



Memorandum

October 10, 2007

TO: The Honorable Carolyn Maloney
Attention: Anna Cielinski

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SUBJECT: Summary of H.R. 3543, The James Zadroga 9/11 Health and Compensation Act of 2007 - Revised

Per your request, provisions of **H.R. 3543**, *The James Zadroga 9/11 Health and Compensation Act of 2007*, introduced on September 17, 2007, are summarized in this memorandum. Please contact Sarah at 7-7320, or Edward at 7-7740 with any questions.

Summary of H.R. 3543

Section 1. Short Title and Table of Contents

Section 2. Findings

Section 3 designates amounts appropriated pursuant to this Act — other than amounts appropriated for the World Trade Center (WTC) Health Program Steering Committee and for the WTC Health Program Scientific/Technical Advisory Committee — as emergency spending.¹

Title I. World Trade Center Health Program

Section 101 establishes the WTC Health Program as a new Title XXX in the Public Health Service Act, as follows:

¹ Pursuant to subsections (a) and (b) of section 204 of S.Con.Res. 21 (110th Congress), the concurrent resolution on the budget for FY2008.

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, National Institute for Occupational Safety and Health (NIOSH), to provide medical monitoring and treatment benefits to: eligible emergency responders and recovery and clean-up workers who responded to the terrorist attacks in New York City (NYC) on September 11, 2001 (“9/11”); and residents and other building occupants and area workers in NYC who were affected by such attacks. The Director of NIOSH shall serve as the Administrator of the WTC Program.

The WTC program includes the following components:

- *Medical monitoring* under sections 3011 and 3021, without any cost-sharing, including screening, clinical examinations, and long-term health monitoring for individuals who were likely to have been exposed to airborne toxins that were released as a result of the 9/11 NYC terrorist attacks;
- Provision under sections 3012 and 3022 of *treatment and payment*, without any cost-sharing, for all medically necessary health and mental health care expenses (including necessary prescription drugs) of individuals with a WTC-related health condition;
- Establishment under section 3004 of an *outreach* program to potentially eligible individuals concerning the benefits under this title;
- Collection under section 3005 of health and mental health data on individuals receiving monitoring or treatment benefits, using a *uniform system of data collection*;
- Establishment under subtitle C of a *research program* on health conditions resulting from the 9/11 NYC terrorist attacks.

Monitoring and treatment benefits are provided without regard to whether an individual may have coverage for some or all of such benefits through health insurance or otherwise, except that payment for treatment of a WTC-related health condition shall be reduced or recouped by any amounts paid under a workers’ compensation law or plan for such treatment.

Section 3002 requires the Administrator to establish the WTC Health Program Steering Committee (the WTC Steering Committee), not subject to the Federal Advisory Committee Act, to provide the Administrator with advice and oversight regarding the WTC Program. Establishes criteria and procedures for membership, management of vacancies, and requirements for quarterly meetings and annual reports to Congress. The Committee shall continue in operation during the period in which the WTC Program is in operation. Authorizes, through regular appropriations, such sums as may be necessary for each fiscal year beginning with FY2008.

Section 3003 requires the Administrator to establish the WTC Health Program Scientific/Technical Advisory Committee (the WTC Scientific/Technical Advisory Committee), subject to the Federal Advisory Committee Act, to review scientific and medical evidence, and to make recommendations to the Administrator on additional WTC Program eligibility criteria and on additional WTC-related health conditions. Establishes

committee membership, and requirements for meetings and for reports on a public website. The Advisory Committee shall continue in operation during the period in which the WTC Program is in operation. Authorizes, through regular appropriations, such sums as may be necessary for each fiscal year beginning with FY2008.

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, 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 through the WTC Program, the prevalence of WTC-related health conditions, and the identification of new WTC-related health conditions. Clinical Centers of Excellence shall collect and report such data to the corresponding Coordinating Center of Excellence for analysis.

Section 3006 requires the Administrator to establish, by entering into contracts, *Clinical Centers of Excellence* and *Coordinating Centers of Excellence*. Specific Clinical Centers of Excellence and Coordinating Centers of Excellence are termed “corresponding” if they serve the same population. All Centers are entitled to payment of the costs of carrying out the activities required of them in this Act, except that the Administrator may not enter into a contract with a Clinical Center of Excellence unless such clinic: (1) establishes a formal mechanism for consultation with the eligible population groups that it serves; (2) provides for the coordination of monitoring and treatment benefits under this Act with routine medical care provided for the treatment of conditions other than WTC-related health conditions; and (3) collects and reports program data to its corresponding Coordinating Center of Excellence.

Clinical Centers of Excellence shall provide: monitoring and treatment benefits under subtitle B; outreach activities and benefits counseling to eligible individuals; and credentialing of other medical providers participating in the national clinical network. Clinical Centers of Excellence are defined as: (1) for its employees, the Fire Department of the City of New York (FDNY), or its contractors; (2) for other eligible WTC responders who reside in the New York metropolitan area (as defined by the Administrator), the Mt. Sinai coordinated consortium (as defined in Sec. 3009 in this Act), Queens College, State University of New York at Stony Brook, University of Medicine and Dentistry of New Jersey, and Bellevue Hospital; (3) for WTC residents and other non-responders who reside in the New York metropolitan area (as defined by the Administrator), 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 non-responders, such other hospitals or other facilities as are identified by the Administrator.

