date, our patients are almost equally men and women of diverse race, ethnicity, and many, although not all, are uninsured. Some have never sought medical care. Some have been unable to seek care for lack of insurance. Others have been seeing doctors for years since 9/11 with recurrent bronchitis, pneumonia, sinusitis, or unexplained shortness of breath.

As described in an article that we have just published, these individuals, residents, local workers, as well as cleanup workers and a few responders in our program have symptoms that include persistent rhino-sinusitis, asthma-like symptoms of cough, shortness of breath or wheeze, for which they continue to need care more than seven, almost eight years after 9/11.

Thirty percent have shortness of breath that is at a level consistent with significant activity limitation. Ten percent have the highest score on a standardized scale of breathlessness used for disability assessment. These are people who report that they were

previously working and functional. Many report that they had been highly physically active, some training even for marathons. Over 50 percent of our population continues to have persistent post-traumatic stress disorder.

There are a lot of questions about this population. What respiratory disease are we treating? We now believe that the exposure resulted in several respiratory illnesses with varied patterns. Many of our patients have irritant-induced asthma. Although we can treat this, these individuals require prolonged courses of inhaled corticosteroids and bronchodilators, sometimes even oral steroids. Many will require these medications for years, if not for life.

Others show a process in the lungs that may consist of a type of inflammation, a granulomatous process that is like an illness that is called sarcoid. Others have lung diseases that affect not only their airways or breathing tubes, but also the air sacs that allow for the exchange of oxygen and carbon dioxide. Some have pulmonary fibrosis, characterized as scarring or permanent damage in the lungs and are awaiting lung transplants.

How do we know whether an illness is World Trade Center induced? We often hear that these diseases are common in the population anyway. How do we know that these people are sick from World Trade Center exposure?

Mr. PALLONE. Dr. Reibman, I hate to interrupt you, but you have basically used about as much as the others. But looking at your written statement, you are not even halfway through. So I don't know if you could summarize from now on.

Dr. REIBMAN. I would be pleased to summarize.

Mr. PALLONE. Thank you.

Dr. REIBMAN. I would just like to say that without these centers, we will not understand what we are treating, who we are treating, and how to treat. We would not understand why some people are sick and others aren't. We would not understand if there are going to be late emergent diseases not only in the responder population but also in the community population. And therefore we think it is very important, and we very strongly support this bill that provides support not only for the responders but also for the community. And I would like to thank you very much.

[The prepared statement of Dr. Reibman follows:]

Statement of

Joan Reibman, MD

Associate Professor of Medicine and Environmental Medicine
Director NYU/Bellevue Asthma Center
Director of Health and Hospitals Corporation WTC Environmental Health Center

Bellevue Hospital
New York University School of Medicine

H.R. 847, the James Zadroga 9/11 Health & Compensation Act of 2009

Before the

Committee on Energy and Commerce
Sub-committee on Health
U.S. House of Representatives

April 22, 2009

Good morning, Chairman Pallone, Ranking Member Deal, Members of the committee. My name is Joan Reibman, and I am an Associate Professor of Medicine and Environmental Medicine at New York University School of Medicine, and an Attending Physician at Bellevue Hospital, a public hospital on 27th Street in NYC. I am a specialist in pulmonary medicine, and for the past 17 years, I have directed the NYU/Bellevue Asthma Center. I am pleased to be able to testify today on behalf of the local workers, residents and students of downtown New York who were exposed to World Trade Center dust and fumes.

I am very pleased to be here today to support H.R. 847, the James Zadroga 9/11 Health & Compensation Act of 2009, which will provide needed long-term funding for the monitoring and treatment for those members of the community exposed to toxic substances as a result of the 9/11 terror attacks. Many of these individuals, unfortunately, have become patients with long-term health needs related to respiratory as well as other physical and mental health illness.

First, I would like to thank this Committee and the Members of Congress who have shown their continuing and extraordinary support for our patients and our program, especially Congressman Nadler. The efforts in Congress resulted in an RFP which we applied for, and in September 2008, we were awarded funding for a 3 year program, - $10 million each year – for three years.

Populations at risk

Let me now tell you about the people that we serve, the local workers, residents and students exposed to World Trade Center dust and fumes. On the morning of 9/11 over 300,000 individuals were at work in the area, or in transit to their offices. Many were caught in the initial massive dust cloud as the buildings collapsed – these are the thousands whom we saw in video and still photographs coated in white, running for their lives. In the great outpouring of pride and patriotism after 9/11, many local workers returned to work one week later, the massive WTC clean-up and rescue operation still in full force, and not all buildings completely cleaned or decontaminated.

As you know, Lower Manhattan is also a dense residential community; almost 60,000 residents of diverse racial and ethnic backgrounds live south of Canal St. (US census data). They are economically diverse; some living in large public housing complexes, others in newly minted coops. Lower Manhattan is also an educational hub; there are some 15,000 school children, and large numbers of university and college students. Some were locked in their buildings; others were let out and told to run. The dust of the towers settled on streets, playgrounds, cars, and buildings. Dust entered apartments, schools and office buildings through windows, building cracks, and ventilation systems. The WTC buildings continued to burn through December.

Each of these groups had potential for exposure to the dust, both indoors and outdoors, and to fumes from the fires that continued to burn.

Initial health effects in community populations

As pulmonologists in a public hospital, we sought to determine whether the collapse of the buildings posed a health hazard. Our first step was to monitor the effect on the local residents. With funds from the Centers for Disease Control, and in collaboration with the New York State Department of Health, we looked at the rate of new respiratory symptoms in local residents after 9/11. This first such study was completed just over a year after 9/11 and the results have been reported in three peer-reviewed publications (Reibman et al. The World Trade Center residents' respiratory health study; new-onset respiratory symptoms and pulmonary function, Environ. Health Perspect. 2005; 113:406-411. Lin et al. Upper respiratory symptoms and other health effects among residents living near the world trade center site after September 11, 2001, Am. J. Epidemiol. 2005; 162:499-507, Lin et al., Reported respiratory symptoms and adverse home conditions after 9/11 among residents living near the World Trade Center. J. Asthma 2007; 44:325-332).

We surveyed residents in buildings within one mile of Ground Zero, and, for purposes of control, other lower-risk buildings approximately five miles from Ground Zero. Analysis of 2,812 individuals revealed that new-onset and persistent symptoms such as eye irritation, nasal irritation, sinus congestion, nose bleed, or headaches were reported by 43% of the exposed residents, more than three times the number reported by control residents. An over three-fold increase in lower respiratory symptoms including cough, shortness of breath, and a 6.5-fold increase in wheeze (10.5 % of exposed residents versus 1.6% of control residents respectively) was reported. An almost two-fold increase in unplanned medical visits and use of medications prescribed for asthma in the exposed residents compared to the control residents was also reported. Residents reporting a longer duration of dust or odors or multiple sources of exposure had greater risk for symptoms compared to those reporting shorter duration. Data from the NYCDOHMH WTC Registry, further document adverse health effects in building evacuees and school children, and support our original findings.

Current knowledge about health effects in community populations

After 9/11, we began to treat residents who felt they had WTC-related illness in our Bellevue Hospital Asthma Clinic. We were then approached by a community coalition and together began an unfunded program to treat residents. We were awarded an American Red Cross Liberty Disaster Relief Grant in 2005 to set up a medical treatment program for WTC-related illness in residents and responders. A year later, we received additional philanthropic funding, and major funding from the City of New York to provide evaluation and treatment of individuals with potential World Trade Center-related illnesses. This program was initially awarded $16 million over 5 years to Bellevue Hospital. On the recommendations of a panel appointed by Mayor Bloomberg, the Mayor expanded the Bellevue program and in 2007 added another $33 million for 5 years, allowing for expansion of the program and the addition of two additional sites. In September 2008, we received our first federal funding under a grant awarded from the

National Institute for Occupational Safety and Health (NIOSH) providing three years of support. We are extremely grateful for the city and federal funding, but we need federal support to sustain the program over the long term.

We now have an interdisciplinary medical and mental health program that has evaluated and is treating approximately 3,500 patients. We continue to receive inquiries each week; while most come from local people, we have received calls from individuals living in about 20 other states. To enter our program, an individual has to have a medical or now, a mental health complaint; we are not a screening program for asymptomatic individuals. To date, our patients are almost equally men and women, of diverse race/ethnicity and many, although not all, are uninsured. Some have never sought medical care, some have been unable to seek care for lack of insurance, others have been seeing doctors for years since 9/11, with recurrent bronchitis, pneumonia, sinusitis, or unexplained shortness of breath.

As described in our most recent article, these individuals, residents, local workers, as well as clean-up workers and responders, have symptoms that include persistent rhinosinusitis (40%), asthma-like symptoms of cough (47%), shortness of breath (67%) or wheeze (27%) for which they continue to need care more than 7 years after 9/11 (Reibman et al. J. Occupational and Environmental Medicine, epub ahead of print April 10, 2009). One third of our population have lung function that is below the lower limit of normal; 40% have shortness of breath at a level that is consistent with significant activity limitation, 10% have the highest score on a standardized scale of breathlessness used for disability assessment. These are people who report that they were previously working and functional, and many report that they were highly physically active – even training for marathons -- and now require daily medication to allow them to walk a few city blocks. Over 50% of our population continues to have persistent post traumatic stress disorder.

Frequently asked questions

What respiratory disease are we treating?

We now believe that the exposure resulted in several respiratory diseases. The respiratory abnormalities have varied patterns. Most of our patients have irritant-induced asthma. Although we can treat this, these individuals may require prolonged courses of inhaled corticosteroids and bronchodilators, sometimes even oral steroids. Many will require these medications for years, if not for life. Others show a process in their lungs that may consist of a type of inflammation, a granulomatous process that is like an illness called sarcoid. Others have lung diseases that affect not only their airways, or breathing tubes, but also the air sacs that allow for the exchange of oxygen and carbon dioxide. Some have pulmonary fibrosis, characterized as scarring or permanent damage in the lungs, and are awaiting lung transplants.

How do we know whether an illness is WTC-induced?

We often hear, well these diseases are common in the population anyway, how do we know that these people became sick from WTC exposures. We have no simple test to determine whether any individual illness is related to WTC exposure. We now believe

we can recognize a set of symptoms associated with World Trade Center exposures based upon patients' reports of exposure, the temporal sequence of illness and a particular constellation of symptoms. The DOHMH WTC Registry provides us with the larger epidemiological picture and context that inform our daily clinical practice.

How many people in the community are sick?

We are asked this question repeatedly. We are asked this for health information, for budgetary reasons, and for planning issues. We cannot answer the question. Our program consists of a self-referred population, and so we cannot determine the prevalence of illness in the community. Unfortunately, there was no government-sponsored formal community screening program put in place in the immediate aftermath of the disaster. We are now faced with a nagging question that we will never be able to answer, how many are ill. The NYCDOHMH WTC Registry provides some information, and although this program did not begin until 3 years after the event, relies upon self-reported information and lacks a formal control group, estimates of burden of illness derived from this program suggest that between 3,000 to 9,000 adult community members (residents, building occupants, people in transit) have developed new onset asthma and 38,000 have developed PTSD (Farfel et al. J. Urban Health 2008; 85: 880). Perhaps this is one of the most important lessons we can learn for the future. All potentially exposed communities need to be screened if there is a risk of adverse health effects. If that system had been put in place, we might be better able to answer this burning question.

I would though like to point out to the Committee that the bill before you, H.R. 847, places a cap on the number of individuals that can newly enter the federally supported community program. The bill sets that number at 15,000 maximum along with the 3,500 current patients.

Why are some people sick, and others not?

The level of exposure clearly plays a role in determining who will or has become ill. However, there is also a role for individual susceptibility. This is similar to tobacco-induced disease: some smokers remain healthy, while for others, tobacco causes lung disease, cancer, and heart disease. Only through the existence of long term Centers will there ever be sufficient data collected to attack such medical puzzles.

Will there be late emergent diseases?

This is of course the question at the back of everyone's mind. Will there be a high rate of cancers in the adult community, will children with early life exposure have long term effects including cancers. Without long term Centers, and without centers that treat community members, not only adult responders, we will never have answers.

Many peer-reviewed published articles as well as our clinical experience, report that large numbers of community members – residents, students and local workers were subject to environmental exposures on a large and unprecedented scale and that these exposures had measurable medical consequences. These men, women and children will require continued evaluation, treatment, and monitoring for years to come.

Why do we need H.R. 847, The 9/11 Health and Compensation Act of 2009?.

The bill before this committee today, provides much needed long-term stability for our program and for our patients. The bill provides long-term, sustained funding to monitor and treat those who are sick or who could become sick because of exposures related to the 9/11 attacks, and it funds critical research so that we can understand the long-term health impacts of the terrorist attacks. Importantly, the bill includes federal funding to provide long-term monitoring and treatment for residents, area workers and community members. The WTC Environmental Health Center at the City's Health and Hospitals Corporation is the only Center for treatment of this community.

Support for this program has been provided through philanthropy and predominantly by New York City, only just this fiscal year, have we received any federal funding for treatment.

The bill defines specific groups, including local workers and residents and delineates specific geographic areas that people must have been in on September 11 or immediately following to be eligible for treatment. These boundaries reflect the best data we have available at this time but also recognizes that we do not know the full extent of the health impacts of the disaster.

People who meet these criteria are "eligible" for treatment but then a doctor with experience treating WTC-related conditions must determine, based on a medical examination and on standardized questionnaires, whether or not a patient is eligible for treatment; and even then, that decision is subject to review and certification by the federal WTC administrator. These are tough standards but ensure that only those who are sick because of 9/11-related exposures will be treated under the WTC health program.

The bill caps the number of responders and community members who can get monitoring or treatment. Again, these limitations are based on the best available information about how many people could potentially seek treatment, and while we think they will be sufficient to provide treatment to anyone who may need it, there are reporting requirements in the bill so that Congress will be told if those caps are approached.

