

Public Law 111-347

111th Congress

An Act

To amend the Public Health Service Act to extend and improve protections and services to individuals directly impacted by the terrorist attack in New York City on September 11, 2001, and for other purposes.

Jan. 2, 2011
[H.R. 847]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) **SHORT TITLE.**—This Act may be cited as the “James Zadroga 9/11 Health and Compensation Act of 2010”.

(b) **TABLE OF CONTENTS.**—The table of contents of this Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I—WORLD TRADE CENTER HEALTH PROGRAM

Sec. 101. World Trade Center Health Program.

“TITLE XXXIII—WORLD TRADE CENTER HEALTH PROGRAM

“Subtitle A—Establishment of Program; Advisory Committee

“Sec. 3301. Establishment of World Trade Center Health Program.

“Sec. 3302. WTC Health Program Scientific/Technical Advisory Committee; WTC Health Program Steering Committees.

“Sec. 3303. Education and outreach.

“Sec. 3304. Uniform data collection and analysis.

“Sec. 3305. Clinical Centers of Excellence and Data Centers.

“Sec. 3306. Definitions.

“Subtitle B—Program of Monitoring, Initial Health Evaluations, and Treatment

“PART 1—WTC RESPONDERS

“Sec. 3311. Identification of WTC responders and provision of WTC-related monitoring services.

“Sec. 3312. Treatment of enrolled WTC responders for WTC-related health conditions.

“Sec. 3313. National arrangement for benefits for eligible individuals outside New York.

“PART 2—WTC SURVIVORS

“Sec. 3321. Identification and initial health evaluation of screening-eligible and certified-eligible WTC survivors.

“Sec. 3322. Followup monitoring and treatment of certified-eligible WTC survivors for WTC-related health conditions.

“Sec. 3323. Followup monitoring and treatment of other individuals with WTC-related health conditions.

“PART 3—PAYOR PROVISIONS

“Sec. 3331. Payment of claims.

“Sec. 3332. Administrative arrangement authority.

“Subtitle C—Research Into Conditions

“Sec. 3341. Research regarding certain health conditions related to September 11 terrorist attacks.

James Zadroga
9/11 Health and
Compensation
Act of 2010.
42 USC 201 note.

“Sec. 3342. World Trade Center Health Registry.

“Subtitle D—Funding

“Sec. 3351. World Trade Center Health Program Fund.

TITLE II—SEPTEMBER 11TH VICTIM COMPENSATION FUND OF 2001

Sec. 201. Definitions.

Sec. 202. Extended and expanded eligibility for compensation.

Sec. 203. Requirement to update regulations.

Sec. 204. Limited liability for certain claims.

Sec. 205. Funding; attorney fees.

TITLE III—REVENUE RELATED PROVISIONS

Sec. 301. Excise tax on foreign procurement.

Sec. 302. Renewal of fees for visa-dependent employers.

TITLE IV—BUDGETARY EFFECTS

Sec. 401. Compliance with Statutory Pay-As-You-Go Act of 2010.

TITLE I—WORLD TRADE CENTER HEALTH PROGRAM

SEC. 101. WORLD TRADE CENTER HEALTH PROGRAM.

The Public Health Service Act is amended by adding at the end the following new title:

“TITLE XXXIII—WORLD TRADE CENTER HEALTH PROGRAM

“Subtitle A—Establishment of Program; Advisory Committee

42 USC 300mm.

“SEC. 3301. ESTABLISHMENT OF WORLD TRADE CENTER HEALTH PROGRAM.

“(a) IN GENERAL.—There is hereby established within the Department of Health and Human Services a program to be known as the World Trade Center Health Program, which shall be administered by the WTC Program Administrator, to provide beginning on July 1, 2011—

“(1) medical monitoring and treatment benefits to eligible emergency responders and recovery and cleanup workers (including those who are Federal employees) who responded to the September 11, 2001, terrorist attacks; and

“(2) initial health evaluation, monitoring, and treatment benefits to residents and other building occupants and area workers in New York City who were directly impacted and adversely affected by such attacks.

“(b) COMPONENTS OF PROGRAM.—The WTC Program includes the following components:

“(1) MEDICAL MONITORING FOR RESPONDERS.—Medical monitoring under section 3311, including clinical examinations and long-term health monitoring and analysis for enrolled WTC responders who were likely to have been exposed to airborne toxins that were released, or to other hazards, as a result of the September 11, 2001, terrorist attacks.

