

## § 104.5

(2) Personal delivery or transmission by certified mail, return receipt requested, shall be deemed sufficient notice under this provision. The claim forms shall require that the purported Personal Representative certify that such notice (or other notice that the Special Master deems appropriate) has been given. In addition, as provided in §104.21(b)(5) of this part, the Special Master may publish a list of individuals who have filed Eligibility Forms and the names of the victims for whom compensation is sought, but shall not publish the content of any such form.

(c) *Objections to Personal Representatives.* Objections to the authority of an individual to file as the Personal Representative of a decedent may be filed with the Special Master by parties who assert a financial interest in the award up to 30 days following the filing by the Personal Representative. If timely filed, such objections shall be treated as evidence of a “dispute” pursuant to paragraph (d) of this section.

(d) *Disputes as to identity.* The Special Master shall not be required to arbitrate, litigate, or otherwise resolve any dispute as to the identity of the Personal Representative. In the event of a dispute over the appropriate Personal Representative, the Special Master may suspend adjudication of the claim or, if sufficient information is provided, calculate the appropriate award and authorize payment, but place in escrow any payment until the dispute is resolved either by agreement of the disputing parties or by a court of competent jurisdiction. Alternatively, the disputing parties may agree in writing to the identity of a Personal Representative to act on their behalf, who may seek and accept payment from the Fund while the disputing parties work to settle their dispute.

## § 104.5 Foreign claims.

In the case of claims brought by or on behalf of foreign citizens, the Special Master may alter the requirements for documentation set forth herein to the extent such materials are unavailable to such foreign claimants.

## 28 CFR Ch. I (7–1–23 Edition)

### § 104.6 Amendments to this part.

All claims will be processed in accordance with the current provisions of this part.

### Subpart B—Filing for Compensation

#### § 104.21 Presumptively covered conditions.

(a) *In general.* The Special Master shall maintain and publish on the Fund’s Web site a list of presumptively covered conditions that resulted from the terrorist-related air crashes of September 11, 2001, or rescue and recovery or debris removal efforts during the immediate aftermath of such crashes. The list shall consist of the WTC-Related Physical Health Conditions that resulted from the terrorist-related air crashes of September 11, 2001 or rescue and recovery or debris removal efforts during the immediate aftermath of such crashes. Group B claims shall be eligible for compensation only if the Special Master determines based on the evidence presented that a claimant who seeks compensation for physical harm has at least one WTC-Related Physical Health Condition, or, with respect to a deceased individual, the cause of such individual’s death is determined at least in part to be attributable to a WTC-Related Physical Health Condition.

(b) *Updates.* The Special Master shall update the list of presumptively covered conditions to conform to any changes in the WTC-Related Physical Health Conditions. Claims may then be amended pursuant to §104.22(e)(ii).

(c) *Conditions other than presumptively covered conditions.* A claimant may also be eligible for payment under §104.51 where the claimant has at least one WTC-Related Physical Health Condition and the Special Master determines that the claimant—

(1) Has a physical injury to the body that resulted from the terrorist-related air crashes of September 11, 2001 or rescue and recovery or debris removal efforts during the immediate aftermath of such crashes or presents extraordinary circumstances; and

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(2) Is otherwise eligible for payment.

[81 FR 38941, June 15, 2016, as amended at 81 FR 60620, Sept. 2, 2016]

§ 104.22 Filing for compensation.

(a) Compensation form; "filing." A compensation claim shall be deemed "filed" for purposes of section 405(b)(3) of the Act (providing that the Special Master shall issue a determination regarding the matters that were the subject of the claim not later than 120 calendar days after the date on which a claim is filed), and for any time periods in this part, when it is substantially complete.

(b) Eligibility Form. The Special Master shall develop an Eligibility Form, which may be a portion of a complete claim form, that will require the claimant to provide information necessary for determining the claimant's eligibility to recover from the Fund.

(1) The Eligibility Form may require that the claimant certify that he or she has dismissed any pending lawsuit seeking damages as a result of the terrorist-related airplane crashes of September 11, 2001, or for damages arising from or related to debris removal (except for actions seeking collateral source benefits) no later than January 2, 2011 and that there is no pending lawsuit brought by a dependent, spouse, or beneficiary of the victim.

(2) The Special Master may require as part of the notice requirement pursuant to §104.4(b) that the Personal Representative of the deceased individual provide copies of a designated portion of the Eligibility Form to the immediate family of the decedent (including, but not limited to, the spouse, former spouses, children, other dependents, and parents), to the executor, administrator, and beneficiaries of the decedent's will, and to any other persons who may reasonably be expected to assert an interest in an award or to have a cause of action to recover damages relating to the wrongful death of the decedent.

(3) The Eligibility Form may require claimants to provide the following proof:

- (i) Proof of death: Death certificate or similar official documentation;
(ii) Proof of presence at site: Documentation sufficient to establish pres-

ence at a 9/11 crash site, which may include, without limitation, a death certificate, proof of residence, such as a lease or utility bill, records of employment or school attendance, contemporaneous medical records, contemporaneous records of federal, state, city or local government, a pay stub, official personnel roster, site credentials, an affidavit or declaration of the decedent's or injured claimant's employer, or other sworn statement (or unsworn statement complying with 28 U.S.C. 1746) regarding the presence of the victim;

(iii) Proof of physical harm: Certification of a conclusion by the WTC Health Program that the claimant suffers from a WTC-Related Physical Health Condition and is eligible for treatment under the WTC Health Program, or verification by the WTC Program Administrator that the claimant suffers from a WTC-Related Physical Health Condition, or other credible medical records from a licensed medical professional.

(iv) Personal Representative: Copies of relevant legal documentation, including court orders; letters testamentary or similar documentation; proof of the purported Personal Representative's relationship to the decedent; copies of wills, trusts, or other testamentary documents; and information regarding other possible beneficiaries as requested by the Eligibility Form;

(v) Any other information that the Special Master deems necessary to determine the claimant's eligibility.

(vi) The Special Master may also require waivers, consents, or authorizations from claimants to obtain directly from third parties tax returns, medical information, employment information, or other information that the Special Master deems relevant in determining the claimant's eligibility or award, and may request an opportunity to review originals of documents submitted in connection with the Fund.

(vii) The Special Master may publish a list of individuals who have filed Eligibility Forms on behalf of a deceased victim and the names of the deceased victims for whom compensation is sought, but shall not publish the content of any such form.