The bill also mandates the establishment of Quality Assurance and Fraud Prevention programs to prevent funds from being used for any purpose other than to monitor and treat those affected by the 9/11 attacks. The City also has its own incentives to contain costs because the City has agreed to be responsible for paying a percentage of the cost to treat anyone treated at a WTC Environmental Health Center serving the community members. Finally, the federal program will be secondary payor to both Workers Compensation payments and to applicable health insurance available to an eligible recipient with a WTC-related condition. Although I wish the program would be primary payor, as currently outlined, the program will provide a safety net for individuals who have inadequate insurance, or who do not have health insurance.

Research on diseases related to the 9/11 attacks is essential. The bill ensures that critical 9/11-related research continues. Long-term research is the only way that we're going to be able to develop a full understanding of the health impacts of 9/11. The Centers of Excellence have all contributed to research efforts. The research funded in the bill will make it possible for both patients and clinicians to have the necessary information to make informed decisions about health treatment and to make available the best science to determine what conditions qualify for treatment under this bill.

We need the full and predictable sources of federal funding which this bill provides. I urge you to support this bill to help us ensure first-rate care for all of those who desperately need it.

I thank you for the opportunity to testify today and would be glad to take any questions.

Mr. PALLONE. Thank you, and I apologize. Your whole written testimony becomes part of the record in any case, but I am just trying to keep the time to a minimum if we can. Next is Dr. Melius.

STATEMENT OF JIM MELIUS

Dr. MELIUS. Thank you, Chairman Pallone and Representative Weiner. I greatly appreciate the opportunity to appear before you at this hearing this morning. I am an occupational physician epidemiologist, currently work for the New York State Labor of Health and Safety Trust Fund in New York. And I also served the last several years as chair of the steering community for the medical monitoring and treatment program.

I believe that Drs. Moline and Reibman have already presented a good description of some of the illnesses that people are suffering that were exposed to the World Trade Center. I don't want to repeat that information. Only indicate it is certainly remarkable how many of the people are. The numbers sometimes get lost when one thinks what a high percentage is, as both of them have presented here today.

We have a lot of sick people, and there are many that are disabled and many that are continuing to need intensive medical care.

I would like to focus briefly on why do we need the federal program and what are some of the features of this legislation that I think deserve support here in Congress. We need the federal funding for this program because other funding just is not available. Health insurance does not cover work-related health problems. So they automatically get turned down. That includes Medicare.

Many of the people in the community don't lack health insurance. All the problems that, I think, actually this subcommittee may be dealing with in terms of health care reform. We have major problems there. So those two together, I think, make health insurance a very—you know, provides very limited help for these people.

One would think that worker's compensation would be a logical place that would support these kinds of illnesses. To the extent that they are work-related, it certainly could be. The problem is that worker's compensation is not very good at handling new kinds of illnesses, new kinds of findings, and takes a long time. The average claim takes over three years to make it through the system. And then even then it can be contested for many more years. If there are changes in treatment, regimen, something, the insurer can also contest that. So it is not a system that provides for good medical care for the kind of intensive medical care that these people require, and one that is complicated, one that is constantly changing as the Centers of Excellence learn more about that.

So I think, just to be clear, the legislation provide for some recovery of whatever funding might be available for health insurance or worker's compensation, but that will never be able to provide the kind of comprehensive funding that is needed for these medical programs.

So what has been devised in H.R. 847, which I strongly support, is a mechanism that provides where the federal government would provide funding set up so it goes to Centers of Excellence. Well, why Centers of Excellence? Because we need centers such as the ones that Dr. Reibman and Dr. Moline run that have significant

core of expertise and experience in dealing with World Trade Center medical problems.

As we have heard Mr. Torres say, when he first went to Mt. Sinai, he finally found a medical care provider that understood his problems and was able and ready to provide the kind of care that he needed. And the Centers of Excellence can do that, that by seeing large numbers of people with these conditions, they can understand the problems, develop the appropriate treatment, appropriate ways of diagnosing these problems. And they can standardize the diagnosis and care of that.

They can also collect the data that is needed to learn not only what is happening to these people and what the findings are, but also are new diseases going to emerge. The list of covered conditions currently in the bill cover those that we know about now, that have a sound scientific basis in the medical literature, the asthma, post-traumatic stress, and other diseases that have been mentioned here. But we may very well see other kinds of illnesses, cancer. We just don't know going forward.

By having the data collection place, we will be able to recognize those as they appear. There are already studies underway looking at this, and there are mechanisms in the bill both on an individual basis and on a collective basis to be able to take care of people with health conditions that aren't yet recognized but may be. But those would only be triggered if there is significant scientific and medical evidence saying that those conditions should be covered.

There are also provisions in the bill that provide for significant oversight by the federal government in all aspects of this program. Certification that people are eligible for program, certification that they are eligible for treatment, that they have a World Trade Center condition that should be treated.

Oversight over the quality of the medical care, oversight over the reimbursement for that medical care and I think the mechanism that parallels other federal programs in terms of providing a good oversight of this program. So it is not something that, you know, where the money will be carelessly spent. It will be very carefully spent and very carefully monitored by the federal government.

And finally it also sets up a mechanism for recovery from health insurance and from worker's compensation insurers where that is appropriate for medical care treatment costs. So if, for example, in worker's compensation. If there is a claim that has been recognized or if a claim that is in process eventually gets recognized in the system, there will be a program in place for the federal government to recover the reimbursement that was already spent, the medical care costs that the federal government has already spent.

And I think that will make a significant difference in terms of, you know, a fair share from those sources of funding the same time without impeding or unnecessarily delaying the medical care for the responders or for the community residents that are in this program.

I think this bill as it is presently developed here, the medical program is—it has the right safeguards. I think it will provide excellent medical care, a way for us to provide what these people deserve for the sacrifices they made to our country and one that without the federal assistance just would not be provided for them.

It has already been going on eight years, and I think it is, you know, time we try to get this program in place on a more permanent basis and provide a good sound and excellent medical program for these people. Thank you, and I would be glad to answer any questions.

[The prepared statement of Dr. Melius follows:]

TESTIMONY

Before

The United States House of Representatives

Committee on Energy and Commerce

Subcommittee on Health

Hearing on

9/11 Health and Compensation Act of 2009

Washington, DC

April 22, 2009

Presented by

James Melius MD, DrPH

Administrator, New York State Laborers' Health and

Safety Trust Fund

Albany, NY

Honorable Chairman Pallone and other members of the Subcommittee on Health. I greatly appreciate the opportunity to appear before you at this hearing.

I am James Melius, an occupational health physician and epidemiologist. I currently work as Administrator for the New York State Laborers' Health and Safety Trust Fund, a labor-management organization focusing on health and safety issues for union construction laborers in New York State. During my career, I spent several years working for the National Institute for Occupational Safety and Health (NIOSH) and later for the New York State Department of Health. I currently serve on the federal Advisory Board on Radiation and Worker Health which oversees part of the federal compensation program for former Department of Energy nuclear weapons production workers.

I have been involved in health issues for World Trade Center responders since shortly after September 11th. Over 3,000 of our union members were involved in response and clean-up activities at the site. One of my staff spent nearly every day at the site for the first few months helping to coordinate health and safety issues for our members who were working there. When the initial concerns were raised about potential health problems among responders at the site, I became involved in ensuring that our members participated in the various medical and mental health services that were being offered. For the past five years, I have served as the chair of the Steering Committee for the World Trade Center Medical Monitoring and Treatment Program. This committee includes representatives of responder groups and the involved medical centers (including the NYC Fire Department) who meet monthly to oversee the program and to ensure that the program is providing the necessary services to the many people in need of medical follow-up and treatment. I also serve as co-chair of the Labor Advisory Committee for the WTC Registry operated by the New York City Department of Health. These activities provide me with a good overview of the benefits of the current programs and the difficulties encountered by responders seeking to address their medical problems and other needs.

I believe that other physicians involved in the medical programs for World Trade Center responders and community residents have already presented (or will present) more detail on the medical findings from their respective medical programs. The pulmonary disease, mental health difficulties, and other health problems among both the responders and community residents are occurring among large numbers of these people, and many of these have developed serious illness leading to disability and long term health damage. All of the medical programs have done an outstanding job in providing high quality medical care for the many thousands of people whose health has been damaged by their exposures at the World Trade Center. Without their excellent work and the federal support for these programs, their patients would have had great difficulty in obtaining the expert medical care that is critical for their diagnosis and treatment. Given the focus of these hearings, I believe that it may be helpful to examine the reasons why so many of the participants need assistance for paying for their medical treatment and why HR 847 is necessary to address this problem.

HEALTH INSURANCE COVERAGE

The people who were exposed in the initial response to the September 11th disaster and the later recovery activities represented many different types of workers with varying types of health insurance coverage. However, it is important to note that for everyone in the program who became ill because of job-related exposures (i.e., all of the rescue, recovery, and clean-up workers), their health insurance plans will not cover work-related health problems. Medical cost for work-related injuries and health problems are routinely excluded in all health insurance including Medicare. Even if their health insurance did cover these illnesses, many of the most ill people have lost their health insurance coverage because they are unable to work or would have difficulty covering the co-pays and deductibles if they continue to have some coverage.

WORKERS' COMPENSATION COVERAGE

One alternative to health insurance coverage for WTC-related conditions is workers' compensation insurance. Workers' compensation is supposed to be a no fault insurance system to provide workers who are injured or become ill due to job-related factors with compensation for their wage loss as well as full coverage for the medical costs associated with the monitoring and treatment of their condition. Similar to health insurance, the WTC program participants are covered by a variety of state, federal, and local programs with different eligibility requirements, benefits, and other provisions. Most private and city workers are covered under the New York State Workers' Compensation system. New York City fire fighters and police are covered by line of duty disability system that is administered by the fire and police departments and their respective pension systems.

As I testified at the September 2007 hearing held by this subcommittee, the major difficulty with these compensation systems is the long delays in obtaining coverage. For example, the NYS Workers' Compensation system is very bureaucratic. The insurer may challenge every step of the compensation process including even diagnostic medical testing. This challenge usually requires a hearing before a Workers' Compensation Board (WCB) administrative judge to evaluate the case, and this hearing may often be delayed for months. Even once the case is established, the insurer can still challenge treatments recommended for that individual even for a medication that the individual may have been taking for many months for a chronic work-related condition. Thus, it may be many years before the case of a person with a WTC-related condition is fully recognized and adjudicated by the compensation system. Meanwhile, the claimant may not be receiving any medical or compensation benefits or may have had their benefits disrupted many times.

Despite implementing legislative changes to help address problems with WTC claims, WTC claimants still experience major delays in pursuing their claims. I recently served on an advisory committee evaluating potential problems with WTC claims in New York.

We found there continued to be major problems with delays and recommended additional legislative changes in order to alleviate those problems.

In summary, we cannot rely on workers' compensation or line of duty disability programs to provide medical coverage for WTC rescue and recovery workers in a timely and responsive fashion. Patients with WTC-related health conditions need comprehensive and often complex medical management. Medical reimbursement provided through worker's compensation is not administered in a manner that facilitates such care. Rather, it would obstruct and delay the medical care for many of the responders and only aggravate their medical conditions rather than help them to get better.

COMPREHENSIVE SOLUTION

A comprehensive solution is needed to address the health needs of the 9/11 rescue and recovery workers. We cannot rely on a fragmented system utilizing private philanthropy, health insurance, line of duty disability retirement, and workers' compensation to support the necessary medical monitoring and treatment for the thousands of people whose health may have been impacted by their WTC exposures. This fragmented approach will inevitably leave many of the ill and disabled rescue and recovery workers without needed medical treatment and will only worsen their health conditions. The delays and uncertainty about payments would discourage many of the ill rescue and recovery workers from seeking necessary care and discourage medical institutions from providing that care.

HR 847 The James Zadroga 9/11 Health and Compensation Act of 2009 would provide the comprehensive framework needed for the WTC medical program and ensure that adequate funding was available to cover the needed medical care for thousands of rescue, recovery, and clean-up workers, and community residents whose health has been damaged as a result of September 11. By building on the current medical programs already in place for rescue and recovery workers and for community residents, the Act provides for continuity for the thousands of patients being treated in those programs.

However, it also adds many provisions that will improve the program. I would like to briefly describe some of the key provisions:

Centers of Excellence. The medical program will utilize the existing Centers of Excellence as the major source of medical care for the responders and community residents participating in the program. All of these centers have extensive experience in caring for these patients. This will help to ensure that high quality care is provided by physicians familiar with the medical problems being experienced by these patients. The Centers will also be collecting and analyzing the medical data on these groups which will help to ensure that any new pattern of illness is recognized at an early stage. The Centers of Excellence will also work with NIOSH to help ensure that additional medical providers recruited to provide care in the program (e.g., for responders living outside of the NYC metropolitan area) will have the proper background and experience to also provide high quality medical care.

Certification The legislation also provides for the federal government to have significant involvement and oversight over the program. The government will make final decisions on program and treatment eligibility. There are also provisions for government oversight over health care reimbursement for care provided in the program and for quality assurance efforts.

Recovery of health insurance and workers' compensation costs. The legislation also provides for recovery of program medical expenditures from health insurance (for non work related health problems) and from workers' compensation and similar programs for patients with work-related medical problems. These provisions will help to reduce the costs of the program without unnecessarily delaying the medical care for the participants.

This is a critical time for these programs. We need legislation that will ensure the long term continuation of this medical care. Discontinuing or disrupting this high quality, coordinated medical treatment would only exacerbate the health consequences of the 9/11 disaster. Most of the participants in the monitoring and treatment program have medical conditions (asthma, mental health problems, etc.) that should be responsive to medication and other treatments. Hopefully, many of these people will gradually recover and not become disabled due to their WTC-related medical conditions. To the extent, that we can prevent worsening of the medical conditions and prevent many of these people from becoming too disabled to work, we can not only help these individuals, but we can also lower the long term costs of providing care and assistance to this population.