“(2) INITIAL HEALTH EVALUATION FOR SURVIVORS.—An initial health evaluation under section 3321, including an evaluation to determine eligibility for followup monitoring and treatment.

“(3) FOLLOWUP MONITORING AND TREATMENT FOR WTC-RELATED HEALTH CONDITIONS FOR RESPONDERS AND SURVIVORS.—Provision under sections 3312, 3322, and 3323 of followup monitoring and treatment and payment, subject to the provisions of subsection (d), for all medically necessary health and mental health care expenses of an individual with respect to a WTC-related health condition (including necessary prescription drugs).

“(4) OUTREACH.—Establishment under section 3303 of an education and outreach program to potentially eligible individuals concerning the benefits under this title.

“(5) CLINICAL DATA COLLECTION AND ANALYSIS.—Collection and analysis under section 3304 of health and mental health data relating to individuals receiving monitoring or treatment benefits in a uniform manner in collaboration with the collection of epidemiological data under section 3342.

“(6) RESEARCH ON HEALTH CONDITIONS.—Establishment under subtitle C of a research program on health conditions resulting from the September 11, 2001, terrorist attacks.

“(c) NO COST SHARING.—Monitoring and treatment benefits and initial health evaluation benefits are provided under subtitle B without any deductibles, copayments, or other cost sharing to an enrolled WTC responder or certified-eligible WTC survivor. Initial health evaluation benefits are provided under subtitle B without any deductibles, copayments, or other cost sharing to a screening-eligible WTC survivor.

“(d) PREVENTING FRAUD AND UNREASONABLE ADMINISTRATIVE COSTS.—

“(1) FRAUD.—The Inspector General of the Department of Health and Human Services shall develop and implement a program to review the WTC Program’s health care expenditures to detect fraudulent or duplicate billing and payment for inappropriate services. This title is a Federal health care program (as defined in section 1128B(f) of the Social Security Act) and is a health plan (as defined in section 1128C(c) of such Act) for purposes of applying sections 1128 through 1128E of such Act.

“(2) UNREASONABLE ADMINISTRATIVE COSTS.—The Inspector General of the Department of Health and Human Services shall develop and implement a program to review the WTC Program for unreasonable administrative costs, including with respect to infrastructure, administration, and claims processing.

“(e) QUALITY ASSURANCE.—The WTC Program Administrator working with the Clinical Centers of Excellence shall develop and implement a quality assurance program for the monitoring and treatment delivered by such Centers of Excellence and any other participating health care providers. Such program shall include—

“(1) adherence to monitoring and treatment protocols;

“(2) appropriate diagnostic and treatment referrals for participants;

“(3) prompt communication of test results to participants; and

“(4) such other elements as the Administrator specifies in consultation with the Clinical Centers of Excellence.

“(f) ANNUAL PROGRAM REPORT.—

“(1) IN GENERAL.—Not later than 6 months after the end of each fiscal year in which the WTC Program is in operation, the WTC Program Administrator shall submit an annual report to the Congress on the operations of this title for such fiscal year and for the entire period of operation of the program.

“(2) CONTENTS INCLUDED IN REPORT.—Each annual report under paragraph (1) shall include at least the following:

“(A) ELIGIBLE INDIVIDUALS.—Information for each clinical program described in paragraph (3)—

“(i) on the number of individuals who applied for certification under subtitle B and the number of such individuals who were so certified;

“(ii) of the individuals who were certified, on the number who received monitoring under the program and the number of such individuals who received medical treatment under the program;

“(iii) with respect to individuals so certified who received such treatment, on the WTC-related health conditions for which they were treated; and

“(iv) on the projected number of individuals who will be certified under subtitle B in the succeeding fiscal year and the succeeding 10-year period.

“(B) MONITORING, INITIAL HEALTH EVALUATION, AND TREATMENT COSTS.—For each clinical program so described—

“(i) information on the costs of monitoring and initial health evaluation and the costs of treatment and on the estimated costs of such monitoring, evaluation, and treatment in the succeeding fiscal year; and

“(ii) an estimate of the cost of medical treatment for WTC-related health conditions that have been paid for or reimbursed by workers' compensation, by public or private health plans, or by New York City under section 3331.

