

**(3) Determination of medical necessity****(A) Review of medical necessity and protocols**

As part of the process for reimbursement or payment under this subsection, the WTC Program Administrator shall provide for the review of claims for reimbursement or payment for the provision of medical treatment to determine if such treatment is medically necessary and in accordance with medical treatment protocols established under subsection (d).

**(B) Withholding of payment for medically unnecessary treatment**

The Administrator shall withhold such reimbursement or payment for treatment that the Administrator determines is not medically necessary or is not in accordance with such medical treatment protocols.

**(d) Medical treatment protocols****(1) Development**

The Data Centers shall develop medical treatment protocols for the treatment of enrolled WTC responders and certified-eligible WTC survivors for health conditions included in the applicable list of WTC-related health conditions.

**(2) Approval**

The medical treatment protocols developed under paragraph (1) shall be subject to approval by the WTC Program Administrator.

(July 1, 1944, ch. 373, title XXXIII, §3312, as added Pub. L. 111-347, title I, §101, Jan. 2, 2011, 124 Stat. 3639; amended Pub. L. 114-113, div. O, title III, §302(e), Dec. 18, 2015, 129 Stat. 2999.)

## REFERENCES IN TEXT

The Federal Employees Compensation Act, referred to in subsec. (c)(1)(A)(i)(I), is act Sept. 7, 1916, ch. 458, 39 Stat. 742. The act was repealed, and the provisions thereof were reenacted as subchapter I (§8101 et seq.) of chapter 81 of Title 5, Government Organization and Employees, by Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 378.

## AMENDMENTS

2015—Subsec. (a)(6)(B). Pub. L. 114-113, §302(e)(1)(A), substituted “90 days” for “60 days” in introductory provisions.

Subsec. (a)(6)(C). Pub. L. 114-113, §302(e)(1)(B), substituted “90 days” for “60 days” in two places.

Subsec. (a)(6)(F), (G). Pub. L. 114-113, §302(e)(2), added subpars. (F) and (G).

**§ 300mm-23. National arrangement for benefits for eligible individuals outside New York****(a) In general**

In order to ensure reasonable access to benefits under this part for individuals who are enrolled WTC responders, screening-eligible WTC survivors, or certified-eligible WTC survivors and who reside in any State, as defined in section 201(f) of this title, outside the New York metropolitan area, the WTC Program Administrator shall establish a nationwide network of health care providers to provide monitoring and treatment benefits and initial health evaluations near such individuals' areas of residence in such States. Nothing in this subsection shall be

construed as preventing such individuals from being provided such monitoring and treatment benefits or initial health evaluation through any Clinical Center of Excellence.

**(b) Network requirements**

Any health care provider participating in the network under subsection (a) shall—

(1) meet criteria for credentialing established by the Data Centers;

(2) follow the monitoring, initial health evaluation, and treatment protocols developed under section 300mm-4(a)(2)(A)(ii) of this title;

(3) collect and report data in accordance with section 300mm-3 of this title; and

(4) meet such fraud, quality assurance, and other requirements as the WTC Program Administrator establishes, including sections 1320a-7 through 1320a-7e of this title, as applied by section 300mm(d) of this title.

**(c) Training and technical assistance**

The WTC Program Administrator<sup>1</sup> may provide, including through contract, for the provision of training and technical assistance to health care providers participating in the network under subsection (a).

**(d) Provision of services through the VA****(1) In general**

The WTC Program Administrator may enter into an agreement with the Secretary of Veterans Affairs for the Secretary to provide services under this section through facilities of the Department of Veterans Affairs.

**(2) National program**

Not later than July 1, 2011, the Comptroller General of the United States shall submit to the Committee on Energy and Commerce of the House of Representatives and the Committee on Health, Education, Labor, and Pensions of the Senate a report on whether the Department of Veterans Affairs can provide monitoring and treatment services to individuals under this section more efficiently and effectively than through the nationwide network to be established under subsection (a).

(July 1, 1944, ch. 373, title XXXIII, §3313, as added Pub. L. 111-347, title I, §101, Jan. 2, 2011, 124 Stat. 3647.)