HR 847 recently introduced by Representatives Maloney, Nadler, King, and McMahon addresses provides the comprehensive framework needed to address the serious medical problems being experienced by thousands of people in the aftermath to the September 11 terrorist attacks. Too often in the past, we have neglected to properly monitor the health of groups exposed in extraordinary situations only to later spend millions of dollars trying to determine the extent to which their health has been impacted. Agent Orange exposure in Vietnam and the current compensation program for nuclear weapons workers are only two examples of this problem. We have left those people to suffer, often without proper medical care and facing financial hardship due to their illnesses. We should learn the lessons from these past mistakes and make sure that we provide comprehensive medical monitoring, treatment, and compensation for those potentially impacted by the WTC disaster. We should also recognize that the WTC attack was an attack on our nation, and the federal government should play a major role in supporting our recovery from that attack.

I would strongly urge you to take immediate steps to pass HR 847 and provide the necessary medical care for the thousands of rescue and recovery workers and community residents whose health has been damaged by the aftermath of the WTC attacks.
I would be glad to answer any questions.

Mr. PALLONE. Thank you, Dr. Melius. Mr. Holloway.

STATEMENT OF CASWELL F. HOLLOWAY

Mr. HOLLOWAY. Thank you. Thank you, Chairman Pallone, Ranking Member Deal, Representative Weiner, for convening this hearing on this important bill, the H.R. 847, the 9/11 Health and Compensation Act. I also want to thank Speaker Nancy Pelosi and the New York delegation for making it a priority to enact legislation to establish a sustained, long-term 9/11 health program.

My name is Cas Holloway, and I am chief of staff to New York City's Deputy Mayor for Operations, Edward Skyler, and a special advisor to Mayor Bloomberg. I was also an executive director of a panel convened by Mayor Bloomberg at the fifth anniversary of the attacks to assess the health impacts of 9/11.

That report called for sustained, long-term program to provide monitoring and treatment to address the health impacts of 9/11 and for the reopening of the Victims' Compensation Fund. Since that time, Mayor Bloomberg, myself, and many others of the members of the mayor's administration have traveled here to Washington to make the case for sustained federal funding. In fact, as you may recall, last July, I testified before this subcommittee. And it is a privilege to appear before you again. It is also a privilege to appear here with Mr. Torres and these distinguished doctors who are involved in the treatment of these conditions.

As members of this committee know, a tremendous amount has happened since I last appeared before you. In terms of this bill, the city has engaged in extensive discussions with stakeholders, including people at this table, and some of the issues that existed in the prior version of the bill have been addressed. In terms of the city's economic outlook, we are still in the throes of an economic crisis that has resulted in the highest unemployment rate in New York City since October 2003 at a projected budget gap of $3.2 billion in fiscal year 2011 that could grow to $4 billion and more in future years.

Mayor Bloomberg has moved aggressively since well before the scope of this current crisis became apparent to save for tough times and cut costs. But even with these measures, the city will have to make deep cuts.

I mention these statistics not merely because they are timely, but because the city's finances are severely strained. We must concentrate resources on providing the essential services New Yorkers and visitors to the city need and on getting the economy running again. With respect to H.R. 847, the version of the bill currently before this committee is an important step forward, and in its broad strokes achieves what the city has long been seeking: sustained funding to treat those who are sick or who could become sick because of 9/11, and it reopens the Victim Compensation Fund so that those who were harmed can be fairly compensated quickly and efficiently without having to prove that the city, its contractors, or anyone but the terrorists were at fault.

But there are two important issues that, in the city's view, must be addressed. First, the bill requires the city to pay 10 percent of the entire treatment and monitoring costs for anyone eligible under the bill. Based on the best information we have to date, which

Chairman Pallone mentioned from CBO—I am sorry, Ranking Member Deal—this translates into approximately $50 million per year and $500 million over 10 years.

And it is unfair for New Yorkers to bear so much of what we believe is clearly a national obligation. Moreover, particularly at a time when the city is being forced to make deep cuts including to essential services, this cost share is simply too high.

Second, regardless of what the city's cost share ultimately turns out to be, the bill does not give the city adequate oversight of the programs it is expected to fund. This issue can be easily addressed by the inclusion of a right-to-audit or similar mechanism in the bill, and it should be included to make sure that we can oversee the program appropriately. We are confident that these issues can be addressed before this committee and in this legislative process, and the members of the committee have heard a lot of the detail about the scope and impacts of 9/11.

So I won't repeat that except to say that what the mayor's report established when it came out in 2007, I think beyond question, was that this is a serious problem, that people are suffering serious mental and physical illnesses as a result of 9/11, and that additional people continue to get sick, that it is imperative that those people get treated, that there continues to be research to fully understand the impacts, and that the funding be sustained. That is why we are here, and that is what we are seeking. And the research that has come out since the mayor's report, which Dr. Reibman, Dr. Moline and others have continued to produce, continues to validate these facts.

I just want to mention quickly a couple of programs that haven't been mentioned here today. Most importantly the FDNY's program, which is also a Center of Excellence and has involved 14,000 of the firefighters who are being monitored and several thousand who are being treated.

In addition to that, with the federal government's assistance, we have also started back in 2003 the World Trade Center health registry which is without a doubt the best source of research that we are going to have in addition to the clinical research that we get out of the Centers of Excellence to ensure that we fully understand the impacts of 9/11.

Now, the city hasn't waited for federal funding in order to address the needs that we found in our report. And in fact, the city is the primary funder of the Health and Hospitals Corporation Center of Excellence that Dr. Reibman runs. However, this program and many other programs are in jeopardy because the city took up the funding obligation to run these programs based on a need and also on an assumption that the federal government would ultimately come to the table and help us to get fully engaged and cover these costs. That is why is it so important that this bill be passed.

As Dr. Melius explained, this bill provides long-term funding and has controls in it that we think are appropriate and ensure that money will only go to those who have actually been affected and are ill because of 9/11. So I won't repeat that.

And I think to sum up, the—pardon me for one second. To sum up, the bill has important controls. It establishes the long-term

funding that the city is seeking and is required to ensure that this problem, which we know is long term and we know can't be properly sustained by year-to-year ad hoc appropriations, can continue so that those who are injured as a result of 9/11, which was an attack on the Nation and not merely on New York City, can get the treatment they need.

And it is important to note when we talk about the registry and as Representative Nadler and King mentioned in their testimony, this is not just a New York City problem. The World Trade Center health registry contains representatives for nearly every congressional district in the country. Ranking Member Deal, there are several hundred from Georgia who participated and a few from your district. And I am sure, as you know, Chairman Pallone, many thousands from the state of New Jersey and your district.

As I mentioned at the outset of my testimony, there are the two issues that the city believes needs to be addressed and can be addressed in this legislative process. That is the cost share issue, and the issue of oversight if the city is going to be expected to fund programs that it doesn't control.

And I do want to say importantly the city is not opposed to a cost share at all. In fact, Mayor Bloomberg fully embraced an earlier version of this bill in which the city was going to be required to pay a 5 percent share of the Centers of Excellence that are run by the city, which is the Health and Hospitals Corporation and the one treating community members. We think this is important because it gives the city the incentive that is needed to ensure that funds are spent carefully and wisely.

However, the share that is in the bill, which could cost New York City taxpayers alone up to half a billion dollars is simply too high. However, we are hopeful that these issues will be addressed, that we can fully support a bill and that it will be presented for the President's signature before another anniversary of the attacks passes. Thank you very much, and I will be happy to answer any questions.

[The prepared statement of Mr. Holloway follows:]

Statement of Caswell F. Holloway
Chief of Staff to New York City Deputy Mayor for Operations Edward Skyler and
Special Advisor to Mayor Michael R. Bloomberg

H.R. 847: 9/11 Health & Compensation Act of 2009
April 23, 2009

Committee on Energy and Commerce
Sub-committee on Health
U.S. House of Representatives

Statement of Caswell F. Holloway
H.R. 847: 9/11 Health & Compensation Act of 2009
(April 23, 2009)

Introduction/Overview

- Good morning. I want to thank Chairman Pallone, Ranking Member Deal, and the other distinguished members of the Committee for convening this hearing on H.R. 847, the 9/11 Health and Compensation Act.

- I also want to thank House Speaker Nancy Pelosi and the New York delegation for making it a priority to enact legislation to establish a sustained, long-term 9/11 health program. While the full extent of the health effects resulting from the WTC attacks is unknown, medical evidence suggests a variety of short-term and medium-term health impacts. Additionally, the Centers of Excellence and the WTC Health Registry continue to generate valuable research adding to our body of knowledge about this health effects. Addressing the long-term effects of this attack on America will require a federal commitment to monitoring and treatment.

- My name is Cas Holloway and I am Chief of Staff to New York City's Deputy Mayor for Operations Edward Skyler and a Special Advisor to Mayor Bloomberg.

- I was an Executive Director of a Panel convened by Mayor Bloomberg at the fifth anniversary of the attacks to assess the Health Impacts of 9/11. That report called for a sustained, long-term program to provide monitoring and treatment to address the health impacts of 9/11, and for the re-opening of the Victim Compensation Fund.

- Since that time, Mayor Bloomberg, myself and many other members of the Mayor's Administration have travelled to Washington to make the case for sustained federal funding. In fact, as you may recall, last July, I testified before this Subcommittee, and it is a privilege to appear before you again.

- As the members of this committee know, a tremendous amount has happened since I last appeared before you. In terms of this bill, the City has engaged in extensive discussions with stakeholders, and some of the issues that existed in the prior version of this bill have been addressed.

- In terms of the City's economic outlook, we are still in the throes of an economic crisis that has resulted in the highest unemployment rate in New York City since October 2003, and a projected budget gap of $3.2 billion in FY 2011 that could grow to $4 billion and more in future years. Mayor Bloomberg has moved aggressively—since well before the current crisis became apparent—to cut costs and save surpluses for tough times; but even with these measures the City has had to make deep cuts, and we're not done yet. Congress has provided a tremendous temporary boost with the American Recovery and Reinvestment Act, and we are already moving to commit those funds to projects and programs across the City.

- I mention these statistics not merely because they are timely, but because the City's finances are severely strained; we must concentrate resources on providing the essential services New Yorkers and visitors to the City need, and on getting the economy running again.

- With respect to H.R. 847, the version of the bill currently before this committee is an important step forward, and in its broad strokes, achieves what the City has long been seeking—sustained funding to treat those who are sick, or could become sick, and re-open the Victim Compensation Fund so that those who were harmed as a result of 9/11 are fairly compensated without having to show that the City, the Contractors, or anyone but the terrorists were at fault.

- But there are two important issues that, in the City's view, must be addressed. First, the bill requires the City to pay 10% of the entire treatment and monitoring costs for anyone eligible under the bill. Based on the best information we have from CBO, this translates to more than $50 million per year—more that $500 million over 10 years—and it's unfair for New Yorkers to bear so much of what we believe is clearly a national obligation. Moreover, particularly at a time when the City is being forced to make deep cuts, including to essential services, the cost share in the bill is simply too high.

- Second, regardless of what the City's cost share ultimately turns out to be, the bill does not give the City adequate oversight of the programs it is expected to fund. This issue can be easily addressed by the addition of a "right-to-audit" or similar mechanism to the bill, and it must be included to give the City the tools it needs to ensure that public dollars are spent appropriately.

- I'll talk about these issues in greater detail shortly, but first I'd like to review some essential facts about the scope of this problem and the efforts the City has made to address it.

- More than 90,000 (and by some estimates, well more than 100,000) New York City firefighters, police officers, other first responders and recovery workers responded to ground zero and participated in the rescue, recovery and clean-up at the site. And hundreds of thousands of residents, area workers, school children and other community members were directly impacted by the attacks.

- Although Congress has appropriated funding on an ad-hoc basis to monitor and treat these groups, the uncertainty of that funding requires that we seek new appropriations every year—and we were only recently able to access some of these funds for the only Center of Excellence that treats residents and other non-responders—the WTC Environmental Health Center at our Health and Hospitals Corporation.

- Two and a half years ago, as the fifth anniversary of 9/11 approached, Mayor Bloomberg directed City agencies to make a thorough investigation of the health problems created by that terrorist attack. The report we published six months later established beyond question

that many people who were in or near the area around the World Trade Center on September 11th or the days following are suffering from a variety of physical and mental conditions.

- They include firefighters and police officers… community residents, schoolchildren, and owners and employees of neighborhood businesses… and also construction workers and volunteers from across America who contributed to the heroic task of clearing the debris from the World Trade Center site.

- The report made clear that the ultimate scope of these health effects is still unknown; that they must continue to be studied; and that those who are sick or could become sick must be monitored and treated with the best possible care.

- With two important modifications that I noted above, and will discuss in greater detail below, passing this bill would, at long last, achieve these goals, and fully engage the Federal government in resolving the health challenges created by the attack on our entire nation that occurred on 9/11.

- The destruction of the World Trade Center was an act of war against the United States. People from every part of the country perished in the attack, and people from all 50 states also took part in the subsequent relief and recovery efforts.

- And that makes addressing the resulting health effects of 9/11, as well as compensating those who were harmed as fairly and expeditiously as possible, a national responsibility.

- But New York City has not waited for Federal funds to meet the health needs of those who are sick in the aftermath of 9-11. New York City taxpayers have, for example, borne the expense of free screening and treatment for thousands of people at the WTC Environmental Health Center at our Health and Hospitals Corporation; and we've launched a number of public outreach campaigns about 9/11 health problems and how to get help.

- In addition, in 2008, our Department of Health and Mental Hygiene launched the 9/11 Benefit Program for Mental Health & Substance Use Services, which provides coverage for mental health services for thousands of New Yorkers directly affected by the attack. Since its April 2008 inception, 2,378 individuals have enrolled in the program, and an additional 1,448 individuals have initiated the enrollment process and are awaiting eligibility determination.