“(C) ADMINISTRATIVE COSTS.—Information on the cost of administering the program, including costs of program support, data collection and analysis, and research conducted under the program.

“(D) ADMINISTRATIVE EXPERIENCE.—Information on the administrative performance of the program, including—

“(i) the performance of the program in providing timely evaluation of and treatment to eligible individuals; and

“(ii) a list of the Clinical Centers of Excellence and other providers that are participating in the program.

“(E) SCIENTIFIC REPORTS.—A summary of the findings of any new scientific reports or studies on the health effects associated with exposure described in section 3306(1), including the findings of research conducted under section 3341(a).

“(F) ADVISORY COMMITTEE RECOMMENDATIONS.—A list of recommendations by the WTC Scientific/Technical Advisory Committee on additional WTC Program eligibility

criteria and on additional WTC-related health conditions and the action of the WTC Program Administrator concerning each such recommendation.

“(3) SEPARATE CLINICAL PROGRAMS DESCRIBED.—In paragraph (2), each of the following shall be treated as a separate clinical program of the WTC Program:

“(A) FIREFIGHTERS AND RELATED PERSONNEL.—The benefits provided for enrolled WTC responders described in section 3311(a)(2)(A).

“(B) OTHER WTC RESPONDERS.—The benefits provided for enrolled WTC responders not described in subparagraph (A).

“(C) WTC SURVIVORS.—The benefits provided for screening-eligible WTC survivors and certified-eligible WTC survivors in section 3321(a).

“(g) NOTIFICATION TO CONGRESS UPON REACHING 80 PERCENT OF ELIGIBILITY NUMERICAL LIMITS.—The Secretary shall promptly notify the Congress of each of the following:

“(1) When the number of enrollments of WTC responders subject to the limit established under section 3311(a)(4) has reached 80 percent of such limit.

“(2) When the number of certifications for certified-eligible WTC survivors subject to the limit established under section 3321(a)(3) has reached 80 percent of such limit.

“(h) CONSULTATION.—The WTC Program Administrator shall engage in ongoing outreach and consultation with relevant stakeholders, including the WTC Health Program Steering Committees and the Advisory Committee under section 3302, regarding the implementation and improvement of programs under this title.

“SEC. 3302. WTC HEALTH PROGRAM SCIENTIFIC/TECHNICAL ADVISORY COMMITTEE; WTC HEALTH PROGRAM STEERING COMMITTEES.

42 USC
300mm-1.

“(a) ADVISORY COMMITTEE.—

“(1) ESTABLISHMENT.—The WTC Program Administrator shall establish an advisory committee to be known as the WTC Health Program Scientific/Technical Advisory Committee (in this subsection referred to as the ‘Advisory Committee’) 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.

“(2) COMPOSITION.—The WTC Program Administrator shall appoint the members of the Advisory Committee and shall include at least—

“(A) 4 occupational physicians, at least 2 of whom have experience treating WTC rescue and recovery workers;

“(B) 1 physician with expertise in pulmonary medicine;

“(C) 2 environmental medicine or environmental health specialists;

“(D) 2 representatives of WTC responders;

“(E) 2 representatives of certified-eligible WTC survivors;

“(F) an industrial hygienist;

“(G) a toxicologist;

“(H) an epidemiologist; and

“(I) a mental health professional.

Public
information.
Web posting.

“(3) MEETINGS.—The Advisory Committee shall meet at such frequency as may be required to carry out its duties.

“(4) REPORTS.—The WTC Program Administrator shall provide for publication of recommendations of the Advisory Committee on the public Web site established for the WTC Program.

“(5) DURATION.—Notwithstanding any other provision of law, the Advisory Committee shall continue in operation during the period in which the WTC Program is in operation.

“(6) APPLICATION OF FACA.—Except as otherwise specifically provided, the Advisory Committee shall be subject to the Federal Advisory Committee Act.

“(b) WTC HEALTH PROGRAM STEERING COMMITTEES.—

“(1) CONSULTATION.—The WTC Program Administrator shall consult with 2 steering committees (each in this section referred to as a ‘Steering Committee’) that are established as follows:

“(A) WTC RESPONDERS STEERING COMMITTEE.—One Steering Committee, to be known as the WTC Responders Steering Committee, for the purpose of receiving input from affected stakeholders and facilitating the coordination of monitoring and treatment programs for the enrolled WTC responders under part 1 of subtitle B.