Coordinating Centers of Excellence shall provide: data analysis and reporting; development of medical monitoring and treatment protocols; and coordination of outreach activities. Coordinating Centers of Excellence are defined as: (1) for its employees, the Fire Department of the City of New York (FDNY); (2) for other eligible WTC responders, the

Mt. Sinai coordinated consortium; and (3) for WTC residents and other non-responders, the WTC Environmental Health Center at Bellevue Hospital.

A Clinical or Coordinating Center of Excellence with a contract under this section is entitled to payment of the costs of such Center in carrying out required activities.

Section 3007 authorizes the Secretary of Health and Human Services (HHS) to establish comparable monitoring, treatment and research programs with respect to the terrorist attack at the Pentagon on September 11, 2001.

Section 3008. Entitlement authority. Subtitle B constitutes budget authority in advance of appropriations Acts and represents the obligation of the Federal Government to provide for the payment of costs of monitoring and treatment in accordance with such subtitle. Section 3006 constitutes such budget authority and represents the obligation of the Federal Government to provide for the payment of costs described in such section.

Section 3009 provides definitions for Title I.

Subtitle B. Program of Monitoring and Treatment

Part 1. For WTC Responders.

Section 3011 defines eligibility criteria for WTC responders to receive medical monitoring and treatment benefits. Criteria include defined types of workers, work locations and time frames. The Administrator, after consultation with the WTC Steering Committee and the WTC Scientific/Technical Advisory Committee, may extend eligibility to additional individuals. Requires the Coordinating Centers of Excellence to establish an application process and determine the eligibility of individuals for monitoring and treatment benefits, and the Administrator to certify such eligible individuals within 60 days. Prohibits the Administrator from denying certification to eligible individuals. Defines the monitoring benefit as health screening, clinical examinations, and long-term health monitoring and analysis, to be provided by the FDNY, appropriate Clinical Center of Excellence, or other clinic established under section 3031.

Section 3012 defines WTC-related health conditions for which eligible individuals shall receive the treatment benefit. Conditions include an illness or health condition, including a mental health condition, for which exposure to airborne toxins, any other hazard, or any other adverse condition resulting from the 9/11 NYC terrorist attacks is at least as likely as not to be a significant factor in aggravating, contributing to, or causing the illness or health condition. Lists 26 conditions presumed to be WTC-related. Requires the Administrator to develop a public process by which additional WTC-related health conditions may be added to the list of presumptions, in response to applications for such addition by any individual or organization. Such process shall involve consultation with the WTC Steering Committee and the WTC Scientific/Technical Advisory Committee, taking into account the findings of published scientific literature. The Administrator shall add an illness or health condition to the list of presumed WTC-related health conditions if, upon such review, the Administrator determines that exposure to airborne toxins, other hazards, or other adverse conditions

resulting from the 9/11 NYC terrorist attacks is at least as likely as not to be a significant factor in aggravating, contributing to, or causing the illness or health condition.

If a physician at a Clinical Center of Excellence that is providing monitoring benefits for an eligible WTC responder determines that the responder has a presumed WTC-related health condition, and the physician makes a clinical determination that exposure to airborne toxins, other hazards, or adverse conditions resulting from the 9/11 terrorist attacks is at least as likely as not to be a significant factor in aggravating, contributing to, or causing the condition, the physician shall promptly transmit such determination to the Administrator and provide the Administrator with the medical facts supporting such determination, and the WTC Program shall provide for payment of the costs of medically necessary treatment for such condition. Such determinations shall be reviewed by the Administrator. The Administrator shall provide certification of coverage for the condition unless the Administrator determines that the responder's condition is not a presumed WTC-related health condition or that exposure to airborne toxins, other hazards, or adverse conditions resulting from the 9/11 terrorist attacks is not at least as likely as not to be a significant factor in aggravating, contributing to, or causing the condition. The Administrator shall provide a process for the appeal of determinations in which certification is denied. The WTC Program shall provide for payment of the costs of medically necessary treatment for covered conditions.

If a physician at a Clinical Center of Excellence that is providing monitoring benefits for an eligible WTC responder determines that the responder has a WTC-related health condition that is not a presumed WTC-related health condition: the physician shall promptly transmit such determination to the Administrator and provide the Administrator with the facts supporting such determination; and the WTC Program shall provide for payment of the costs of medically necessary treatment for such condition. The Administrator shall provide for the review of such determinations by a physician panel, with appropriate expertise, appointed by the Administrator. The Administrator shall, based on the panel's recommendation, provide certification of coverage for the condition unless the Administrator determines that the responder's condition is not a WTC-related health condition. The Administrator shall provide a process for the appeal of determinations in which certification is denied. The WTC Program shall provide for payment of the costs of medically necessary treatment for covered conditions.