- This program, and many of the 9/11-related health programs funded by the City, were initiated on the assumption that federal funding would eventually become available—through the 9/11 Health and Compensation Act or otherwise. The City will not be able to continue to fund these programs on its own indefinitely, and all of them are in jeopardy unless Congress acts quickly.

FDNY and DOHMH

- I do not mean to suggest that the federal government has done nothing in this area. NIOSH grants, and the annual appropriations that Congress has made over the last several years have funded the World Trade Center program at Mt. Sinai, as well as the longest-running health response to the attacks--the FDNY WTC Medical Monitoring and Treatment Program.
    - Through that program, about 15,000 FDNY rescue/recovery workers (active and retired fire and EMS) have received at least one FDNY WTC Monitoring Exam, a 97 percent compliance rate. Over 85% have received a 2nd WTC Monitoring Exam, and over 75% have received a 3rd Exam. A fourth exam was initiated this year, and compliance and retention rates remain extremely high.

- Along with monitoring, the program has provided treatment, including WTC-related prescription drugs, to thousands of FDNY rescue/recovery workers. In the most recently completed grant year (7/1/07 to 6/30/08), the program provided WTC-related physical health and mental health treatment to 3,157 and 2,574 members, respectively.

- The program also serves as a key source of vital research on the health impacts of 9/11. FDNY has produced 25 peer-reviewed articles on WTC medical conditions.

- The FDNY program is operating under a federally funded NIOSH grant program for monitoring, treatment and data analysis. At NIOSH's request, the program has submitted funding requests to extend FDNY-WTC related healthcare services from July 1, 2009 through September 29, 2010. Without that funding, the program will have to discontinue clinical services in the early summer of 2009.

- In addition, federal funding enabled the establishment of the WTC Health Registry, which this bill will continue to fund on a permanent basis. The Registry is a partnership between the City and the federal government that is the largest effort of its kind in history. It includes more than 71,000 exposed people from every state in the country, and from every Congressional District. Over 20 percent of the people in the Registry are from outside the New York Metropolitan region. This is a reflection of the numbers of people from throughout the country who were in New York at the time of the attacks, or who came to New York afterwards.

- Efforts like the Registry, and the reports generated by the Medical Working Group created by Mayor Bloomberg to keep abreast of the newest research and resource needs for 9/11 health issues, are central to the City's approach to this issue, which is to dedicate resources based on the latest science and medical research. And the data shows that 9/11 health issues continue to be a serious problem.

- Registry data confirm continued high levels of reported post-9/11 asthma and Post-Traumatic Stress Disorder (PTSD) among Registry enrollees 5-6 years after the attacks. Adverse health

symptoms, while reported mostly among rescue and recovery workers, have also been reported by Lower Manhattan residents, office workers, and passersby on 9/11. Reported PTSD levels were high at baseline and remain elevated at the time of the follow up survey.

H.R. 847

- I've spent some time talking about the City's Centers of Excellence and DOHMH's efforts. H.R. 847 generally provides for their long-term sustainability.

- The bill provides long-term funding to monitor and treat those who are sick or who could become sick because of 9/11, including the 3 current Centers of Excellence, and the DOHMH Mental Health program I described above. It also continues funding for critical research, including the WTC Health Registry. Finally, the bill reopens the Victim Compensation Fund so that people who were harmed by the terrorist attacks can get compensation fairly and quickly without having to prove that the City, the contractors, or anyone else but the terrorists were at fault. The City's Corporation Counsel, Michael Cardozo, testified on that part of the bill at a separate hearing a few weeks ago, and I'll be happy to make his testimony available to anyone who would like a copy.

- To ensure that funding goes only to those whose illnesses are due to 9/11, the bill includes important controls that the City fully supports, and that I'll briefly describe.

- First, the bill defines specific groups (for example, firefighters or recovery workers) and specific geographic areas that people must have been in on, or within a defined time period after 9/11 to be eligible for treatment.

- I should note that there is specified funding to treat people outside the designated areas or groups who may—on a case-by-case basis—be eligible for treatment for a 9/11-related condition. This is necessary because we do not know the full extent of the health impacts of the disaster and want to provide a means for anyone sick because of 9/11 to get treatment.

- Second, while people who meet these criteria are "eligible" for treatment, to actually get treatment, a doctor with experience treating WTC-related conditions must determine based on a medical examination, that exposure to airborne toxins, trauma or other hazards caused by the 9/11 attacks is substantially likely to be a significant factor causing, contributing to or aggravating the patient's condition.

- That assessment must be based in part on standardized questionnaires; and even after a condition is deemed to be WTC-related, it is subject to review and certification by the WTC administrator.

- These are tough standards that are based to a large extent on the protocols already in place at the WTC Environmental Health Center in the New York City Health and Hospitals

Corporation. They are necessary to ensure that only those who are sick due to 9/11 are treated under this program.

- The bill also caps the number of responders and community members who can get monitoring or treatment. These limitations are based on the best available information about how many people were exposed and could potentially be ill, and while we think they will be sufficient to provide treatment to anyone who may need it, there are reporting requirements in the bill so that Congress will be told if those caps are approached.

- In addition to these controls—which apply to every potential patient—the bill mandates the establishment of Quality Assurance and Fraud Prevention programs that will act as further safeguards against the misuse of these funds for any purpose other than to monitor and treat those affected by the 9/11 attacks.

- The bill also includes important provisions to ensure that federal dollars go only to cover costs that the federal government should pay. For example, there is an offset for any Worker's Compensation payments that have been made. For non-work related conditions, the program acts as a payor of last resort if an eligible recipient has applicable health insurance.

The City's Position on H.R. 847

- As I noted at the outset of my testimony, overall, this legislation represents an important step towards establishing a long-term federal program to address the health impacts of 9/11.

- As drafted, however, the bill requires the City to contribute a 10 percent matching cost share of the entire program, which could be up to $500 million over 10 years. City taxpayers would be required to fund 10% of not only the community program—but also the responder program and the national program, regardless of whether New York City residents are the recipients of care.

- This is simply too high a cost for City taxpayers to shoulder alone for what clearly must be a national response to an act of war against our country. This is not to say that the City objects to any cost-sharing. Indeed, Mayor Bloomberg fully supported an earlier version of the bill that required the City to pay 5% of the cost of treating anyone treated at a Center of Excellence within the City's Health and Hospitals Corporation. We accepted this obligation, because it ensures that the City has a strong incentive to monitor these programs and make sure that these health care dollars are spent wisely.

- But imposing on City taxpayers a cost share of 10 percent of the *entire* program, without giving the City any oversight of how those dollars are spent, is unfair, and unacceptable if the City is to be accountable—as it must be—for ensuring that public funds are used appropriately.

- We are confident, however, that this committee can address these critical issues, and that the City will be able to fully support legislation that we hope will be presented for President Obama's signature before another anniversary of the attacks passes.

- Thank you for your attention. I'd be happy to answer any questions you might have.

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Mr. PALLONE. Thank you, Mr. Holloway. Thank all of you. We now are going to have questions from the panel, and since there are only three of us, we may actually have two series of questions. We will see if anyone else joins us. You know I guess I am sort of following up on what Mr. Holloway said in the sense that, you know, if you wanted to be devil's advocate, and I guess I shouldn't be devil's advocate because I am from New Jersey and I would like, you know, this to be as robust as possible since so many of my New Jersey residents are impacted.

But, you know, I guess one could argue, you know, the program exists. Obviously you have described how effective it is. To my knowledge, nobody is being turned away at this point. But we are really here with this legislation is making a permanent authorization for a program that basically does exist and has been funded for the last few years.

And my questions are more along the lines of, you know, why do we need to make it permanent? And is this the time to do it? You know part of the problem that we have had with all of this is knowing how many people are going to be impacted, how many disorders are going to come forward. It does seem that as time goes on, there are more people that come forward and more people that are being seriously affected in terms of their health. And if that trend continues or accelerates, you know, we may have even more people that we anticipate because, you know, you have the caps right now in the program. I guess it is 15,000 responders and 15,000 residents beyond those that are already in the program.

So I guess I would start first with Dr. Melius or any of the doctors. You know you mentioned, I think, that there is a list of identified World Trade Center related health conditions in the bill. Do you expect that those additional diseases will emerge as the World Trade Center related, you know, conditions have more of an impact? And under the bill, how are additional conditions added to the list? Let us at least start with that.

Dr. MELIUS. OK, I think we all would expect that there will be additional conditions added.

Mr. PALLONE. Right.

Dr. MELIUS. There are a number under investigation already, and we know that people were exposed to carcinogens and a lot of toxic materials. And so I think looking forward, we would expect some. In the bill, I think, it was structured in a way that puts the caps in place so that that wouldn't get out of hand. And in terms of the list of covered conditions, we have to handle it without having to come back to Congress and say well, you know, this program is going to cover hundreds of thousands of people because they are sick, then we ought to rethink how we do this and so forth.

In terms of the list of covered conditions, you know, the current list is based on one of clinical experience, Dr. Reibman and Dr. Moline and others, plus what has been found in the studies. It is a well-based risk, and in the current, you know, scientifically sound and reviewed multiple researchers that made these findings including some outside the program.

So I think everyone is confident in what is on the list. Going forward, there is a mechanism to add specific covered conditions, say a type of cancer or something that is seen. One, there has to be

some amount of scientific evidence available demonstrating that it should be covered.

Secondly there is a process where the federal government, NIOSH, would promulgate a regulation to add that condition on the list of covered conditions. So they would be required, as with any regulation, to justify it, justify the cost, justify, more importantly, the science behind that. There is also provisions in there for a scientific advisory committee for the program to also review that information and be involved in making that recommendation.

Mr. PALLONE. Now, in terms of where we are, I mean you—I certainly get the impression from listening to you, and I know this may be difficult to answer. But I certainly get the impression that as time goes on, we are going to see more people that are affected and possibly worsening conditions. I mean is that just inevitable because as people age, you know, these symptoms and diseases get worse? Or is it possible, you know, that at some point, you know, that doesn't happen because, you know, time is somehow a healer? I mean I get the impression the opposite, that we should expect as times goes on that we are just going to have more people and worse conditions.

Dr. MELIUS. I will let Dr. Moline and Dr. Reibman follow up, but I think it is a mix. There are people newly coming in that develop conditions, but there are also people getting better. In fact, one thing that has been observed in the responders program is that the treatment costs actually appear to be going down per patient on an annual basis because patients get stabilized in terms of treatment and so forth. A number of them do get better, are able to continue to work and so forth. Now, some don't. And so there is a balance there. So I don't think it is inevitable that these numbers will continue to get bigger and bigger because some people will recover.

Mr. PALLONE. But let me just ask——

Dr. MELIUS. We just aren't able to predict accurately, I think.

Mr. PALLONE. Well, then I guess my third question would be—and if you want to ask Dr. Moline to answer it—the caps that are in place, I mean are they based on projections that, you know, you are seeing an acceleration of the numbers? I mean how is that derived at, or is it totally artificial?

Dr. MELIUS. The caps are—on the responder program, the caps are based on an assessment of how many people we know that would be eligible for the responder program. We know how many people, you know, worked at the cite at least, you know, within, you know, several thousand. So we do that, and we have some, I think, pretty good idea of how many of those, you know, haven't come forward yet who are eligible and might come forward in the future. And then, you know, the assumption that they are not going to be any sicker than the people that are already in the program. In fact, there are probably going to be fewer that require treatment. So I think it is unlikely that that cap will be reached for the responder program.

For the community program, I think we had less experience and maybe Dr. Reibman wants to comment, but it was trying to say that given the time when this legislation was being passed, given what was coming forward at that time, who we knew at that point that was coming forward that was ill that was eligible for the com-

munity program, you know, that that was a reasonable number that would fit in going forward and at least would for, you know, some significant period of time, 10 years or more, would, you know, be legitimately capping the program without denying large numbers of people care. It may need to be adjusted we don't know.

Mr. PALLONE. OK, gentlemen, I am being a little loose with the time here since there is only three of us. I am not going to clock any of us here. So if Dr. Reibman or anybody else wants to answer some of the questions.

Dr. REIBMAN. I just want to reinforce what Dr. Melius just said which is for the community group, we have very little information to go on. We could only go by what we were seeing, data from the New York City Department of Health registry where we could sort of estimate a burden of illness and also understand that some people will be going to their own physicians. So it was really, with the information we had at hand, our best estimate.

Mr. PALLONE. OK, Dr. Moline.

Dr. MOLINE. I think if we look at the responders who are coming in, about 150 are coming in consortium wide every month. This is down from the first two years of our program, beginning in 2002 to 2004, we have 12,000 responders.

Mr. PALLONE. So you are actually getting less per month instead of more?

Dr. MOLINE. We are getting far fewer per month because——

Mr. PALLONE. Fewer.

Dr. MOLINE [continuing]. Most people are already in. I mean the question is why are some people coming in now.

Mr. PALLONE. Right.

Dr. MOLINE. Where have they been? And there are a couple reasons. First and foremost, many people are very stoic. We also know that in a population that is overwhelmingly male, the responder population, they tend not to access health. They don't like doctors. I don't know why.

Mr. PALLONE. Stoic is the same as denial? Or that is a little different I guess?

Dr. MOLINE. It is both.

Mr. PALLONE. Yes.

Dr. MOLINE. It is a nice way of putting it sometimes, but some people—you know actually what I have often been amazed at is people feel they don't deserve to come in. Others are sicker than they are, and they reach a certain point. Or their wife says, you know, you have been coughing for seven years. Can you get it checked out finally? Or other health problems. Or their friend is getting care, and they say you know what, I am getting care. You were with me. Come in. So there are a variety of motivating factors, or they may just have had enough and that is why they are coming in. Some people actually haven't heard about the programs, which is surprising to us, but they may not know it is out there, and so they are coming in now for the first time.