“(B) WTC SURVIVORS STEERING COMMITTEE.—One Steering Committee, to be known as the WTC Survivors Steering Committee, for the purpose of receiving input from affected stakeholders and facilitating the coordination of initial health evaluations, monitoring, and treatment programs for screening-eligible and certified-eligible WTC survivors under part 2 of subtitle B.

“(2) MEMBERSHIP.—

“(A) WTC RESPONDERS STEERING COMMITTEE.—

“(i) REPRESENTATION.—The WTC Responders Steering Committee shall include—

“(I) representatives of the Centers of Excellence providing services to WTC responders;

“(II) representatives of labor organizations representing firefighters, police, other New York City employees, and recovery and cleanup workers who responded to the September 11, 2001, terrorist attacks; and

“(III) 3 representatives of New York City, 1 of whom will be selected by the police commissioner of New York City, 1 by the health commissioner of New York City, and 1 by the mayor of New York City.

“(ii) INITIAL MEMBERSHIP.—The WTC Responders Steering Committee shall initially be composed of members of the WTC Monitoring and Treatment Program Steering Committee (as in existence on the day before the date of the enactment of this title).

“(B) WTC SURVIVORS STEERING COMMITTEE.—

“(i) REPRESENTATION.—The WTC Survivors Steering Committee shall include representatives of—

“(I) the Centers of Excellence providing services to screening-eligible and certified-eligible WTC survivors;

“(II) the population of residents, students, and area and other workers affected by the September 11, 2001, terrorist attacks;

“(III) screening-eligible and certified-eligible survivors receiving initial health evaluations, monitoring, or treatment under part 2 of subtitle B and organizations advocating on their behalf; and

“(IV) New York City.

“(ii) INITIAL MEMBERSHIP.—The WTC Survivors Steering Committee shall initially be composed of members of the WTC Environmental Health Center Survivor Advisory Committee (as in existence on the day before the date of the enactment of this title).

“(C) ADDITIONAL APPOINTMENTS.—Each Steering Committee may recommend, if approved by a majority of voting members of the Committee, additional members to the Committee.

“(D) VACANCIES.—A vacancy in a Steering Committee shall be filled by an individual recommended by the Steering Committee.

“SEC. 3303. EDUCATION AND OUTREACH.

42 USC
300mm-2.

“The WTC Program Administrator shall institute a program that provides education and outreach on the existence and availability of services under the WTC Program. The outreach and education program—

“(1) shall include—

“(A) the establishment of a public Web site with information about the WTC Program; Web site.

“(B) meetings with potentially eligible populations;

“(C) development and dissemination of outreach materials informing people about the program; and

“(D) the establishment of phone information services; and

“(2) shall be conducted in a manner intended—

“(A) to reach all affected populations; and

“(B) to include materials for culturally and linguistically diverse populations.

“SEC. 3304. UNIFORM DATA COLLECTION AND ANALYSIS.

Reports.
42 USC
300mm-3.

“(a) IN GENERAL.—The WTC Program Administrator shall provide for the uniform collection of data, including claims data (and analysis of data and regular reports to the Administrator) on the prevalence of WTC-related health conditions and the identification of new WTC-related health conditions. Such data shall be collected for all individuals provided monitoring or treatment benefits under subtitle B and regardless of their place of residence or Clinical Center of Excellence through which the benefits are provided. The WTC Program Administrator shall provide, through the Data Centers or otherwise, for the integration of such data into the monitoring and treatment program activities under this title.

“(b) COORDINATING THROUGH CENTERS OF EXCELLENCE.—Each Clinical Center of Excellence shall collect data described in subsection (a) and report such data to the corresponding Data Center for analysis by such Data Center.

“(c) COLLABORATION WITH WTC HEALTH REGISTRY.—The WTC Program Administrator shall provide for collaboration between the

Data Centers and the World Trade Center Health Registry described in section 3342.

“(d) PRIVACY.—The data collection and analysis under this section shall be conducted and maintained in a manner that protects the confidentiality of individually identifiable health information consistent with applicable statutes and regulations, including, as applicable, HIPAA privacy and security law (as defined in section 3009(a)(2)) and section 552a of title 5, United States Code.

42 USC
300mm-4.

“SEC. 3305. CLINICAL CENTERS OF EXCELLENCE AND DATA CENTERS.

