

## § 88.10

(3) The applicant will be notified of any deficiencies in the application or the supporting documentation.

(b) *Status as a certified-eligible survivor.* No additional application is required for status as a certified-eligible survivor. If, based upon the screening-eligible survivor's initial health evaluation (see § 88.11), the WTC Health Program certifies the diagnosis of a WTC-related health condition, then the survivor will automatically receive the status of a certified-eligible survivor.

### **§ 88.10 Enrollment decision—screening-eligible survivors.**

(a) The WTC Health Program will decide if the applicant meets the screening-eligible survivor criteria pursuant to § 88.8(a) and is qualified, and notify the applicant of the enrollment decision in writing within 60 calendar days of the date of receipt of the application. The 60-day time period will not include any days during which the applicant is correcting deficiencies in the application or supporting documentation.

(b) If the WTC Health Program decides that an applicant is denied enrollment, the written notification will include an explanation for the decision to deny enrollment and inform the applicant of the right to appeal the enrollment denial and provide instructions on how to file an appeal.

(1) The WTC Health Program may deny screening-eligible survivor status if the applicant is ineligible under the criteria specified in § 88.8(a).

(2) The WTC Health Program may deny screening-eligible survivor status if the numerical limitation on certified-eligible survivors in § 88.12(b)(3)(i) has been met.

(3) No individual who is determined to be a positive match to the terrorist watch list maintained by the Federal government may qualify to be a screening-eligible survivor in the WTC Health Program.

### **§ 88.11 Initial health evaluation for screening-eligible survivors.**

(a) A CCE or an NPN-affiliated physician will provide the screening-eligible survivor an initial health evaluation to determine if the individual has a WTC-related health condition.

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(b) The WTC Health Program will provide only one initial health evaluation per screening-eligible survivor. The individual may request additional health evaluations at his or her own expense.

(c) If the physician determines that the screening-eligible survivor has a WTC-related health condition, the physician will promptly transmit to the WTC Health Program his or her determination, consistent with the requirements of § 88.17(a).

### **§ 88.12 Enrollment decision—certified-eligible survivors.**

(a) The WTC Health Program will prioritize certification requests in the order in which they are received.

(b) The WTC Health Program will review the physician's determination, render a decision regarding certification of the individual's WTC-related health condition, and notify the individual of the decision and the reason for the decision in writing, pursuant to §§ 88.17 and 88.18.

(1) If the individual is a screening-eligible survivor and the individual's condition is certified as a WTC-related health condition, the individual will automatically receive the status of a certified-eligible survivor.

(2) If a screening-eligible survivor's condition is not certified as a WTC-related health condition pursuant to §§ 88.17 and 88.18, the WTC Health Program will deny certified-eligible status. The screening-eligible survivor may appeal the decision to deny certification, as provided under § 88.21.

(3) The WTC Health Program may deny certified-eligible survivor status of an otherwise eligible and qualified screening-eligible survivor if the Act's numerical limitations for certified-eligible survivors have been met.

(i) No more than 25,000 individuals, other than those described in § 88.7, may be determined to be certified-eligible survivors at any time. The Administrator of the WTC Health Program may decide, based on the best available evidence, that sufficient funds are available under the WTC Health Program Fund to provide treatment and monitoring only for individuals who have already been certified as

certified-eligible survivors at that time.

(ii) [Reserved]

(4) No individual who is determined to be a positive match to the terrorist watch list maintained by the Federal government may qualify to be a certified-eligible survivor in the WTC Health Program.

#### § 88.13 Disenrollment.

(a) The disenrollment of a WTC Health Program member may be initiated by the WTC Health Program in the following circumstances:

(1) The WTC Health Program mistakenly enrolled an individual under § 88.4 (WTC responders) or § 88.8 (screening-eligible survivors) who did not provide sufficient proof of eligibility consistent with the required eligibility criteria; or

(2) The WTC Health Program member's enrollment was based on incorrect or fraudulent information.

(b) The disenrollment of a WTC Health Program member may be initiated by the enrollee for any reason.

(c) A disenrolled WTC Health Program member will be notified in writing by the WTC Health Program of a disenrollment decision, provided an explanation, as appropriate, for the decision, and provided information on how to appeal the decision. A disenrolled WTC Health Program member disenrolled pursuant to paragraph (a) may appeal the disenrollment decision in accordance with § 88.14.

(d) A disenrolled WTC Health Program member who has been disenrolled in accordance with paragraphs (a) or (b) of this section may seek to re-enroll in the WTC Health Program using the application and enrollment procedures, provided that the application is supported by new information.

#### § 88.14 Appeal of enrollment or disenrollment decision.

(a) *Right to appeal.* An applicant denied WTC Health Program enrollment, a disenrolled WTC Health Program member, or the applicant's or member's designated representative (appointed pursuant to § 88.2(a)) may appeal the enrollment denial or disenrollment decision.

(b) *Appeal request.* (1) A letter requesting an appeal must be postmarked within 120 calendar days of the date of the letter from the Administrator notifying the denied applicant or disenrolled WTC Health Program member of the adverse decision. Electronic versions of a signed letter will be accepted if transmitted within 120 calendar days of the date of the Administrator's notification letter.

(2) A valid request for an appeal must:

(i) Be made in writing and signed;

(ii) Identify the denied applicant or disenrolled WTC Health Program member and designated representative (if applicable);

(iii) Describe the decision being appealed and state the reasons why the denied applicant, disenrolled WTC Health Program member, or designated representative believes the enrollment denial or disenrollment was incorrect and should be reversed. The appeal request may include relevant new information not previously considered by the WTC Health Program; and

(iv) Be sent to the WTC Health Program at the address specified in the notice of denial or disenrollment.

(3) Where the denial or disenrollment is based on information from the terrorist watch list, the appeal will be forwarded to the appropriate Federal agency.

(c) *Appeal process.* Upon receipt of a valid appeal, the Administrator will appoint a Federal Official independent of the WTC Health Program to review the case. The Federal Official will review all available records relevant to the WTC Health Program's decision not to enroll the applicant or to disenroll the WTC Health Program member and assess whether the appeal should be granted. In conducting the review, the Federal Official's consideration will include the following: Whether the WTC Health Program substantially complied with all relevant WTC Health Program policies and procedures; whether the information supporting the WTC Health Program's decision was factually accurate; and whether the WTC Health Program's decision was reasonable as applied to the facts of the case.