Mr. PALLONE. OK, Mr. Deal.

Mr. DEAL. Well, first of all, thank you all for being here. We do have to ask the hard questions, and the first question that comes to mind, I think, from somebody who is not from the immediate area affected is that if we are asking the taxpayers of this country

to pick up a tab that is estimated, from what we have up to this point, of at least a billion dollars a year additional federal expenditures for a restricted group of individuals, the first question I think that comes to mind is why do we have the stories such as Dr. Moline's illustration of, I believe, the carpenter who said that his worker's compensation claim was controverted and he was not being able to receive treatment based on the first line of providing treatment, which most people consider to be worker's compensation? Is the city of New York continuing, Mr. Holloway, to resist worker's compensation claims? And if you are and you are saying that the conditions on which you are being asked to compensate are not compensable, why should the federal taxpayer pick up something the city of New York is not wiling to pay for?

Mr. HOLLOWAY. Well, the answer to that question has a couple of elements to it. First, when it comes down to individual worker's compensation claims, yes, there are cases that are 9/11 related that are controverted in the worker's compensation parlance by the city. But the reason for that is really—and Dr. Melius I think will jump in later.

But the reason for that is that the worker's compensation system itself is not equipped to deal particularly well with these types of claims. The issues that we are dealing with with 9/11 related illnesses at this point, they are late to arise. They are latent, and so important questions of causation and other issues arise in the context of these long tale claims that make it difficult to resolve one way or the other without an extended look at what is the medical evidence and so forth.

And the reason for that is because the city does have an obligation through the worker's compensation system. You can't simply decide that it doesn't matter. You have to meet the standards in the statute. You have to—the city does have an obligation to, you know, protect the public. And so the way that the system is set up, it is poorly equipped to handle this.

Now, New York State has made some changes in the worker's compensation law that address a few of these things, and one of those is an extended period to put in for a claim so that you don't have the two-year statute of limitations problem and some other things.

But in the main, the system has some structural elements to it that make it difficult also. The system itself will compensate certain types of claims, but there are other people who are impacted. Uniform services actually get their compensation through—don't get their compensation through worker's compensation. It is a line-of-duty injury, but similar issues arise, and then community members, residents, and others who are impacted aren't eligible for worker's compensation.

One other point is that the bill itself provides that in the event worker's compensation is recovered or it is deemed that it will be likely to be recovered, that goes first in terms of paying for the claims, which we fully support. So that is a long answer but——

Mr. DEAL. Dr. Melius.

Dr. MELIUS. Can I just elaborate briefly? For the New York State worker's compensation systems required two, at least two pieces of legislation to amend that to make it possible that all the World

Trade Center claims to be dealt with within that system and had a statute of limitations and just the nature of the injury coming out or illness coming out of their work. And that has helped somewhat.

I recently served on a committee and then a task force for the state legislature to examine this whole issue. We are issuing a report, which I believe will become public tomorrow on this. Made a number of recommendations for actually requiring further legislative changes that we think that we will make this system work better.

The city of New York has actually agreed with those changes even though it will, in some ways, you know, facilitate claims against the city of New York. So we are trying to work together to address that. It is just hard in a bureaucratic legalistic system like the state worker's compensation system.

And even when it does, you know, for example, you would have a situation where someone is getting compensated for their asthma that may not provide help for their sinus condition or some other condition. It has to be, you know, a separate claim and follow through on. So it is complicated and difficult. All the clinics that are involved here, the Centers of Excellence, are also working very hard to assist people in filing claims. That was not—help was not available up until about two years ago. So there are efforts underway to try to improve that. And I think the city and others are supporting that. But it is still going to be difficult. It will never be, I think, an adequate for this particular situation.

Mr. DEAL. Dr. Moline.

Dr. MOLINE. For this particular gentleman, his claim was controverted and eventually—it took about three or four years—it was judged in his favor. That is a typical delay. During that three or four-year period when he was no longer able to work and he lost his health insurance, he had no avenue to get health care. The program stepped in. We are now recouping the cost, and they will be offset as program income within the monies that we have received. So it allows to extend the care that we provide.

But, you know, in his particular case, we tried to get diagnostic testing because he had such horrible reflux that he needed to have an endoscopy, a simple test where you look in and to make sure that he didn't have something more serious going on. And that particular test was denied by worker's compensation. Turned out that he had he test, and they found some abnormalities. That was paid for by the program. And it allowed us to give him the appropriate treatment to get him better.

As a treating physician, this program has allowed us to provide the care for people to make sure that they get better. What we also do is we fill out the necessary paperwork to make sure that compensation, if it is there, everyone gets the appropriate medical documentation that they need to make sure these claims go forward as well.

Mr. DEAL. I think your statements have really illustrated the point that I am making is that somebody from the outside looking at this saying that if this kind of injury or problem resulting from exposure does not meet the definition of a work-related condition under worker's compensation law for the state of New York or the city of New York City, then why should we have a broader, all-en-

compassing definition that the federal taxpayer is required to pick up?

And that is just a problem, and I think trying to refine the statute to address that as best we can is very important because I think it is something that you have to convince other people that are you not just coordinating this big picnic basket that certain groups of individuals can come dip into the federal treasury through this mechanism.

Let me ask one other practical thing, and that is I see the group that is here, and many of them have the New York Fire Department EMS shirts on. And one of the things that has been called to my attention is that apparently there is no provision for retirees or a retiree representative from that group to be on this advisory board that the statute creates. I would assume that you are going to have a large number of people who are in a retirement status that are going to be eligible on an ongoing basis for some of these benefits.

Do any of you know why that retiree group would not have an advisor board member?

Dr. MELIUS. Well, yes, let me answer that. I chair the steering committee that, I think, is being referred to here. The steering committee was set up with a specific number of labor union representatives beginning and along with representatives from all of the participating medical centers. Those representatives, the union's representatives, do represent retirees. The union I work with has at least three retiree organizations that are part of this program that are consulted. And we provide benefits to those retirees, health and pension. I believe all of the other unions involved do the same.

There are many other union, other groups that potentially could be represented on the steering committee. There has to be some way of selecting those. The original selection was based on who was most involved in the program. It is certainly clear that the people in the retiree groups as time goes by and more of these people age and get old will be important in terms of representation. We need to work out a way for them to be involved in the program.

There are other ways. Mt. Sinai has its own advisory committee. The fire department does. Some of the other clinics do. Dr. Reibman has a program. And we also—there are provisions in the legislation for additional people to be added to the steering committee, and so that will be worked out over time.

But there are many groups to choose from so it is not like there is one umbrella retiree group that one could select. It has to be looked at. Some of those people with concerns I have met with and have offered to go out and meet with some more to talk. And we want to make sure that their concerns are addressed.

Mr. PALLONE. Thank you, Mr. Deal. Mr. Engel.

Mr. ENGEL. Thank you, Mr. Chairman. You know I live about eight miles from the World Trade Center. My district begins about eight miles. And I remember about five days after 9/11, burnt pieces of paper falling from the sky into my district. With my own eyes, I remember seeing that. And that is eight miles away. So imagine the people who live right on top within a 1.5-mile radius.

I understand the community program would help only the people with the 1.5-mile radius.

I want to talk a little bit about the World Trade Center related illnesses experienced by people living in the disaster area. That hasn't received as much public attention as those of first responders, but in many cases, they are just as serious. And I don't take away anything from the first responders. I fight 100 percent for them, but there are also people in the area.

This legislation provides medical monitoring and treatment services for community residents and workers affected by the 9/11 attacks, not just the responders. So Dr. Reibman, can you tell us about the kinds of people that the community program treats and how they were exposed to the toxic dust from the World Trade Center collapse?

Dr. REIBMAN. We have a variety of people, and we sort of group people by whether they were residents, whether they worked in the area, went to school in the area, or were there commuting, for example, people who were stuck in the tunnel at the time of the collapse.

We also then look at people who were in the initial dust clouds of that day or people who came back a week later. And what we are finding is that there is a great variety and difference in how people's health responded to these exposures but that many people have many of the same illnesses that you are hearing described in the responders of chronic grinus sinusitis, that is sinus infections, nasal congestion, shortness of breath due to asthma or other lung diseases as well as gastroesophageal reflux disorders and clearly a lot of mental health issues.

Mr. ENGEL. You talked a little bit about the kinds of illnesses these community members are suffering from as a result of their exposures. Can you tell me about the similarities similar to those of the responders? What I am trying to get at is that I believe that it is just as serious to help the people living in the immediate area as well. And do you find that the first responders and the people in the area have had similar difficulties?

Dr. REIBMAN. What you are raising is a very important question, which is how do we know whether these illnesses are World Trade Center related or not. And we don't always know except by seeing many of the same symptoms over and over and over again in many of these people. The severity is clearly variable, and we have people who have very, very persistent sinus disease who have required surgery for their sinuses on repeated occasions.

We have people who, for example, used to run a marathon who are now on chronic medications. We have people who can no longer—had to have their offices moved because their cough was so irritating that their workmates couldn't sit next to them. So that there is clearly a variety of severity in these people.

We think that is due in part to degree of exposure. People who were in the dust cloud, for example, on the first day or people who had prolonged exposure as well as individual response to these exposures.

Mr. ENGEL. Dr. Melius, can you explain what role health insurance would play in the community program under this legislation?

Dr. MELIUS. Yes, under the current legislation, people that have coverage, there would be a billing mechanism set up for the government to be able to, through the clinics, the treating clinics, to recover the cost. So health insurance for those who have it, nonwork-related health problem, health insurance would be essentially the first payer. And then what was not covered by health insurance would be covered through the federal program.

Mr. ENGEL. Thank you. Can I ask you also, Dr. Melius, the legislation relies on Centers of Excellence for providing most of monitoring and medical care for the program. Responders and community residents who qualify for the program can only receive services at the program's expense through these Centers of Excellence.

Now of course, the patients, the way I understand it, they continue to see their personal physicians. But if they want the monitoring and treatment services for the World Trade Center related conditions that the program offers them without charge, they will have to use the Centers of Excellence. Is that true? Am I right? And in your testimony, you defend the continued use of the Centers of Excellence. So why do you think that we should continue to rely on these centers rather than allow individuals to use their personal physicians?

Dr. MELIUS. Yes, the reason for relying on the centers is because given all that we don't know about what is going to happen to these people medically and given the complications of diagnosing and treating them, we believe that a better quality overall medical care can be provided to them through these Centers of Excellence rather than trying to rely on providing that same experience and medical information to their personal physicians.

Now, both Dr. Reibman and Dr. Moline would tell you that they coordinate with the personal physicians. So that—who may be treating the same person for some unrelated health condition, you know, heart disease or something that is not related to the World Trade Center. But I think it has been the experience of all the programs that it has not worked well for people to go to their personal physicians because they just don't have the experience in handling these types of conditions, and the quality of care is not as good.

Now, there are also provisions in the legislation to allow for the expansion of the Centers of Excellence to bring in new centers and so forth. And I am sure, in fact, that the judiciary hearing on March 31, the police detective who had serious pulmonary disease and had developed before there was a treatment program, was being seen by another major medical center in New York City. And there is no reason that that medical center could not become part of this program, and there are a number that expressed interest.

So I think we need to expand that out. It is also certainly true for the national program, people living in other parts of the country, that there be additional centers and additional physicians brought in. But it is trying to strike a balance between getting good care and ensuring that there is good follow up and at the same time, something that is convenient and practical for the patients.

Mr. ENGEL. Dr. Moline, did you want to comment?

Dr. MOLINE. I think Mr. Torres actually told us why a Center of Excellence can be essential in his care. He was going to a wonderful physician on the outside, but when he was able to come to a

Center of Excellence, they were able to make a connection between his illnesses because we have seen thousands of people like Mr. Torres with the same constellation of symptoms and knew how to treat him in the same manner that we have treated thousands of others.

One other issue related to not having Centers of Excellence is if we want to know what the ramifications were from a disaster, a manmade disaster, terrorist or otherwise, if the cure is fragmented, if it is in—if everyone is not receiving centralized care in a number of centers, then we will have no way of knowing the true scope of illnesses. There will be no way of being able to scientifically say that exposures to—of this sort can cause health problems. So that in 20 years when something else happens, we can say that every doctor is going to know because it will have been in the literature that these are the things you do first.

And they are in this not only to treat people now, but to be able to inform the doctors and the people who might have ailments going forward.

Mr. ENGEL. Mr. Torres, would you want to comment on that?

Mr. TORRES. Yes, just like the doctor said I already commented on my experience. I was going to my doctor almost a year, and I had a CAT scan done from my neck down, and they never found nothing wrong with my throat, but I was losing my voice. When I went to the monitoring program, when they were evaluating me, one of the doctors there said well, Mr. Torres, if you have GERD, acid reflux and you are having a breathing problem, a lot of people need to see an ENT doctor.

So we are going to make an appointment for you, and they sent me to a throat doctor. And when they put the scope down, there was a polyp, a mass, in my throat, which wasn't picked up by a CAT scan, which wasn't picked up by my doctor, which—this might sound strange—was a very happy moment for me because I got an answer out of a year of no answers.

And I am one of those males that don't like going to the doctors. I am one of those males that my wife had to force me to go to the doctor, and I was so happy to finally get an answer because I was tired of going to the doctor and coming back home and not knowing what was wrong. And I knew there was something wrong.

Mr. ENGEL. Well, thank you. It is very good to hear firsthand experiences, Mr. Torres, Mr. Holloway. Let me ask one final question. How does the legislation—and perhaps Dr. Melius would be the best to answer this, but anybody else can. How does the legislation ensure that the care received through a Center of Excellence is coordinated with the care received by a responder or community resident from his or her personal physician? Mr. Torres talked about how he wasn't getting answers. But if someone has gone to a personal physician, how is it coordinated with the Center of Excellence? How does this legislation ensure that it is coordinated?

