



MEMORANDUM

May 21, 2015

To: Hon. Kirsten E. Gillibrand
Attention: Brooke Jamison

From: Scott Szymendera, Analyst in Disability Policy, x7-0014
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Subject: **Comparison of the World Trade Center Health Program (WTCHP) and September 11 Victim Compensation Fund (VCF) with the Radiation Exposure Compensation Act (RECA), the Black Lung Benefits Act, and Part B of the Energy Employees Occupational Illness Compensation Program Act (EEOICPA) [Updated as of May 21, 2015]**

This memorandum is in response to your request for a side-by-side comparison of the federal health and compensation programs for responders to the September 11, 2001 terrorist attacks with the federal health and compensation programs for atomic testing participants, atomic weapons industry workers, uranium workers, and coal miners. Specifically, this memorandum presents information on the following federal programs:

- World Trade Center Health Program (WTCHP);
- September 11 Victim Compensation Fund (VCF), reopened by P.L. 111-347, the James Zadroga 9/11 Health and Compensation Act of 2010;
- Radiation Exposure Compensation Act (RECA);
- Part B of the Energy Employees Occupational Illness Compensation Program Act (EEOICPA);¹ and
- Black Lung Benefits Act.

¹ Part E of EEOICPA is a separate program that provides general workers' compensation benefits to former Department of Energy contractor employees with disabilities or deaths caused by workplace exposure to any toxic substances. Because Part E is more of a general workers' compensation program than a special federal benefits program, it is not discussed in this memorandum.

If you have any questions about the material presented in this memorandum or if you would like any additional information, including more detailed information on any of the programs discussed in this memorandum, please contact the listed authors.

The information contained in this memorandum may be shared with other Congressional offices, however, the nature of your request to the Congressional Research Service (CRS) will remain confidential.

Table I. Side-by-Side Comparison of Selected Federal Health and Compensation Programs

	World Trade Center Health Program (WTCHP)	September 11 Victim Compensation Fund (VCF)	Radiation Exposure Compensation Act (RECA)	Energy Employees' Occupational Illness Compensation Program Act (EEOICPA), Part B	Black Lung Benefits Act
Statute	42 U.S.C. §§ 300mm et seq.	49 U.S.C. § 40101 note	42 U.S.C. § 2210 note	42 U.S.C. §§ 7384l et seq.	30 U.S.C. §§ 901 et seq.
Year of Initial Program Authorization	2011: Originally enacted on January 2, 2011 as P.L. 111-347, the James Zadroga 9/11 Health and Compensation Act of 2010	2001: Originally enacted on September 22, 2001 as Title IV of P.L. 107-42, the Air Transportation Safety and System Stabilization Act	1990: Originally enacted on October 15, 1990 as P.L. 101-426, the Radiation Exposure Compensation Act	2000: Originally enacted on October 30, 2000 as Title XXXVI of P.L. 106-398, the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001	1969: Originally enacted on December 30, 1969 as Title IV of P.L. 91-173, the Federal Coal Mine Health and Safety Act of 1969
Bill Number and Selected Details on Votes for Initial Program Authorization	H.R. 847 (111 th Congress): <ul style="list-style-type: none"> Voice Vote: on December 22, 2010, the Senate passed H.R. 847 Roll Call Vote Number 644: on December 22, 2010, the House agreed to the Senate version of H.R. 847 	H.R. 2926 (and Senate companion bill S. 1450)(107 th Congress): <ul style="list-style-type: none"> Roll Call Vote Number 348: on September 21, 2011, the House passed H.R. 2926 Roll Call Vote Number 284: on September 21, 2011, the Senate passed S. 1450 Unanimous Consent: on September 21, 2011, the Senate agreed to H.R. 2926, which was identical to S. 1450 	H.R. 2372 (101 st Congress): <ul style="list-style-type: none"> Voice Vote: on August 1, 1990, the Senate passed H.R. 2372 Voice Vote: on September 27, 1990, the House passed H.R. 2372 	H.R. 4205 (106 th Congress): <ul style="list-style-type: none"> Roll Call Vote Number 522: on October 11, 2000, the House agreed to the conference report to H.R. 4205 Roll Call Vote Number 275: on October 12, 2000, the Senate agreed to the conference report to H.R. 4205 	S. 2917 (91 st Congress): <ul style="list-style-type: none"> Roll Call Vote Number 336: on December 17, 1969, the House agreed to the conference report to S. 2917 Unanimous Consent: on December 18, 1969, the Senate agreed to the conference report to S. 2917
Implementing Regulations	42 C.F.R. §§ 88.1-88.17	28 C.F.R. §§ 104.1-104.81	28 C.F.R. §§ 79.1-79.75	20 C.F.R. §§ 30.0-30.912	20 C.F.R. §§ 718.1-726.320

