

Questions and Answers on H.R. 847, the Maloney-Nadler-King-McMahon 9/11 Health and Compensation Act of 2009

Q: What is the problem?

A: Thousands of first responders and others exposed to the toxins of Ground Zero are now sick and need our help.

Q: Who are we talking about?

A. These are New York Firefighters, EMTs and Police, construction Workers, clean-up workers, residents, area workers, and school children, among others.

Q: What illnesses do they have?

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

Q: How many are sick?

A: Nearly 16,000 responders and 2,700 community members are currently sick and receiving treatment. Over 40,000 responders are currently in medical monitoring. 71,000 individuals are enrolled in the WTC Health Registry.

Q: Where are they from?

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

Q. Is someone from my district enrolled in the WTC Health Registry?

A. It is almost certain that your district has someone enrolled in the WTC Health Registry. Every state and all but four congressional districts do.

Q. What does the 9/11 Health and Compensation Act do to solve the problem?

A. The 9/11 Health and Compensation Act provides medical monitoring and treatment to WTC responders and community members (residents, area workers, school children). To do so, it builds on the current program by delivering care through Centers of Excellence, which are critical to caring for those with these unique exposures. It also reopens the September 11 Victim Compensation Fund (VCF) to provide compensation for economic losses and harm as an alternative to the current litigation system. Finally, it limits liability for the City of New York and the WTC construction contractors.

Q. How is eligibility for monitoring determined for Responders?

A. Eligibility criteria for monitoring are written into the bill. The Clinical Centers of Excellence initially determine an individual's monitoring eligibility based on the criteria.

Then, the NIOSH reviews and certifies eligibility for monitoring, providing a check on the system.

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

A. There are many checks and balances in determining eligibility for treatment. First, the responder must be certified for and receiving monitoring. Next, a physician who has experience with WTC-related illnesses must diagnose the responder with a condition that is on the list of identified WTC-related conditions in the bill. In addition, the physician must find that exposure to airborne toxins, any other hazard, or any other adverse condition resulting from the attacks is substantially likely to be a significant factor in aggravating, contributing to, or causing the illness. The physician's determination must be evaluated and characterized through the use of appropriate questionnaires and clinical protocols approved by the NIOSH Director. Last, a federal employee designated by the program administrator shall review the determination and provide certification for treatment if appropriate.

Q. How many people can the program serve with federal dollars?

A. The bill will provide ongoing medical care for 9/11 health conditions to a total of approximately 55,000 World Trade Center responders and 17,500 community members. Under the current program, 40,000 responders are receiving monitoring and around 16,000 responders are being treated. In the Community Program, about 2,800 community members are being treated.

Q. Who would be served in the Community Program?

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

Q. Why should the federal government pay for community members?

A. Community members are people who were caught in the crossfire of an attack on our nation. The vast majority of them were living their lives, going to work, or going to school, just like we all do. They are sick from exposures from the exact same toxins that the responders breathed in.

In the aftermath of the attacks, it was the federal government who told them the air was safe to breathe, encouraged them to go back home, to work, and to open up Wall Street to stabilize the economy. The government misled them, and they are no less deserving than the Responders. God forbid an attack like this would happen in your district, I know you'd want your constituents cared for after an attack on our country.

Q. What about residents, area workers, and students who live outside of the defined geographic area?

A. The bill includes a contingency fund in the form of a grant program to monitor and treat the small number of individuals in the New York metropolitan area who lived,

worked or went to school outside of the geographic area, but were determined to have a WTC-related condition.

Q. The program monitors and treats people from all over the country? How does that work?

A. The program administrator will establish a nationwide network of providers so that eligible individuals who live outside of the New York area can reasonably access monitoring and treatment benefits near where they live. Physicians in the nationwide network must be credentialed by the program administrator.

Q. Why does the bill create a new entitlement?

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

Q. What about people's private health insurance?

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

Q. What about workers' compensation?

A. When a workers' compensation claim has been approved, workers' compensation will pay for it, because workers' comp is the first payor under the bill. However, since workers' compensation benefits often takes a long time to be approved, the government can cover the expenses and then get reimbursed by workers' compensation.