Dr. MELIUS. I think there are no specific provisions in the legislation for that, but the normal way that—usual way that these physicians operated in these centers is they focus on World Trade Center related conditions. So they are focused on the sinus, on the lung disease and so forth.

When there are other personal health problems that people may have, existing conditions or something else develops that is non World Trade Center related, then as any specialist would, they would refer back to the primary care physician. They would be building off what medical records, what medical information they would be in contact with that personal physician in terms of either doing referral or direct referral back for further care, and I think that is routine in the operation of the Sinai program and the Bellevue program.

Mr. ENGEL. Right, but what about someone who gets care from a private physician and now is going to the Center of Excellence, as Mr. Torres said, went to a private physician first and a Center of Excellence? What is the coordination? Does the private physician reach out to the center? Would the center reach out to the physician? How would we know that it is not duplicative? That is the kind of question I am asking.

Dr. MOLINE. There is a variety of ways at Mt. Sinai we do this. First of all, every patient who is in a monitoring program, whether it is the fire department's monitoring program or the consortium monitoring program, gets a results letter to bring with them to their doctor. And they get a copy of all of their test findings.

We also ask if they would like copies sent to their doctor. If they give us authorization, then we send copies of all of this information to their doctor. All of our physicians reach out to these doctors to make sure that we aren't going at cross purposes, we are not both prescribing the same medications or medications that might counteract each other, that we are all on the same page in providing the best care.

We are working in many ways as a consultant would to a primary care physician. We are providing care for a number of conditions. In addition to going to your family doctor for your routine checkup, you would be referred to—if you had a back problem, you would be referred to an orthopedic surgeon. The orthopedic surgeon would communicate back to the family doctor to say yes, this is what I saw. That is how we work with the private doctors.

Mr. ENGEL. Well, thank you, Dr. Moline, and thank you for all the good work you do. And thank everyone. I want to thank everyone on the panel for the good work you do and for the people who have the courage to make their public struggles—their personal struggles, to share them with us.

It is very important that the country understands, as so many people have said, that this is a problem affecting all of us. And we need a federal response, and that is why we need this bill. New York happened to be the place where the terrorists attacked, but the terrorists attacked New York because of the symbol of New York and what it means.

And therefore we have a tremendous responsibility. And those doctors who were on the front lines, you indeed are first responders because you are on the front lines. And those people with the courage to tell us their stories are really making such great progress.

And finally, Mr. Chairman, I want to commend you because I am on this subcommittee, and there are so many related health concerns that we have in this country. And you and I have spoken many times about the need to have this hearing, and you have al-

ways been positive and helpful. And obviously this wouldn't have happened today without your leadership in this very, very important matter. And you and I have discussed this, and I am confident with you as chairman we are going to finally move forward and break through and pass this legislation, which is so desperately needed.

So thank you again, Mr. Chairman. I want to state on the record how helpful you have been.

Mr. PALLONE. Well, thank you, and we do intend to move forward. Mr. Weiner.

Mr. WEINER. Thank you, Mr. Pallone, and I want to echo the remarks of Mr. Engel. You and Mr. Deal have been very helpful in moving this forward, and it reminds us that when the first Victim Compensation Bill was passed, it was unanimous or nearly unanimous, the notion that people who perished in what was essentially an act of war deserve not only our gratitude. But they also deserve a quick dispensation of the needs of their surviving family members.

And the universe of people that we talk about today, in fact many of them are people who are dying by degrees because of that day. And has been remarked in the past, if we knew then that people would be dying years later, there is no doubt in my mind that we would have, in a bipartisan fashion, changed the language of the bill to make sure that the Victim Compensation Fund took into account people like Mr. Torres.

And Mr. Torres, who speaks for many people, some of whom are here, many of whom have gone on with their lives, some of whom unfortunately have perished, many of whom are sick. They responded that day because it was a combination of their job and their sense of their obligation to their neighbors. They went without being asked to sign forms. They didn't go with an instruction book. If anything, the advice they were getting from many officials, as we now know, was wrong.

We had heard of the EPA at the time saying the air was just fine. People were handing them equipment that you wouldn't use to paint your apartment, and they were being asked to wear it when they were dealing with the toxic soup that has been described here as unprecedented.

But let me just ask a question that perhaps can refocus us on the broader question. The people with Drs. in front of your name, is there any doubt in your mind that people today are dying because of the attacks on September 11 and their proximity to that attack?

Dr. REIBMAN. I think that people are very, very sick because of September 11 and their proximity at that time. We certainly hope we can prevent them from dying.

Mr. WEINER. Dr. Melius, is there any doubt in your mind that are people who are dying by degrees because of that attack?

Dr. MELIUS. Absolutely not.

Mr. WEINER. Dr. Moline, any doubt in your mind that there are people who are dying by degrees because of that attack?

Dr. MOLINE. Absolutely not.

Mr. WEINER. And, Doctor, I want to take a moment to thank you. I have seen your work secondhand as folks who are close to me

have turned to you for care and have received it. One of the questions that has come up is that whether or not in addition to us providing a service to the people who are sick, we also send a message to future generations of people like Mr. Torres that if they do run into the aftermath of these things and try to help out, that we are going to be there for them just as we would if they were soldiers.

Mr. Torres, I know that you have said in a couple of places that you don't regret anything about the way you acted and your colleagues, the service that you provided. But certainly there must be a time in the still of the night where you think boy, was it worth it? Are you concerned that if someone—if you are seeing someone else and they say to you, you know it sounds like you got really sick from being there on the job and now the federal government isn't responding, that we might be in a circumstance in future attacks where people start to have second thoughts about whether or not they should go into that place when called by their neighbors?

Do you think about that at all that, you know, that all that you have gone through—and you must have a lot of brothers and sisters who have situations that are like yours. They must sometimes say to themselves you know what? If I knew then what I know now, maybe I wouldn't have raced there to be of help.

Mr. TORRES. That conversation comes up a lot. At the workplace, it comes up. Just two days ago when I was telling my wife about this committee, she asked the same question. What will happen if they don't pass this bill? Will people go back out there and help again?

I have a brother who is a fireman in Jersey City. He was out there too working. And we talk about it. He will go out there if he wasn't a fireman. I will go out there again. I will go out there. Hopefully, God willing, we never have to. But there is not a doubt in my mind even with the illness. I don't regret what I did. I did it because it was the right thing to do.

And so to answer your question, most likely yes, some people do have that in their mind. But I think human beings in nature when something tragic happens, they respond.

Mr. WEINER. Right.

Mr. TORRES. And we saw that at the World Trade Center because it wasn't firemen and policemen there alone. There was a lot of other people working, male, woman, old, young. Jersey City had a chain gang filling up tugboats from young people, high school, grammar school, anybody helping.

I want to believe that they will come out again.

Mr. WEINER. I believe they will, and we should be there for them now. Let me just conclude with just this one question. There was some opposition that has been voiced about the idea that we don't know for sure when someone comes in, whether they are afflicted by the effects of Ground Zero dust and their being in that environment or something else. You know someone comes in with a headache, it could be from anything.

As you accumulate a larger database of information and see more clients and do more research, are you reaching the point where you can say, perhaps not with metaphysical certitude, but some certainty when you are dealing with someone who has come before you because of a 9/11 related thing?

There have been some concerns raised well, it sounds like we have this catchall situation if anyone can show they were anywhere nearby at any time, they could come in. It might have nothing to do with the 9/11 dust. If we can just perhaps start with Dr. Moline, and then we will go down the line. Do you have some sense now that you have a sufficient body of knowledge, and as it grows, that you can allay the fears of some of my colleagues that this isn't entirely open-ended, that you can tell? We now have some foundation on which to draw a conclusion about who was there by the effects of 9/11?

Dr. MOLINE. Well, I think if you look at the medical studies that have come out, and studies come out from the fire department, from the police department, from the consortium that Mt. Sinai coordinates from Dr. Reibman's, everyone has the same numbers.

You look at objection measures like pulmonary function tests. Twenty-eight percent have abnormal pulmonary function tests, whether it is police officers in a separate study, whether it is a group of 10,000 folks that we reported on. Whether it is folks from fire department or from Dr. Reibman. When you see this constellation of symptoms in thousands upon thousands of people, that I think there can be no doubt that these exposures were the cause of many of the ailments we are seeing, if not the specific ailments——

Mr. WEINER. Yes, I am asking the inverse of that. I am asking we know about the population as a whole. The question is individual citizens that come in and say OK, I want to take advantage of the provisions of this bill. I am made sick by 9/11. Do you have the ability to be able to allay the concerns of some of my colleagues that say you don't really know. It could have been from something, they could have had something predated that could have, you know, that you could be seeing.

Are you at a point now that when you see someone, you look at the combination of where that person was, what kind of symptoms they have, their profile as, you know—are you at a pretty comfortable place that you can say yes, we are pretty sure. We don't know with absolute certainty, but we are pretty sure this is someone who was made sick by September 11.

Dr. MOLINE. What you are describing is my specialty, which is occupational medicine, which is——

Mr. WEINER. You should testify before a hearing or something. You would be perfect.

Dr. MOLINE. Thank you. That is what we do. We say what do you do, where were you, what were you exposed to, and find out what was your health like before you had these things. And I do that every time I see a patient. I was going to be taking care of patients this afternoon, but I will be seeing them tomorrow morning. Those are the questions that all of them have been posed by me to find out on an individual basis. Sure we will publish on the aggregate, but on an individual basis, how were you on September 10? What was your medical history before that? And now when did you begin to have symptoms? What were you doing? Where were you? What other things have intervened in between? It might be something else. It might not be. How are all of these things affecting your health now?

Mr. WEINER. And so you have some constant?

Dr. MOLINE. We have constants.

Mr. WEINER. And, Mr. Melius, you have a similar sense that you pretty much—you can now spot it when you see it and take a look at it?

Dr. MELIUS. I don't provide the direct care, but I think what I would add to what Dr. Moline said is remember that again why we have Centers of Excellence is to have standardized approaches for addressing and examining people. So they use the same questionnaires, the same types of testing. So that is standardized in everybody. And as I work with these physicians, they pick up on—they understand that issue, and they have developed so much experience that I am very confident in——

Mr. WEINER. Thank you. Mr. Chairman, I have a vote in the other markup, and I want to thank the panel very much.

Mr. PALLONE. Thank you. We are about to conclude, but I do want to ask one or two more questions with the support here of my ranking member. I thought you said earlier—this is following up on what Mr. Weiner said. I thought you had said earlier, Dr. Melius, that you actually have a certification of some sort that a person had a World Trade Center disease or disorder? Did I misunderstood?

Dr. MELIUS. No, right now the—what I was referring to earlier was in the legislation, there is now the requirement, which is not strictly in place now sort of administratively. But going forward that says Dr. Moline, Dr. Reibman would first, you know, they would say that when a person is eligible for the program, secondly that they have a World Trade Center related condition and so forth. They would do that.

There would then be a certification by NIOSH or whoever is administering the federal agency that, you know, sort of reviewing that, making sure that it followed all the procedures, that it was correct.

Mr. PALLONE. So essentially—I mean maybe certification isn't the word. But essentially you would say this person has the disorder, and they are eligible for the program.

Dr. MELIUS. Yes.

Mr. PALLONE. And if they weren't, if they didn't meet those criteria, you wouldn't treat them anymore in theory?

Dr. MELIUS. Correct, and that is currently happening now in the program.

Mr. PALLONE. You do get people that come in that you decide don't have the disorder and then you turn them away essentially?

Dr. MELIUS. Right, it is a limited number, but there are people. And we have actually worked out among all the participating Centers of Excellence a program to sort of make sure that in their process, as patients come in—because everyone is handled slightly differently—that they—if they are suspicious that someone is not really eligible or, you know, that they have a way of, you know, more intensively following up, you know, demanding that there be more documentation that they actually work there.

And that process is working because I get calls from them, and we talk about at the steering committee meetings and so forth. And certainly, you know, with people coming in now, you know, seven

years later, I think we have to be more careful about it. Though again it is not to say that the vast majority of the people coming in are——

Mr. PALLONE. I mean most people don't show up if they really don't have a problem.

Dr. MELIUS. Exactly, yes.

Mr. PALLONE. All right, and my last question is this, and I kind of went back to the beginning. You know in terms of the need for a permanent program and authorization, which is what we are all about. And let me preface that by saying, you know, we are an authorizing committee, so we don't particularly like the fact that you operate without a permanent authorization because we don't like to do business that way. And certainly for us, that is not the way we do things. But the question really is without the permanent authorization, again sort of being the devil's advocate, I assume that you have had problems operating the way you are and that there is some inherent benefit in having a permanent authorization. If any of you would like to comment on that, I think that might be important.

Dr. MOLINE. You know working in a clinical setting where there is uncertain funding year to year, I reach a certain point where I begin to draft the letter that is going to go out to say we can't provide the care that you have been receiving to all the patients. We can't guarantee that they will get the services that they need without having a permanent solution. We are intensely grateful, immeasurably grateful for the monies that have been appropriated for us, and it is year-to-year funding.

I mean we have a staff that is—we are seeing thousands of patients a year at Mt. Sinai. We have an infrastructure that is developed. It is very hard when you don't know if you are able to sustain that every year, and you are worried is this going to be possible. Am I going to have to start from scratch again where I have this expertise that I have build up?

And that has been one of the challenges in trying to make sure that we have the resources so that we know that if we do have to expand, if there are more people coming in or there are new illnesses, that we will be able to handle that.

We are more worried about whether we are even going to have funding for the next year available.

Mr. PALLONE. Anyone else want to comment because I think that is kind of important here.

Dr. REIBMAN. I would like to agree just to say that it is very important to be able to recruit people, to train people, to get people with experience so that they can answer just the questions you are asking. How do you know this is World Trade Center? Is this what we have seen before? How are we going to approach it? And to have—to not know whether you are going to be able to retain people, to have to retrain people all the time makes the program very difficult.