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Sunset Date	End of FY2016	Claims must be filed by October 3, 2016	Claims must be filed by July 10, 2022	None	None
Administering Agency	Department of Health and Human Services, Centers for Disease Control and Prevention, National Institute for Occupational Safety and Health	Department of Justice, Civil Division	Department of Justice, Civil Division	Department of Labor, Office of Workers' Compensation Programs	Department of Labor, Office of Workers' Compensation Programs

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Eligibility Groups	<ul style="list-style-type: none"> • <i>Responders:</i> workers and volunteers involved in rescue, recovery, or cleanup at or near the sites of the September 11, 2001 terrorist attacks. • <i>Survivors:</i> persons who lived, worked, or attended school or adult day care in Lower Manhattan and parts of Brooklyn near the World Trade Center. 	Persons present at any of the crash sites in the immediate aftermath (until May 30, 2012) of the September 11, 2001 terrorist attacks.	<ul style="list-style-type: none"> • <i>Onsite participants:</i> persons who participated onsite in the atmospheric detonation of an atomic device at the Nevada, Pacific, Atlantic, or Trinity Test Sites. • <i>Downwinders:</i> persons who lived in specified areas of Nevada, Utah, or Arizona during periods of atmospheric testing at the Nevada Test Site. <p>Note that atmospheric testing at the Nevada Test Site ended in 1962.</p> <ul style="list-style-type: none"> • <i>Uranium workers:</i> persons who worked as uranium miners, millers, or ore transporters for at least one year between January 1, 1942 and December 31, 1971; or miners exposed to at least 40 working level months of radiation during this period. 	<ul style="list-style-type: none"> • <i>Department of Energy employees, contractors, and atomic weapons employees:</i> persons who worked at a Department of Energy facility or atomic weapons facility. • <i>Beryllium workers:</i> persons exposed to beryllium dust, particles, or vapor while working at Department of Energy facilities or beryllium facilities. • <i>Silicosis claimants:</i> persons who worked for at least 250 days at the Nevada or Amchitka Island Test Sites while tunnels were being dug for underground testing. • <i>Uranium workers:</i> uranium miners, millers, and ore transporters eligible for RECA. 	Coal miners, including workers in mine construction and transportation, who were exposed to coal dust.

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Disease Requirements	<p>All responders and survivors are eligible for health screening.</p> <p>In order to receive medical benefits, a responder or survivor must have a medical condition listed in Appendix I of this memorandum.</p> <p>Family members of firefighters killed at the World Trade Center are only eligible based on mental health conditions.</p>	<p>Must have a physical condition listed in Appendix I to this memorandum (not a mental health condition), or another physical condition determined by the Special Master of the VCF to have been caused by the terrorist-related aircraft crashes or debris removal; or must have died due to the terrorist attacks or debris removal.</p>	<ul style="list-style-type: none"> • <i>Onsite participants and Downwinders</i>: Must have one of the cancers listed in Appendix 2 to this memorandum. • <i>Uranium workers</i>: must have lung cancer or non-malignant respiratory disease. Uranium millers and ore transporters may also have renal cancers and other chronic renal disease including nephritis and kidney tubal tissue injury. 	<ul style="list-style-type: none"> • <i>Department of Energy employees, contractors, and atomic weapons employees</i>: must have one of the cancers listed in Appendix 2 to this memorandum. • <i>Beryllium workers</i>: workers with beryllium sensitivity are eligible for beryllium sensitivity monitoring; workers with chronic beryllium disease are eligible for full medical and compensation benefits. • <i>Silicosis claimants</i>: must have chronic silicosis or any injury, illness, or disease that arose due to chronic silicosis. 	<p>Must have total disability (or total disability at time of death) due to pneumoconiosis.</p>

