

## § 88.5

terrorist attacks, for at least 1 day beginning September 11, 2001, and ending on October 3, 2001.

(d) [Reserved]

(e) The WTC Health Program will maintain a list of WTC responders.

### § 88.5 Application process—WTC responders.

(a) An application to the WTC Health Program based on the criteria in § 88.4 must be submitted with documentation of the applicant's employment affiliation (if relevant) and work activity during the dates, times, and locations specified in § 88.4

(1) Documentation may include but is not limited to a pay stub; official personnel roster; a written statement, under penalty of perjury by an employer; site credentials; or similar documentation.

(2) An applicant who is unable to submit the required documentation must instead offer a written explanation of how he or she tried to obtain proof of presence, residence, or work activity and why the attempt was unsuccessful. The applicant must attest, under penalty of perjury, that he or she meets the criteria specified in § 88.4.

(b) The application and supporting documentation must be submitted to the WTC Health Program for consideration.

(c) The WTC Health Program will notify the applicant in writing (or by email if an email address is provided by the applicant) of any deficiencies in the application or the supporting documentation.

### § 88.6 Enrollment decision—WTC responders.

(a) *Enrollment priority.* The WTC Health Program will prioritize applications in the order in which they are received.

(b) *Enrollment eligibility.* The WTC Health Program will decide if the applicant meets the eligibility criteria provided in § 88.4.

(c) *Denial of enrollment.* (1) The WTC Health Program will deny enrollment if the applicant fails to meet the applicable eligibility requirements.

(2) The WTC Health Program may deny enrollment of a responder who is otherwise eligible and qualified if the

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Act's numerical limitations for newly enrolled responders have been met.

(i) No more than 25,000 WTC responders, other than those enrolled pursuant to §§ 88.3 and 88.4(a)(1)(ii), may be enrolled 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 are already enrolled as WTC responders at that time.

(ii) [Reserved]

(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 enrolled or be determined to be eligible for the WTC Health Program.

(d) *Notification of enrollment decision.*

(1) The WTC Health Program will decide if the applicant meets the current eligibility criteria for WTC responders in § 88.4 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.

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

### § 88.7 Eligibility—currently identified survivors.

(a) Survivors who have been identified as eligible for medical treatment and monitoring as of January 2, 2011, are considered certified-eligible in the WTC Health Program.

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

(2) [Reserved]

(b) Survivors identified as certified-eligible under this section are not required to submit an application to the WTC Health Program.

**§ 88.8 Eligibility criteria—WTC survivors.**

(a) Criteria for status as a screening-eligible survivor. An individual who is not a WTC responder, claims symptoms of a WTC-related health condition, and who has not been previously identified as eligible under § 88.7 may apply to the WTC Health Program on or after July 1, 2011, for a determination of eligibility for an initial health evaluation.

(1) The WTC Health Program will determine an applicant's eligibility for an initial health evaluation based on one of the following criteria:

(i) The screening applicant was present in the dust or dust cloud in the New York City disaster area on September 11, 2001.

(ii) The screening applicant worked, resided, or attended school, childcare, or adult daycare in the New York City disaster area, for at least:

(A) 4 days during the period beginning on September 11, 2001, and ending on January 10, 2002; or

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

(iii) The screening applicant worked as a cleanup worker or performed maintenance work in the New York City disaster area during the period beginning on September 11, 2001, and ending on January 10, 2002, and had extensive exposure to WTC dust as a result of such work.

(iv) The screening applicant:

(A) Was deemed eligible to receive a grant from the Lower Manhattan Development Corporation Residential Grant Program;

(B) Possessed a lease for a residence or purchased a residence in the New York City disaster area; and

(C) Resided in such residence during the period beginning on September 11, 2001, and ending on May 31, 2003.

(v) The screening applicant is an individual whose place of employment—

(A) 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

(B) 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.

(2) [Reserved]

(b) Criteria for status as a certified-eligible survivor. Survivors who have been determined to have screening-eligible status under § 88.10(a), may seek status as a certified-eligible survivor. Status as a certified-eligible survivor is based on a certification by the WTC Health Program that, pursuant to an initial health evaluation, the screening-eligible survivor has a WTC-related health condition and is eligible for follow-up monitoring and treatment.

(c) The WTC Health Program will maintain a list of screening-eligible and certified-eligible survivors.

**§ 88.9 Application process—WTC survivors.**

(a) *Application for status as a screening-eligible survivor.* An application to the WTC Health Program based on the criteria in § 88.8(a) must be submitted with documentation of the applicant's location, presence or residence, and/or work activity during the relevant time period.

(1) Documentation may include but is not limited to: Proof of residence, such as a lease or utility bill; attendance roster at a school or daycare; or pay stub, other employment documentation, or written statement, under penalty of perjury, by an employer indicating employment location during the relevant time period; or similar documentation. The applicant must also attest to symptoms of a WTC-related health condition.

(2) An applicant who is unable to submit the required documentation must instead offer a written explanation of how he or she tried to obtain proof of location, presence, or residence, and/or work activity and why the attempt was unsuccessful. The applicant must attest, under penalty of perjury, that he or she meets the criteria specified in § 88.8.