## SUBPART 2—WTC SURVIVORS

**§ 300mm-31. Identification and initial health evaluation of screening-eligible and certified-eligible WTC survivors****(a) Identification of screening-eligible WTC survivors and certified-eligible WTC survivors****(1) Screening-eligible WTC survivors****(A) Definition**

In this subchapter, the term “screening-eligible WTC survivor” means, subject to subparagraph (C) and paragraph (3), an individual who is described in any of the following clauses:

**(i) Currently identified survivor**

An individual, including a WTC responder, who has been identified as eligible

<sup>1</sup> So in original. Probably should be “Administrator”.

for medical treatment and monitoring by the WTC Environmental Health Center as of January 2, 2011.

**(ii) Survivor who meets current eligibility criteria**

An individual who is not a WTC responder, for purposes of the initial health evaluation under subsection (b), claims symptoms of a WTC-related health condition and meets any of the current eligibility criteria described in subparagraph (B).

**(iii) Survivor who meets modified eligibility criteria**

An individual who is not a WTC responder, for purposes of the initial health evaluation under subsection (b), claims symptoms of a WTC-related health condition and meets such eligibility criteria relating to exposure to airborne toxins, other hazards, or adverse conditions resulting from the September 11, 2001, terrorist attacks as the WTC Administrator determines, after consultation with the Data Centers described in section 300mm-4 of this title and the WTC Scientific/Technical Advisory Committee and WTC Health Program Steering Committees under section 300mm-1 of this title.

The Administrator shall not modify such criteria under clause (iii) on or after the date that the number of certifications for certified-eligible WTC survivors under paragraph (2)(B) has reached 80 percent of the limit described in paragraph (3) or on or after the date that the number of enrollments of WTC responders has reached 80 percent of the limit described in section 300mm-21(a)(4) of this title.

**(B) Current eligibility criteria**

The eligibility criteria described in this subparagraph for an individual are that the individual is described in any of the following clauses:

(i) A person who was present in the New York City disaster area in the dust or dust cloud on September 11, 2001.

(ii) A person who worked, resided, or attended school, childcare, or adult daycare in the New York City disaster area for—

(I) at least 4 days during the 4-month period beginning on September 11, 2001, and ending on January 10, 2002; or

(II) at least 30 days during the period beginning on September 11, 2001, and ending on July 31, 2002.

(iii) Any person who worked as a cleanup worker or performed maintenance work in the New York City disaster area during the 4-month period described in subparagraph (B)(i) and had extensive exposure to WTC dust as a result of such work.

(iv) A person who was deemed eligible to receive a grant from the Lower Manhattan Development Corporation Residential Grant Program, who possessed a lease for a residence or purchased a residence in the New York City disaster area, and who re-

sided in such residence during the period beginning on September 11, 2001, and ending on May 31, 2003.

(v) A person whose place of employment—

(I) at any time during the period beginning on September 11, 2001, and ending on May 31, 2003, was in the New York City disaster area; and

(II) was deemed eligible to receive a grant from the Lower Manhattan Development Corporation WTC Small Firms Attraction and Retention Act program or other government incentive program designed to revitalize the lower Manhattan economy after the September 11, 2001, terrorist attacks.

**(C) Application and determination process for screening eligibility**

**(i) In general**

The WTC Program Administrator in consultation with the Data Centers shall establish a process for individuals, other than individuals described in subparagraph (A)(i), to be determined to be screening-eligible WTC survivors. Under such process—

(I) there shall be no fee charged to the applicant for making an application for such determination;

(II) the Administrator shall make a determination on such an application not later than 60 days after the date of filing the application;

(III) the Administrator shall make such a determination relating to an applicant's compliance with this subchapter and shall not determine that an individual is not so eligible or deny written documentation under clause (ii) to such individual unless the Administrator determines that—

(aa) based on the application submitted, the individual does not meet the eligibility criteria; or

(bb) the numerical limitation on certifications of certified-eligible WTC survivors set forth in paragraph (3) has been met; and

(IV) an individual who is determined not to be a screening-eligible WTC survivor shall have an opportunity to appeal such determination in a manner established under such process.

**(ii) Written documentation of screening-eligibility**

**(I) In general**

In the case of an individual who is described in subparagraph (A)(i) or who is determined under clause (i) (consistent with paragraph (3)) to be a screening-eligible WTC survivor, the WTC Program Administrator shall provide an appropriate written documentation of such fact.

**(II) Timing**

**(aa) Currently identified survivors**

In the case of an individual who is described in subparagraph (A)(i), the

WTC Program Administrator shall provide the written documentation under subclause (I) not later than July 1, 2011.