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Compensation Benefits	None	Compensation awards are based on each claimant's economic and non-economic losses as determined by the Special Master, subject to a total cap on the amount of all awards.	<ul style="list-style-type: none"> • <i>Onsite participants:</i> \$75,000. • <i>Downwinders:</i> \$50,000. • <i>Uranium workers:</i> \$100,000. <p>All are one-time lump-sum payments.</p>	<ul style="list-style-type: none"> • <i>Department of Energy employees, contractors, and atomic weapons employees:</i> \$150,000. • <i>Beryllium workers:</i> no compensation for beryllium sensitivity; \$150,000 for chronic beryllium disease. • <i>Silicosis claimants:</i> \$150,000. • <i>Uranium workers:</i> \$50,000. 	<p>Basic benefit for a single person equal to 37.5% of the federal pay rate at GS-2 Step 1 (current basic benefit is \$638.10 per month).</p> <p>Additional 50% of the basic benefit if there is one dependent or spouse, 75% if two dependents, and 100% if three or more dependents.</p>
Medical Benefits	Full medical care for covered conditions, subject to annual and total spending caps.	None	None	Full medical care for covered conditions, no spending caps.	Full medical care for pneumoconiosis, no spending caps.
Medical Benefit Expenditures	FY2014: \$268.18 million; estimated total federal expenditures for WTCHP benefits and administration. ^a	None	None	2012: \$329.731 million. ^b	2012: \$30.982 million. ^c

Program Data	2014: Total persons receiving any type of medical treatment (above and beyond screening or diagnosis) in calendar year: 20,883. ^d	As of January 2, 2015: Total claims approved for compensation: 3,128 consisting of 3,123 injury claims and 5 death claims. ^e	As of January 28, 2015: Total claims paid: <ul style="list-style-type: none"> • Onsite Participants: 3,657. • Downwinders: 18,434. • Uranium workers: 8,033. • Total all categories: 30,124.^f 	As of January 25, 2015: Total claims paid: 66,450 claims paid on 42,537 cases of eligible workers (one worker's case may have multiple claimants due to separate claims filed by survivors). ^g	As of end of FY2014: Total claimants receiving benefits: 43,611. ^h
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Source: Congressional Research Service (CRS).

- a. Department of Health and Human Services, *Fiscal Year 2015 Centers for Disease Control and Prevention Justification of Estimates for Appropriation Committees*, February 2014, pp. 281-283.
- b. Ishita Sengupta, Marjorie Baldwin, and Virginia Reno, *Workers' Compensation: Benefits, Coverage, and Costs, 2012*, National Academy of Social Insurance, August 2014, p. 61. This is the most current data available from the National Academy of Social Insurance.
- c. *Ibid.*, p. 59.
- d. Department of Health and Human Services, Centers for Disease Control and Prevention, <http://www.cdc.gov/wtc/pdfs/WTCHPWebsiteRpt20141231Status2015-01-28.pdf>.
- e. Department of Justice, Civil Division, <http://www.vcf.gov/pdf/VCFProgramStatistics01152015.pdf>.
- f. *Ibid.*, <http://www.justice.gov/civil/awards-date-01292015>.
- g. Department of Labor, Office of Workers' Compensation Programs, <http://www.dol.gov/owcp/energy/regs/compliance/weeklstats.htm>.
- h. *Ibid.*, <http://www.dol.gov/owcp/dcmwc/statistics/PartsBandCBeneficiaries.htm>.

Appendix 1

World Trade Center Health Program (WTCHP) and September 11 Victim Compensation Fund (VCF) Covered Medical Conditions

Mental Health Conditions (covered by the WTCHP only, not covered by the VCF)

- Acute stress disorder
- Adjustment disorder
- Anxiety disorder (not otherwise specified)
- Depression (not otherwise specified)
- Dysthymic disorder
- Generalized anxiety disorder
- Major depressive disorder
- Panic disorder
- Posttraumatic stress disorder (PTSD)
- Substance abuse

Physical Conditions (covered by the WTCHP and VCF)

Aerodigestive Disorders

- Asthma
 - Chronic cough syndrome
 - Chronic laryngitis
 - Chronic nasopharyngitis
 - Chronic respiratory disorder—fumes/vapors
 - Chronic rhinosinusitis
 - Gastroesophageal reflux disorder (GERD)
 - Interstitial lung diseases
 - Reactive airways dysfunction syndrome (RADS)
 - Sleep apnea exacerbated by or related to another condition described in the list of aerodigestive disorders
 - Upper airway hyperreactivity
 - WTC-exacerbated chronic obstructive pulmonary disease (COPD)
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Musculoskeletal Disorders

Limited to responders who received any treatment for a World Trade Center-related musculoskeletal disorder on or before September 11, 2003.