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

A. New York City is required to pay a matching share of the total cost of the entire health program. If the City pays its matching share, then the program will pay the cost of medical care that would have been otherwise be covered by workers' compensation or line of duty for City employees. If the City does not pay their share, then the City is responsible for payments under workers' compensation and line of duty like any other employer and insurer.

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

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

Q. How is the World Trade Center Health Program established in the bill?

A. The program is established within the National Institute for Occupational Safety and Health (NIOSH). It will be administered by the Director of NIOSH or his/her designee.

Q. Why is the program under NIOSH?

A. NIOSH administers the WTC Health program that is already underway. They have the ability and expertise to continue and expand the program under the bill. They routinely administer monitoring programs and will have the ability to contract out other duties with which they have less experience.

Q. Are there provisions for Quality Assurance?

A. Yes, it is required that the program administer develop and implement a quality assurance program to detect any fraud, to submit an annual report to Congress on the operation of the program, and to provide notification to Congress if the program participation has reached 80 percent of the program caps.

Q. What committees does the bill establish?

A. The bill establishes the WTC Health Program Scientific/Technical Advisory Committee to review and make recommendations on scientific matters and the World Trade Center Health Program Steering committees to facilitate the coordination of the medical monitoring and treatment programs for responders and the community.

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

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

Q. There are two types of Centers of Excellence: Coordinating and Clinical. What's the difference?

A. Clinical Centers of Excellence provide medical monitoring and treatment to eligible WTC Responders and Community Members. Under the bill, there are less than 10 Clinical Centers. Coordinating Centers of Excellence coordinate the Clinical Centers of Excellence that monitor and treat their respective populations. Under the bill there are 3 Coordinating Centers. All Coordinating Centers also provide monitoring and treatment and are therefore also Clinical Centers of Excellence.

Q. What Centers of Excellence are designated in the bill?

A. FDNY is the Coordinating and Clinical Center of Excellence for FDNY employees. To care for non-FDNY responders, Mt. Sinai is the Coordinating Center of Excellence for the "Consortium," which includes the following Clinical Centers: Queens College, State University of New York at Stony Brook, University of Medicine and Dentistry of New Jersey, and Bellevue Hospital. For community members (residents, area workers, and school children), the WTC Environmental Health Center at Bellevue Hospital is the Coordinating Center of Excellence for Clinical Centers with in the NYC Health and Hospitals Corporation.

Q. Besides medical monitoring and treatment for patients, what else are Clinical Centers of Excellence responsible for?

A. Besides medical monitoring and treatment, Clinical Centers of Excellence do outreach to potentially eligible populations, provide counseling benefits, help individuals access

benefits that may be available under workers' compensation or other benefits for work-related illnesses or other insurance plans or benefits, provide translational services, and collect and report data.

Q. Besides the responsibilities of Clinical Centers of Excellence, what do Coordinating Centers of Excellence do?

A. Coordinating Centers of Excellence analyze and report data, develop medical monitoring and treatment protocols, coordinate outreach activities by the corresponding Clinical Centers, establish criteria for the credentialing of medical providers participating in the nationwide network, coordinate and administer activities of the Steering Committees, meet periodically with the corresponding Clinical Centers.

Q. What research is provided for under the bill?

A. In consultation with the Program Steering Committees and under all applicable privacy protections, HHS will conduct or support research about conditions that may be WTC-related and about diagnosing and treating WTC-related conditions.

Q. Who does the research?

A. The research can be conducted by HHS, the Centers of Excellence, the WTC Health Registry, or other entities that the Program Administrator designates.

Q. What about economic losses that people face?

A. Many who are too sick to work have significant economic losses and often lose their health insurance as a result. Currently they have no alternative to the current litigation system.

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

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

Q. Why does it need to be reopened?

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

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

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

Q. How does the bill provide an alternative to the current litigation system?

A. Under the bill, just as under the original VCF, an individual can apply to the VCF or sue, but cannot do both. If one applies to the VCF, they give up their right to sue.

Prepared by the Office of Carolyn B. Maloney, 2/24/09