“(a) IN GENERAL.—

“(1) CONTRACTS WITH CLINICAL CENTERS OF EXCELLENCE.— The WTC Program Administrator shall, subject to subsection (b)(1)(B), enter into contracts with Clinical Centers of Excellence (as defined in subsection (b)(1)(A))—

“(A) for the provision of monitoring and treatment benefits and initial health evaluation benefits under subtitle B;

“(B) for the provision of outreach activities to individuals eligible for such monitoring and treatment benefits, for initial health evaluation benefits, and for followup to individuals who are enrolled in the monitoring program;

“(C) for the provision of counseling for benefits under subtitle B, with respect to WTC-related health conditions, for individuals eligible for such benefits;

“(D) for the provision of counseling for benefits for WTC-related health conditions that may be available under workers’ compensation or other benefit programs for work-related injuries or illnesses, health insurance, disability insurance, or other insurance plans or through public or private social service agencies and assisting eligible individuals in applying for such benefits;

“(E) for the provision of translational and interpretive services for program participants who are not English language proficient; and

“(F) for the collection and reporting of data, including claims data, in accordance with section 3304.

“(2) CONTRACTS WITH DATA CENTERS.—

“(A) IN GENERAL.—The WTC Program Administrator shall enter into contracts with one or more Data Centers (as defined in subsection (b)(2))—

“(i) for receiving, analyzing, and reporting to the WTC Program Administrator on data, in accordance with section 3304, that have been collected and reported to such Data Centers by the corresponding Clinical Centers of Excellence under subsection (b)(1)(B)(iii);

“(ii) for the development of monitoring, initial health evaluation, and treatment protocols, with respect to WTC-related health conditions;

“(iii) for coordinating the outreach activities conducted under paragraph (1)(B) by each corresponding Clinical Center of Excellence;

“(iv) for establishing criteria for the credentialing of medical providers participating in the nationwide network under section 3313;

“(v) for coordinating and administering the activities of the WTC Health Program Steering Committees established under section 3002(b); and

“(vi) for meeting periodically with the corresponding Clinical Centers of Excellence to obtain input on the analysis and reporting of data collected under clause (i) and on the development of monitoring, initial health evaluation, and treatment protocols under clause (ii).

“(B) MEDICAL PROVIDER SELECTION.—The medical providers under subparagraph (A)(iv) shall be selected by the WTC Program Administrator on the basis of their experience treating or diagnosing the health conditions included in the list of WTC-related health conditions.

“(C) CLINICAL DISCUSSIONS.—In carrying out subparagraph (A)(ii), a Data Center shall engage in clinical discussions across the WTC Program to guide treatment approaches for individuals with a WTC-related health condition.

“(D) TRANSPARENCY OF DATA.—A contract entered into under this subsection with a Data Center shall require the Data Center to make any data collected and reported to such Center under subsection (b)(1)(B)(iii) available to health researchers and others as provided in the CDC/ATSDR Policy on Releasing and Sharing Data.

“(3) AUTHORITY FOR CONTRACTS TO BE CLASS SPECIFIC.—A contract entered into under this subsection with a Clinical Center of Excellence or a Data Center may be with respect to one or more class of enrolled WTC responders, screening-eligible WTC survivors, or certified-eligible WTC survivors.

“(4) USE OF COOPERATIVE AGREEMENTS.—Any contract under this title between the WTC Program Administrator and a Data Center or a Clinical Center of Excellence may be in the form of a cooperative agreement.

“(5) REVIEW ON FEASIBILITY OF CONSOLIDATING DATA CENTERS.—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 the feasibility of consolidating Data Centers into a single Data Center.

Deadline.
Reports.

“(b) CENTERS OF EXCELLENCE.—

“(1) CLINICAL CENTERS OF EXCELLENCE.—

“(A) DEFINITION.—For purposes of this title, the term ‘Clinical Center of Excellence’ means a Center that demonstrates to the satisfaction of the Administrator that the Center—

“(i) uses an integrated, centralized health care provider approach to create a comprehensive suite of health services under this title that are accessible to enrolled WTC responders, screening-eligible WTC survivors, or certified-eligible WTC survivors;

“(ii) has experience in caring for WTC responders and screening-eligible WTC survivors or includes health care providers who have been trained pursuant to section 3313(c);

“(iii) employs health care provider staff with expertise that includes, at a minimum, occupational medicine, environmental medicine, trauma-related psychiatry and psychology, and social services counseling; and

“(iv) meets such other requirements as specified by the Administrator.