**(b) Other members**

In the case of another individual who is determined under clause (i) and consistent with paragraph (3) to be a screening-eligible WTC survivor, the WTC Program Administrator shall provide the written documentation under subclause (I) at the time of such determination.

**(2) Certified-eligible WTC survivors**

**(A) Definition**

The term “certified-eligible WTC survivor” means, subject to paragraph (3), a screening-eligible WTC survivor who the WTC Program Administrator certifies under subparagraph (B) to be eligible for followup monitoring and treatment under this subpart.

**(B) Certification of eligibility for monitoring and treatment**

**(i) In general**

The WTC Program Administrator shall establish a certification process under which the Administrator shall provide appropriate certification to screening-eligible WTC survivors who, pursuant to the initial health evaluation under subsection (b), are determined to be eligible for followup monitoring and treatment under this subpart.

**(ii) Timing**

**(I) Currently identified survivors**

In the case of an individual who is described in paragraph (1)(A)(i), the WTC Program Administrator shall provide the certification under clause (i) not later than July 1, 2011.

**(II) Other members**

In the case of another individual who is determined under clause (i) to be eligible for followup monitoring and treatment, the WTC Program Administrator shall provide the certification under such clause at the time of such determination.

**(3) Numerical limitation on certified-eligible WTC survivors**

**(A) In general**

The total number of individuals not described in paragraph (1)(A)(i) who may be certified as certified-eligible WTC survivors under paragraph (2)(B) shall not exceed 25,000 at any time.

**(B) Process**

In implementing subparagraph (A), the WTC Program Administrator shall—

(i) limit the number of certifications provided under paragraph (2)(B)—

(I) in accordance with such subparagraph; and

(II) to such number, as determined by the Administrator based on the best

available information and subject to amounts made available under section 300mm-61 of this title, that will ensure sufficient funds will be available to provide treatment and monitoring benefits under this subchapter, with respect to all individuals receiving such certifications; and

(ii) provide priority in such certifications in the order in which individuals apply for a determination under paragraph (2)(B).

**(4) Disqualification of individuals on terrorist watch list**

No individual who is on the terrorist watch list maintained by the Department of Homeland Security shall qualify as a screening-eligible WTC survivor or a certified-eligible WTC survivor. Before determining any individual to be a screening-eligible WTC survivor under paragraph (1) or certifying any individual as a certified eligible<sup>1</sup> WTC survivor under paragraph (2), the Administrator, in consultation with the Secretary of Homeland Security, shall determine whether the individual is on such list.

**(b) Initial health evaluation to determine eligibility for followup monitoring or treatment**

**(1) In general**

In the case of a screening-eligible WTC survivor, the WTC Program shall provide for an initial health evaluation to determine if the survivor has a WTC-related health condition and is eligible for followup monitoring and treatment benefits under the WTC Program. Initial health evaluation protocols under section 300mm-4(a)(2)(A)(ii) of this title shall be subject to approval by the WTC Program Administrator.

**(2) Initial health evaluation providers**

The initial health evaluation described in paragraph (1) shall be provided through a Clinical Center of Excellence with respect to the individual involved.

**(3) Limitation on initial health evaluation benefits**

Benefits for an initial health evaluation under this subpart for a screening-eligible WTC survivor shall consist only of a single medical initial health evaluation consistent with initial health evaluation protocols described in paragraph (1). Nothing in this paragraph shall be construed as preventing such an individual from seeking additional medical initial health evaluations at the expense of the individual.

(July 1, 1944, ch. 373, title XXXIII, §3321, as added Pub. L. 111-347, title I, §101, Jan. 2, 2011, 124 Stat. 3648; amended Pub. L. 114-113, div. O, title III, §302(f), Dec. 18, 2015, 129 Stat. 3000.)

AMENDMENTS

2015—Subsec. (a)(3)(B)(i)(II). Pub. L. 114-113 struck out “through the end of fiscal year 2020” after “certifications”.

<sup>1</sup> So in original. Probably should be “certified-eligible”.

**§ 300mm-32. Followup monitoring and treatment of certified-eligible WTC survivors for WTC-related health conditions**

**(a) In general**

Subject to subsection (b), the provisions of sections 300mm-21 and 300mm-22 of this title shall apply to followup monitoring and treatment of WTC-related health conditions for certified-eligible WTC survivors in the same manner as such provisions apply to the monitoring and treatment of WTC-related health conditions for enrolled WTC responders.