Mr. PALLONE. Mr. Holloway.

Mr. HOLLOWAY. And just on—we are talking in part about programs that have appropriations, you have to come back and do it from year to year. There are also, from the city's perspective, a number of programs that are primarily funded by the city. And al-

though we have gotten some of the—recently from NIOSH some money appropriated there, the HHC program right now is actually running at a deficit.

One of the other programs that we didn't talk about in detail is a mental health program, which actually does reimbursement for mental health services that is funded in the bill, also operating at a deficit.

So for some of these programs, you know, the city, as I said didn't wait for Congress to act for us to meet the needs that we found when we dug into this. But, you know, the program will be subject to the vagaries of the very, very difficult budget choices that the city has to make about all of the programs that it provides. And so, you know, this isn't just a matter of coming back and everybody testifying every year about an appropriation.

You know we would really like to see this go past the point where it is a question whether these programs are going to run. And we do feel that it is important that, with the city contributing, it is a national responsibility.

Mr. PALLONE. OK, thank you.

Dr. MELIUS. Can I just add I think it is also very important for the participants in the program, and one good recent example is one of the individuals, a firefighter, just recently underwent a lung transplant. And he and his family were asked well, do you want—who should cover this because it is covered out of this program, and it was World Trade Center related. Then what is going to happen in the future? Because that individual is going to be on, you know, significant medications for the rest of his life, which we hope is a long one. And who is going to be able to pay for that going forward?

So knowing that this program had long-term funding would have made that decision much more easy for that individual and I think for everybody involved here. They often wonder what is going to happen with their health insurance. Who is going to take care of them in the future? It also has implications for the Victims Compensation Fund portion of this.

Mr. PALLONE. Sure. Mr. Deal.

Mr. DEAL. Well, my information is that CDC had, I think, $180 million carried over that was appropriated for fiscal year 2009, and they have obligated just over $16 million through the end of March of '09. And my understanding is that based on those currently appropriated funds that there appears to be adequate funding through 2010. So that carryover money, I think, does make a difference.

Mr. PALLONE. I mean we obviously, you know, you still have to go through the appropriations process every year. But there is a big difference in terms of having something that is permanently authorized that you can count on as, you know, as being authorized versus having to, you know, come back every year for the money. We can't avoid that. That is just the annual process. Did you want to add anything? Otherwise we are going to conclude.

Mr. HOLLOWAY. Just one thing to Congressman's point. There is money that carries over. It actually took NIOSH and CDC for whatever reason many, many months to actually get an RFP out on the street and create a vehicle to access that funding that had

been appropriated. And in fact, after this hearing today, I will be going to NIOSH to talk about how we can do a better job ensuring that the money that has already been appropriated to deal with this is best used.

So any help you can provide would be appreciated.

Mr. PALLONE. Sure. All right, well thank you very much. You may get additional questions within the next 10 days that members can submit for the record. And you would respond to us, and the clerk would notify you about that. But I just wanted to thank you. I thought this was a very good analysis. And as I said, we do intend to move forward with the legislation. So without objection, this meeting of the subcommittee is adjourned. Thank you.

[Whereupon, at 12:20 p.m., the subcommittee was adjourned.]

[Material submitted for inclusion in the record follows:]

HENRY A WAXMAN, CALIFORNIA
CHAIRMAN

JOE BARTON, TEXAS
RANKING MEMBER

ONE HUNDRED ELEVENTH CONGRESS

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MEMORANDUM

April 17, 2009

To: Health Subcommittee Members and Staff

Fr: Health Subcommittee Staff

Re: Hearing on the James Zadroga 9/11 Health and Compensation Act of 2009

On April 22, 2009, at 10:00 a.m. in room 2322 of the Rayburn House Office Building, the Subcommittee on Health will hold a legislative hearing on H.R. 847, the James Zadroga 9/11 Health and Compensation Act.

I. BACKGROUND

After the World Trade Centers were attacked on September 11, 2001, between 250,000 and 400,000 people in the area were exposed to environmental hazards including asbestos, particulate matter, and smoke. This group included people who lived and worked in the area as well as approximately 40,000 responders from federal, state, and local government agencies, private organizations, and individual volunteers who helped with the rescue, recovery, and clean up efforts.

As a result of exposure to toxic dust, smoke, and debris, a number of first responders and community members are suffering health problems, both physical and mental. These problems include respiratory ailments such as asthma, lung disease, and persistent cough, as well as symptoms of post-traumatic stress disorder. A number of first responders are now too sick to work and have lost their health insurance as a result. There have been at least two cases of people needing lung transplants as a result of their exposures.

In order to address these health problems, and to monitor for future health issues, a program was established to administer healthcare to people who were suffering from health problems as a result of the attacks on 9/11, and also to monitor for future health problems of people who had been exposed to the toxic air. This program is administered by the National

Institute for Occupational Safety and Health (NIOSH) and has relied on annual appropriations. NIOSH also administers a small program for people in the community who were affected by exposures to the World Trade Center.

On February 4, 2009, Reps. Maloney, Nadler, King, and McMahon introduced H.R. 847, the James Zadroga Health and Compensation Act. This bill would make permanent the current responder and community treatment and monitoring programs. The bill would require that the City of New York contribute 10% of the costs of the program, not to exceed $500 million over ten years. The bill would also reopen the 911 Victims Compensation Fund for people who became ill or suffered losses after the fund originally closed on December 22, 2003. The bill would also provide liability protections for the World Trade Center contractors and the City of New York. Attachment A to this memo provides a more detailed summary of the legislation.

The Congressional Budget Office (CBO) prepared a score for H.R. 7174, the version of the legislation that was introduced in the 110th Congress. The estimated cost of the legislation over ten years was $11 billion, including $4.6 billion from the health care provisions. H.R. 874 has been changed from H.R. 7174 and therefore the CBO score may be different.

II. WITNESSES

The following witnesses have been invited to testify:

Panel I:

The Honorable Jerrold Nadler
Member of Congress

The Honorable Peter King
Member of Congress

Panel II:

Mr. Edwardo Torres
Jersey City, NJ

Jacqueline Moline, MD, MSc
Vice Chair, Community and Preventive Medicine
Director, WTC Medical Monitoring and Treatment Program
Clinical Center at Mount Sinai
Director, NY/NJ Education and Research Center
Mount Sinai School of Medicine, New York

Joan Reibman, MD
Associate Professor of Medicine and Environmental Medicine
Director NYU/Bellevue Asthma Center
Director of Health and Hospitals Corporation WTC Environmental Health Center
Bellevue Hospital, New York

Dr. Jim Melius
Administrator
NYS Laborers' Tri-Funds
Albany, New York

Caswell F. Holloway
Chief of Staff to New York City Deputy Mayor for Operations Edward Skyler
Special Advisor to New York City Mayor Michael R. Bloomberg

Staff contacts: Sarah Despres (5-5056) and Elana Leventhal (5-4671).

Attachment A: Summary of H.R. 847

Title I. World Trade Center Health Program

Title I of amends the Public Health Service Act to create the World Trade Center Health Program.

Subtitle A. Establishment of Program; Steering and Advisory Committees

Section 3001. Establishes the World Trade Center Health Program (the WTC Program) within the Centers for Disease Control and Prevention (CDC), National Institute for Occupational Safety and Health (NIOSH), to provide: (1) medical monitoring and treatment benefits to eligible emergency responders and recovery and clean-up workers (including federal employees) who responded to the terrorist attacks on the WTC in New York City (NYC) on September 11, 2001 (9/11); and (2) initial health evaluation, monitoring, and treatment benefits to eligible residents and other building occupants and area workers in NYC affected by such attacks. The Director of NIOSH or his or her designee shall serve as the WTC Program Administrator (the Administrator).

In general, all costs of covered initial health evaluation, medical monitoring, and treatment benefits for eligible individuals shall be paid for by the WTC Program, except for any costs that are paid by a workers' compensation program, health insurance plan, or the matching program required under section 3012. Payment for treatment of a WTC-related health condition that is work-related shall be reduced or recouped by any amounts paid under a workers' compensation law or plan for such treatment.

For eligible beneficiaries who have health insurance coverage and have been diagnosed with a WTC-related condition that is not work-related, the WTC Program shall be a secondary payer of all uninsured costs (such as co-pays and deductibles) related to services covered by the WTC program. This provision does not require an entity that provides monitoring and treatment under this title to seek reimbursement from a health plan with which it does not have a contract for reimbursement.

Section 3002. Requires the Administrator to establish the WTC Health Program Scientific/Technical Advisory Committee to review scientific and medical evidence and make recommendations to the Administrator on additional WTC Program eligibility criteria and additional WTC-related health conditions. The Advisory Committee shall continue in operation during the period in which the WTC Program is in operation. This section authorizes the appropriation of such sums as may be necessary, up to $100,000, for each fiscal year beginning with FY2009.

Section 3003. Requires the Administrator to establish two WTC Program steering committees — the WTC Responders Steering Committee, and the WTC Community Program Steering Committee — to facilitate the coordination of initial health evaluation, medical monitoring, and treatment programs for eligible WTC responders and community members. The committees shall continue in operation during the period in which the WTC Program is in operation.

Section 3004. Requires the Administrator to establish a program to provide education and outreach regarding services available under the WTC Program. The program shall include the development of a public website and phone information services; the use of culturally and linguistically diverse content; and the use of community partnerships in conducting outreach.

Section 3005. Requires the Administrator to provide for the uniform collection, analysis, and reporting of data, consistent with applicable privacy requirements, on the utilization of monitoring and treatment benefits provided throughout the WTC Program (regardless of the location at which services are provided), the prevalence of WTC-related health conditions, and the identification of new WTC-related health conditions.

Section 3006. Requires the Administrator to establish, by entering into contracts, Clinical Centers of Excellence and Coordinating Centers of Excellence. Clinical Centers of Excellence shall provide monitoring, initial health evaluation, and treatment benefits under subtitle B; outreach activities and benefits counseling to eligible individuals; translational and interpretive services for eligible individuals, if needed; and collection and reporting of data to the corresponding Coordinating Center.

Clinical Centers are defined as: (1) the Fire Department of the City of New York (FDNY) or its contractors, for its employees and others as defined (FDNY employees may also be served at other Clinical Centers); (2) for other eligible WTC responders, whether or not they reside in the New York metropolitan area, the Mt. Sinai coordinated consortium, Queens College, State University of New York at Stony Brook, University of Medicine and Dentistry of New Jersey, and Bellevue Hospital; (3) for WTC community members, whether or not they reside in the New York metropolitan area, the WTC Environmental Health Center at Bellevue Hospital and such hospitals or other facilities, including, but not limited to, those within the New York City Health and Hospitals Corporation, as identified by the Administrator; and (4) for all eligible WTC responders and community members, such other hospitals or other facilities as are identified by the Administrator, but the Administrator shall limit the number of these additional Clinical Centers to ensure that they have adequate experience in the treatment and diagnosis of identified WTC-related medical conditions.

In order for any NYC department or agency, or the New York City Health and Hospitals Corporation to qualify for a contract for the provision of monitoring and treatment benefits and other services under this section, NYC is required to contribute a matching amount of 10% of the amount of covered monitoring or treatment services provided to eligible individuals. The matching amount shall be reduced by any payment made by NYC, its agencies, or departments under a workers' compensation plan or other work-related injury or illness benefit plan for covered treatment benefits. The matching amount is limited to a total of $500 million over any ten year period.

Section 3007. Provides a permanent and indefinite appropriation for payment for initial health evaluation, monitoring, and treatment services under Subtitle B, and the costs of non-treatment and non-monitoring activities under section 3006.

Section 3008. Provides definitions for Title I.

Subtitle B. Program of Monitoring and Treatment

Part 1. For WTC Responders

Section 3011. Defines eligibility criteria for active or retired WTC responders (including immediate family members of firefighters who were killed as a result of the attack on the WTC in certain circumstances). The WTC responder program is limited to 15,000 new eligible responders, in addition to those previously identified. This cap may be raised by the Administrator, according to a formula, if program costs under this title are less than 90% of costs previously estimated by the Congressional Budget Office.

The monitoring benefit (which is available to eligible responders, but not to family members) is defined as initial health evaluation, clinical examinations, and long-term health monitoring and analysis, to be provided by the FDNY, the appropriate Clinical Center, or other providers designated under section 3031 for eligible individuals outside New York.

Section 3012. Defines a WTC-related health condition for which eligible responders shall receive the treatment benefit as:

> (A) an illness or health condition for which exposure to airborne toxins, any other hazard, or any other adverse condition resulting from the September 11, 2001, terrorist attacks on the World Trade Center, based on an examination by a medical professional with experience in treating or diagnosing the medical conditions included in the applicable list of identified WTC-related conditions, is substantially likely to be a significant factor in aggravating, contributing to, or causing the illness or health condition; or
>
> (B) a mental health condition for which such attacks, based on an examination by a medical professional with experience in treating or diagnosing the medical conditions included in the applicable list of identified WTC-related conditions, is substantially likely be a significant factor in aggravating, contributing to, or causing the condition.

Eligible responders may receive treatment benefits for conditions described in subparagraph (A). Eligible responders and, under specified conditions, immediate family members of firefighters who were killed as a result of the attack on the WTC, may receive mental health treatment benefits for conditions described in subparagraph (B).

An identified WTC-related condition is one of many listed aerodigestive, mental health, and musculoskeletal conditions for which coverage of medically necessary treatment will be provided, so long as it is determined that any such condition (or conditions) in a given eligible responder is WTC-related. The determination of whether the terrorist attacks on the WTC were substantially likely to be a significant factor in aggravating, contributing to, or causing an

individual's illness or health condition shall be made based on an assessment of the individual's exposures resulting from the terrorist attacks, and the type and timing of symptoms.