The determination of whether treatment is medically necessary for a WTC-related health condition shall be made by physicians at the appropriate Clinical Center of Excellence. The scope of treatment covered under such paragraphs includes physician services, diagnostic and laboratory tests, prescription drugs, inpatient and outpatient hospital services, and other medically necessary treatment. WTC responders currently receiving treatment but not yet evaluated for eligibility in the monitoring program shall continue to receive treatment services while such application is pending. The WTC program shall provide for payment of the costs of medically necessary treatment of WTC-related health conditions of eligible WTC responders. The Administrator shall establish methods for determining the costs for such treatment, and may enter into arrangements with other government agencies, insurance companies, or other third-party administrators to provide for claims processing. The Coordinating Centers of Excellence shall develop medical treatment protocols for the

treatment of presumed WTC-related health conditions, and the Administrator shall approve the treatment protocols, in consultation with the WTC Steering Committee.

Part 2. Community Program.

Section 3021 defines WTC residents and non-responders who are potentially eligible for the health monitoring and treatment benefit. Criteria include defined types of individuals, locations of residence, work or schooling, and time frames, and excludes individuals who are eligible for WTC responder benefits. The Administrator, after consultation with the WTC Steering Committee and the WTC Scientific/Technical Advisory Committee, shall, within 90 days, develop criteria to extend eligibility to individuals in the defined groups who had sufficient exposure to hazards, providing that the Administrator: (1) takes into account the period and, to the extent feasible, intensity of exposure to airborne toxins, other hazards, or other adverse conditions; (2) bases such criteria on best available evidence of exposure and related adverse health effects; and (3) consults with the WTC Steering Committee, Coordinating Centers of Excellence, and affected populations. Eligible individuals shall receive medical monitoring consistent with protocols approved by the Administrator, in consultation with the WTC Environmental Health Center at Bellevue Hospital and the WTC Steering Committee, to include screening, clinical examinations, and long-term health monitoring and analysis. The monitoring benefits shall be provided through a Clinical Center of Excellence.

Section 3022 provides that, in general, treatment of WTC-related health conditions shall be provided to eligible WTC residents and other non-responders in the same manner as such provisions apply to the treatment of WTC-related health conditions for eligible WTC responders. However, the Administrator shall develop, for this eligible population, a distinct list of presumed WTC-related health conditions, based upon a review of presumed conditions developed pursuant to Section 3012 and available scientific and clinical evidence, and in consultation with the WTC Environmental Health Center at Bellevue Hospital, the WTC Steering Committee, and affected populations. The Administrator shall, within 180 days of the enactment of this title, publish the list in the Federal Register, for public comment. Until such list is first published, the Clinical Centers of Excellence may provide medical treatment to an eligible individual if a Center physician determines that the individual has a WTC-related health condition.

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 monitoring and treatment benefits to eligible individuals who reside outside the New York metropolitan area, near such individuals' areas of residence, or to establish a mechanism whereby these individuals can be reimbursed for the cost of monitoring or treatment. Any provider participating in this network shall: meet criteria for credentialing established by the Coordinating Centers of Excellence; follow monitoring and treatment protocols; and collect and report data in accordance with section 3005.

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 September 11 terrorist attacks, in consultation with the WTC Steering Committee, and subject to applicable privacy and human subjects protections. The Administrator shall report annually to Congress regarding the research program. Authorizes the appropriation of such sums as may be necessary for FY2008 through FY2026, in addition to any other authorizations of appropriations that are available for such purpose.

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, 2007, with the NYC Department of Health and Mental Hygiene that provide for the World Trade Center Health Registry. Authorizes the appropriation of such sums as may be necessary.

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 NYC terrorist attacks.

Title II. September 11 Victim Compensation Fund of 2001

Title II would re-open the September 11 Victim Compensation Fund, which was created by 49 U.S.C. 40101 note, and which was closed to new claims as of December 22, 2003. It adds new categories of beneficiaries and sets new filing deadlines. In particular:

Section 201 opens the Fund to four new categories of beneficiaries:

- those who did not become aware that they suffered physical or psychological harm from the terrorist attacks until after the original deadline (December 22, 2003);
- those who did not realize they were eligible to make a claim until after the original deadline;
- those who had previously filed a timely claim but suffered significantly greater harm than was known at the time of filing; and
- those who become eligible to make a claim by virtue of other sections of this bill (see *infra*).

For these claimants there are new deadlines. Generally this will be two years after the date of enactment. For those in the first and third categories above, however, it will be two years after the individual acquires the requisite knowledge, provided that this occurs within five years of enactment.

Section 202 acts in the nature of a conforming amendment for the above new categories, by loosening the existing prohibition on second claims.

Section 203 expands the basis for claims by adding psychological harm as well as physical harm.

Section 204 clarifies the existing law by defining the previously undefined “*immediate aftermath*” (of the terrorist attacks) as extending through July 31, 2002. Thus, anyone who was present at these sites before that date and suffers physical or psychological harm as a result is eligible to make a claim.

Section 205 expands the population of eligible claimants by (a) replacing the phrase “at the World Trade Center” with “in the New York City disaster area, as defined in section 3009(5) of the Public Health Service Act,” and (b) adding emergency responders, area residents and other individuals as defined in sections 3011(a) and 3021(a) of that Act.