**(b) List of WTC-related health conditions for survivors**

The list of health conditions for screening-eligible WTC survivors and certified-eligible WTC survivors consists of the following:

**(1) Aerodigestive disorders**

- (A) Interstitial lung diseases.
- (B) Chronic respiratory disorder—fumes/vapors.
- (C) Asthma.
- (D) Reactive airways dysfunction syndrome (RADS).
- (E) WTC-exacerbated chronic obstructive pulmonary disease (COPD).
- (F) Chronic cough syndrome.
- (G) Upper airway hyperreactivity.
- (H) Chronic rhinosinusitis.
- (I) Chronic nasopharyngitis.
- (J) Chronic laryngitis.
- (K) Gastroesophageal reflux disorder (GERD).
- (L) Sleep apnea exacerbated by or related to a condition described in a previous clause.

**(2) Mental health conditions**

- (A) Posttraumatic stress disorder (PTSD).
- (B) Major depressive disorder.
- (C) Panic disorder.
- (D) Generalized anxiety disorder.
- (E) Anxiety disorder (not otherwise specified).
- (F) Depression (not otherwise specified).
- (G) Acute stress disorder.
- (H) Dysthymic disorder.
- (I) Adjustment disorder.
- (J) Substance abuse.

**(3) Additional conditions**

Any cancer (or type of cancer) or other condition added to the list in section 300mm-22(a)(3) of this title pursuant to paragraph (5) or (6) of section 300mm-22(a) of this title, as such provisions are applied under subsection (a) with respect to certified-eligible WTC survivors.

(July 1, 1944, ch. 373, title XXXIII, §3322, as added Pub. L. 111-347, title I, §101, Jan. 2, 2011, 124 Stat. 3652.)

**§ 300mm-33. Followup monitoring and treatment of other individuals with WTC-related health conditions**

**(a) In general**

Subject to subsection (c), the provisions of section 300mm-32 of this title shall apply to the followup monitoring and treatment of WTC-re-

lated health conditions in the case of individuals described in subsection (b) in the same manner as such provisions apply to the followup monitoring and treatment of WTC-related health conditions for certified-eligible WTC survivors.

**(b) Individuals described**

An individual described in this subsection is an individual who, regardless of location of residence—

- (1) is not an enrolled WTC responder or a certified-eligible WTC survivor; and
- (2) is diagnosed at a Clinical Center of Excellence with a WTC-related health condition for certified-eligible WTC survivors.

**(c) Limitation**

**(1) In general**

The WTC Program Administrator shall limit benefits for any fiscal year under subsection (a) in a manner so that payments under this section for such fiscal year do not exceed the amount specified in paragraph (2) for such fiscal year.

**(2) Limitation**

The amount specified in this paragraph for—

- (A) the last calendar quarter of fiscal year 2011 is \$5,000,000;
- (B) fiscal year 2012 is \$20,000,000; or
- (C) a succeeding fiscal year is the amount specified in this paragraph for the previous fiscal year increased by the annual percentage increase in the medical care component of the consumer price index for all urban consumers.

(July 1, 1944, ch. 373, title XXXIII, §3323, as added Pub. L. 111-347, title I, §101, Jan. 2, 2011, 124 Stat. 3652.)

SUBPART 3—PAYOR PROVISIONS

**§ 300mm-41. Payment of claims**

**(a) In general**

Except as provided in subsections (b) and (c), the cost of monitoring and treatment benefits and initial health evaluation benefits provided under subparts 1 and 2 of this part shall be paid for by the WTC Program from the World Trade Center Health Program Fund.

**(b) Workers' compensation payment**

**(1) In general**

Subject to paragraph (2), payment for treatment under subparts 1 and 2 of this part of a WTC-related health condition of an individual that is work-related shall be reduced or recouped to the extent that the WTC Program Administrator determines that payment has been made, or can reasonably be expected to be made, under a workers' compensation law or plan of the United States, a State, or a locality, or other work-related injury or illness benefit plan of the employer of such individual, for such treatment. The provisions of clauses (iii), (iv), (v), and (vi) of paragraph (2)(B) of section 1862(b) of the Social Security Act [42 U.S.C. 1395y(b)] and paragraphs (3) and (4) of such section shall apply to the recoupment under this subsection of a payment to the WTC Program (with respect to a