The Administrator may by regulation add additional identified WTC-related health conditions, such as cancer, to the list for eligible WTC responders.

Covered treatment services include physician services, diagnostic and laboratory tests, inpatient and outpatient prescription drugs, inpatient and outpatient hospital services, and other medically necessary treatment. To the extent provided in advance in appropriations, the Administrator may cover necessary and reasonable transportation and related expenses for medically necessary treatment, involving travel of more than 250 miles.

Except for pharmaceuticals, the Administrator shall reimburse costs for medically necessary treatment for WTC-related health conditions according to the payment rates that would apply under the Federal Employees Compensation Act. The Administrator shall establish a program to pay for medically necessary outpatient prescription pharmaceuticals prescribed for WTC-related conditions through a specified competitive bidding process to award contracts to outside vendors.

Part 2. Community Program

Section 3021. Defines WTC community members who are eligible for health monitoring and treatment benefits, including individuals currently receiving treatment at the WTC Environmental Health Center; individuals who meet specified criteria regarding locations of residence, work, or schooling under specified time frames; and individuals meeting other criteria that the Administrator may establish.

The Administrator shall provide certified eligible WTC community members with one initial health evaluation to determine the presence of a WTC-related health condition and the need for follow-up monitoring or treatment benefits.

The WTC community program is limited to 15,000 new certified community members, in addition to those currently receiving benefits. The Administrator shall report to Congress if he or she determines that the number of individuals eligible to be certified is likely to exceed the numerical limitation.

Section 3022. Establishes that, in general, treatment of WTC-related health conditions shall be provided to certified eligible WTC community members in the same manner that such provisions apply to the treatment of WTC-related health conditions for eligible WTC responders under section 3012. The bill lists a number of identified WTC-related conditions for community members, including aerodigestive and mental health conditions, but not including musculoskeletal conditions as listed for the responder program. The Administrator may add new conditions to the list for the community program in accordance with the process established under section 3012 for the responder program.

Section 3023. Establishes that treatment services shall be provided through the community program to individuals who are not responders and who do not meet the certification criteria for the community program, for any such individual who is diagnosed at a Clinical Center with an identified WTC-related condition for WTC community members. Treatment for such individuals shall be provided regardless of location or residence.

Part 3. National Arrangement for Benefits for Eligible Individuals Outside New York

Section 3031. Requires the Administrator to establish a nationwide network of health care providers to provide benefits to eligible individuals who reside outside the New York metropolitan area, near such individuals' areas of residence.

Subtitle C. Research Into Conditions

Section 3041. Requires the Administrator to develop a research program on physical and mental health conditions that may be related to the 9/11 terrorist attacks.

Subtitle D. Programs of the New York City Department of Health and Mental Hygiene

Section 3051. Requires the Administrator to extend and expand the arrangements in effect as of January 1, 2008, with the NYC Department of Health and Mental Hygiene that provide for the World Trade Center Health Registry. The appropriation of $7 million is authorized for each fiscal year to carry out this section.

Section 3052. Authorizes the Administrator to make grants to the NYC Department of Health and Mental Hygiene to provide mental health services to address mental health needs relating to the 9/11 terrorist attacks on the WTC. Authorizes the appropriation of $8.5 million for each fiscal year to carry out this section.

Title II. September 11 Victim Compensation Fund of 2001

Title II would re-open the September 11 Victim Compensation Fund, which was closed to new claims as of December 22, 2003. It adds new categories of beneficiaries and sets new filing deadlines.

Section 202(a). Requires that the eligibility claim form for compensation benefits be amended to also request information from claimants, or representatives of decedents, concerning physical harm or death resulting from debris removal related to the 9/11 aircraft crashes.

Section 202(b). Provides new deadlines for claims related to physical harm or death from debris removal at the crash sites that would extend from the date on which the regulations are updated to reflect the provisions of this Act and ending on December 22, 2031.

Section 202(c). Establishes timing requirements for claims filed during the extended filing period.

Section 202(d). Makes a technical amendment adding that claimants can include individuals who were present at any other 9/11 aircraft crash sites at the time, or in the immediate aftermath, of the 9/11 aircraft crashes.

Section 202(e). Amends the eligibility requirements for claimants to include individuals who suffered physical harm resulting from debris removal.

Section 202(f). Requires individuals or personal representatives filing a claim for compensation related to 9/11-crash site debris removal to waive their right to file a civil action or be party to such an action in any federal or state court for damages sustained as the result of the 9/11 terrorist attacks.

Section 203. Requires the Special Master to update the regulations originally promulgated for the 9/11 Victims Compensation program to reflect the changes made by this Act within 90 days of enactment.

Section 204. Establishes specific limits for the liability of all claims and actions related to physical harm or death from debris removal, including those claims or actions previously resolved, currently pending, and that may be filed by December 22, 2031.

An exception is provided for claims or actions based on conduct held to be intentionally tortious or acts of gross negligence or other acts that would be awarded punitive damages. Priorities are established for payments awarded to plaintiffs of these claims or actions. Claim payments are to be made, until the funds of each payer are exhausted, in the following order:

- funds in the WTC Captive Insurance Company or the WTC Captive Insurance Company's insurance policy;
- funds available through the City of New York's insurance coverage, up to $350 million;
- funds available through liability insurance coverage maintained by entities with a property interest in the WTC on September 11, 2001; and
- from funds available through liability insurance coverage maintained by contractors and subcontractors.

STATEMENT
OF
THE HONORABLE JOHN D. DINGELL
SUBCOMMITTEE ON HEALTH
LEGISLATIVE HEARING ON "H.R. 847, JAMES ZADROGA 9/11 HEALTH AND COMPENSATION ACT"

APRIL 22, 2009

Thank you, Mr. Chairman, for holding today's legislative hearing on H.R. 847, the "James Zadroga 9/11 Health and Compensation Act of 2009". I also thank the witnesses who are here to discuss this legislation, which would provide a permanent medical monitoring and treatment program for the first responders, workers, and residents affected by the World Trade Center attacks that took place on September 11, 2001.

H.R. 847 is a bipartisan effort. It will provided needed assistance to pay for the medical treatment of those affected during and after the World Trade Center attacks. Today's legislative hearing will identify the shortcomings of the current monitoring and treatment programs for this

population, and will highlight the need for H.R. 847 in addressing these shortcomings.

Currently, those who suffer from World Trade Center-related conditions are relying on a disjointed system that depends on worker's compensation, disability, employer based health insurance and private donations to pay for necessary medical treatment. Even with these resources, many of the eligible WTC community members are going without medical treatment due to unemployment, rising health care costs and unfortunate worker's compensation bureaucracy.

Every year since 9/11, we have held hearings on providing medical treatment for those affected. And once again, I firmly believe that sole dependence upon the unpredictable Federal appropriations process to provide the necessary funding for responders and community members is not the way to provide long-term treatment and care for those who were placed in harm's way. H.R.

847 provides steady, predictable funding for health evaluation and treatment services.

H.R. 847 makes permanent the current responder and community treatment and monitoring programs. Additionally, it would reopen the 911 Victims Compensation Fund for those who became ill or suffered losses after the fund originally closed in December of 2003.

I commend my good friend, Carolyn Maloney, for pushing so hard for this legislation for so many years.

Thank you again, Chairman Pallone, for holding this important hearing. I look forward to receiving the testimony of our witnesses, and more importantly, addressing this issue.

April 22, 2009

STATEMENT OF THE HONORABLE JOE BARTON

RANKING MEMBER COMMITTEE ON ENERGY AND COMMERCE

HEALTH SUBCOMMITTEE HEARING:
"H.R. 847, JAMES ZADROGA 9/11 HEALTH AND COMPENSATION ACT OF 2009."

April 22, 2009

Mr. Chairman, thank you for recognizing me for an opening statement on this legislative hearing on HR 847, introduced by Congresswoman Maloney.

Last Congress, when we held a legislative hearing on a similar bill, I caused a bit of a stir by expressing some concerns about this bill. Let me be very clear, opposition to current legislative provisions in this piece of legislation does not reduce my admiration for, nor my desire to help the injured responders who came to the aid of their fellow Americans. We paid for some of the health care required for first responders after Pearl Harbor, and I support the federal government paying a share of the treatment costs for these 9/11 heroes—those emergency responders and recovery workers who were at the site within the first few days of the attack.

December 7, 1941 is a day that lives in infamy for every generation of Americans that followed. September 11, 2001 will, too. Taking the time to address the legitimate policy questions raised in a particular piece of legislation will never diminish that, and that's what we're here to do today.

First, this bill creates a health insurance entitlement program at the National Institutes of Occupational Safety and Health as well as an extensive and complicated monitoring and treatment mechanisms that maybe impossible to implement. This statutory creation is way outside the existing mission and expertise of NIOSH. Former Director of the CDC, Julie Gerberdine suggested during our hearing last Congress that we should consider other options to NIOSH to avoid implementation, service, and waste problems.

Second, we do not have a score on this bill. Last year's version of this bill, which the Democrat Leadership wanted to take to the floor without a markup, was tabbed at $11 billion over 10 years. However, this new bill is different from last year's bill. I have grave concerns about creating another entitlement program, when our current entitlement programs are already hemorrhaging.

Since 2002, HHS has been tracking and screening World Trade Center rescue, recovery and clean-up workers. As of April 2009, the CDC estimates $995 million has been spent on World Trade Center health monitoring and treatment programs.

Last year, in fact, the program had approximately $112 million in carryover balances from prior year appropriated funds, yet Congress still appropriated an additional $70 million for the program in FY2009. Mr. Chairman, where is the accountability? No one has been able to tell me exactly how these funds were used, how many grantees were awarded the funds, how many community members were treated, what kinds of treatment they received. Before we start authorizing programs that may not be needed, I urge you to account for the almost $1 billion we have already spent.

Third, I am concerned that the provisions in this bill allow the City of New York to off-load its financial obligations onto the Federal taxpayers. Outside of the very generous administrative costs that New York is able to charge the Federal government for its screening programs, my staff has been informed that there are parts of this bill that massage "fitness-for-duty"

exams and other routine employment expenses traditionally picked up the City as reimbursable costs by the Federal government. I know the elected leadership in New York likes to say 9/11 was a national incident, but use the memory of a tragedy to relieve cities of their responsibilities.

Fourth, I am concerned that the mandated review boards in this bill leave out a very important group from the discussion: all the retirees of the emergency responders. It seems logical to me that as those who responded on 9/11 either retire or go on disability, this group is going to absorb all the membership of the existing employee unions. If that is the case, why are their voices being muted.

Fifth, I am still trying to figure out the health entitlement program for people at Ground Zero. For those residents who aided the recovery in some way, I think this legislation actually makes them eligible for the "responder" program. In addition, we have community programs that are operating just fine without justification for change. I need to know that this responder program and not another "me, too" for the City to access guaranteed Federal money it otherwise would not get. I also have concerns, from a fairness

standpoint, that folks who left but have a Manhattan address get to siphon off resources intended for the folks who stayed and helped.

Last, this bill expands the Victims Compensation Fund and gives individuals until 2031 to qualify for the program. Not only that, but if an individual has already received a claim from the Victims Compensation Fund, they may reapply if their injury has become worse---essentially allowing folks who knowingly signed a waiver against further compensation to get a second bite at this big apple. I believe this is unfair.

Thank you Mr. Chairman, I yield back the balance of my time.

Opening Statement
Congressman Michael Burgess, M.D.
"H.R. 847, James Zardoga 9/11 Health and Compensation Act of 2009"
Subcommittee on Health
April 22, 2009

Mr. Chairman,

Thank you for your continued diligence on this issue.

I stand by my past remarks to this Committee on the issues surrounding the health consequences stemming from the tragedies of September 11th 2001.

While we stand here almost 8 years later, I believe that this country has a fundamental obligation to those that bravely responded to the World Trade Center site after those bloody attacks.

Those working the site were exposed to numerous toxins that we know, in some, have resulted in long-term medical conditions.

However, the scope of the problem is still unclear. Medicine is still only now beginning to fully understand the magnitude of the health problems that many of the first responders and clean-up crews have been suffering from for so long.

I appreciate that the members that represent New York are here today – I know how hard you all have worked on this legislation.

As a cosponsor of this legislation I hope we can move forward and work with you and any others who wish to improve H.R. 847 so that we may bring it to the Floor. I understand some of the concerns of my Republican colleagues and I plead with you Mr. Chairman, just as I stand by you that those who came when their country called should be compensated – please listen to the concerns of the minority and let's make sure that our scope is proper to our righteous goal.

Just as those who continue to suffer because of their willingness to brave into the unknown; America continues to have a responsibility to see that bureaucratic red tape does not stand in the way of them getting the medical care they need.

To do so would only compound the national tragedy of that day.

I think it would be a welcome commemoration and recognition of the sacrifice of those that responded to the worst terrorist attack ever to take place on U.S. soil to move this bill forward in a manner that will assure broad support.

After all, passage of this legislation should be a priority.

Congressman Edolphus Towns (NY-10th)

Statement for the Hearing Record
House Energy and Commerce Committee
Health Subcommittee
9/11 Attacks Health Compensation Hearing
April 22, 2009

Honorable Chairman Pallone and Ranking Member Deal, I respectfully, ask that you make my statement a part of the record in this proceeding. First, I thank you for this hearing on the H.R. 847, the "**James Zadroga 9/11 Health and Compensation Act of 2009**"and truly applaud the Subcommittee and its Members for the hearing and especially my esteemed New York colleagues, Maloney, Nadler and King and the entire New York congressional delegation for their ardent efforts on this measure. I fully support the bill and the efforts on behalf of the responders, residents, students, workers and those who were effected by exposure to the toxins from the deplorable 9/11 incident. This is a truly welcome effort. I look forward to supporting passage of this laudable measure and thank the Chair and all concerned.

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