- Carpal tunnel syndrome (CTS)
- Low back pain
- Other musculoskeletal disorders

Cancer

Childhood Cancers

- Any type of cancer diagnosed in person less than 20 years of age

Malignant Neoplasms

- Blood and lymphoid tissue
 - Diffuse non-Hodgkin lymphoma
 - Follicular (nodular) non-Hodgkin lymphoma
 - Hodgkin's disease
 - Leukemia of unspecified cell type
 - Lymphoid leukemia
 - Malignant immunoproliferative diseases
 - Monocytic leukemia
 - Multiple myeloma and malignant plasma cell neoplasms
 - Myeloid leukemia
 - Other and unspecified lymphoid, hematopoietic, and related tissue
 - Other and unspecified types of non-Hodgkin lymphoma
 - Other leukemias of specified cell type
 - Peripheral and cutaneous T-cell lymphoma
 - Digestive System
 - Colon
 - Esophagus
 - Liver and intrahepatic bile ducts
 - Other and ill-defined digestive organs
 - Rectosigmoid junction
 - Rectum
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- Retroperitoneum and peritoneum
 - Stomach
 - Eye and Orbit
 - Eye and adnexa
 - Female Breast
 - Female Reproductive Organs
 - Ovary
 - Head and Neck
 - Accessory sinuses
 - Base of tongue
 - Floor of mouth
 - Gum
 - Hypopharynx
 - Larynx
 - Lip
 - Nasal cavity
 - Nasopharynx
 - Other and ill-defined conditions in the lip, oral cavity, and pharynx
 - Other and unspecified major salivary glands
 - Other and unspecified part of the mouth
 - Other and unspecified parts of the tongue
 - Oropharynx
 - Palate
 - Parotid gland
 - Piriform sinus
 - Tonsil
 - Respiratory System
 - Bronchus and lung
 - Heart, mediastinum, and pleura
 - Other and ill-defined sites in the respiratory system and intrathoracic organs
 - Trachea
 - Skin (Melanoma and Non-Melanoma)
 - Malignant melanoma of skin
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- Other malignant neoplasms of skin
- Scrotum
- Soft Tissue
 - Other connective soft tissue
 - Peripheral nerves and autonomic nervous system
- Thyroid
- Urinary System
 - Bladder
 - Kidney
 - Other and unspecified urinary organs
 - Prostate
 - Renal pelvis
 - Ureter

Mesothelioma

Rare Cancers

- Any type of cancer that occurs in less than 15 cases per 100,000 persons per year based on data from 2005-2009
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Appendix 2

Radiation Exposure Compensation Act (RECA) and Energy Employees' Occupational Illness Compensation Program Act (EEOICPA) Covered Medical Conditions

Conditions Covered by RECA Only

- Leukemia, provided onset to disease was at least two years after exposure to fallout

Conditions Covered by EEOICPA Only

- Bone cancer
- Renal cancers
- Leukemia (other than chronic lymphocytic leukemia), if initial occupational exposure occurred before 21 years of age and onset occurred more than two years after initial occupational exposure

Conditions Covered by RECA and EEOICPA

- Leukemia (other than chronic lymphocytic leukemia), provided that initial exposure occurred after the age of 20 and onset was at least 2 years after first exposure
- The following diseases provided that onset is at least five years after first exposure:
 - Multiple myeloma
 - Lymphomas (other than Hodgkin's disease)
 - Primary cancer of the:
 - Thyroid
 - Male or female breast
 - Esophagus
 - Stomach
 - Pharynx
 - Small intestine
 - Pancreas
 - Bile ducts
 - Gall bladder
 - Salivary gland
 - Urinary bladder

- Brain
- Colon
- Ovary
- Liver (except if cirrhosis or hepatitis B is indicated)
- Lung