“(B) CONTRACT REQUIREMENTS.—The WTC Program Administrator shall not enter into a contract with a Clinical Center of Excellence under subsection (a)(1) unless the Center agrees to do each of the following:

“(i) Establish a formal mechanism for consulting with and receiving input from representatives of eligible populations receiving monitoring and treatment benefits under subtitle B from such Center.

“(ii) Coordinate monitoring and treatment benefits under subtitle B with routine medical care provided for the treatment of conditions other than WTC-related health conditions.

“(iii) Collect and report to the corresponding Data Center data, including claims data, in accordance with section 3304(b).

“(iv) Have in place safeguards against fraud that are satisfactory to the Administrator, in consultation with the Inspector General of the Department of Health and Human Services.

“(v) Treat or refer for treatment all individuals who are enrolled WTC responders or certified-eligible WTC survivors with respect to such Center who present themselves for treatment of a WTC-related health condition.

“(vi) Have in place safeguards, consistent with section 3304(c), to ensure the confidentiality of an individual's individually identifiable health information, including requiring that such information not be disclosed to the individual's employer without the authorization of the individual.

“(vii) Use amounts paid under subsection (c)(1) only for costs incurred in carrying out the activities described in subsection (a), other than those described in subsection (a)(1)(A).

“(viii) Utilize health care providers with occupational and environmental medicine expertise to conduct physical and mental health assessments, in accordance with protocols developed under subsection (a)(2)(A)(ii).

“(ix) Communicate with WTC responders and screening-eligible and certified-eligible WTC survivors in appropriate languages and conduct outreach activities with relevant stakeholder worker or community associations.

“(x) Meet all the other applicable requirements of this title, including regulations implementing such requirements.

“(C) TRANSITION RULE TO ENSURE CONTINUITY OF CARE.—The WTC Program Administrator shall to the maximum extent feasible ensure continuity of care in any period of transition from monitoring and treatment of an enrolled

WTC responder or certified-eligible WTC survivor by a provider to a Clinical Center of Excellence or a health care provider participating in the nationwide network under section 3313.

“(2) DATA CENTERS.—For purposes of this title, the term ‘Data Center’ means a Center that the WTC Program Administrator determines has the capacity to carry out the responsibilities for a Data Center under subsection (a)(2). Definition.

“(3) CORRESPONDING CENTERS.—For purposes of this title, a Clinical Center of Excellence and a Data Center shall be treated as ‘corresponding’ to the extent that such Clinical Center and Data Center serve the same population group.

“(c) PAYMENT FOR INFRASTRUCTURE COSTS.—

“(1) IN GENERAL.—The WTC Program Administrator shall reimburse a Clinical Center of Excellence for the fixed infrastructure costs of such Center in carrying out the activities described in subtitle B at a rate negotiated by the Administrator and such Centers. Such negotiated rate shall be fair and appropriate and take into account the number of enrolled WTC responders receiving services from such Center under this title.

“(2) FIXED INFRASTRUCTURE COSTS.—For purposes of paragraph (1), the term ‘fixed infrastructure costs’ means, with respect to a Clinical Center of Excellence, the costs incurred by such Center that are not otherwise reimbursable by the WTC Program Administrator under section 3312(c) for patient evaluation, monitoring, or treatment but which are needed to operate the WTC program such as the costs involved in outreach to participants or recruiting participants, data collection and analysis, social services for counseling patients on other available assistance outside the WTC program, and the development of treatment protocols. Such term does not include costs for new construction or other capital costs.

“(d) GAO ANALYSIS.—Not later than July 1, 2011, the Comptroller General 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 an analysis on whether Clinical Centers of Excellence with which the WTC Program Administrator enters into a contract under this section have financial systems that will allow for the timely submission of claims data for purposes of section 3304 and subsections (a)(1)(F) and (b)(1)(B)(iii). Deadline.

“SEC. 3306. DEFINITIONS.

42 USC
300mm-5.

“In this title:

“(1) The term ‘aggravating’ means, with respect to a health condition, a health condition that existed on September 11, 2001, and that, as a result of exposure to airborne toxins, any other hazard, or any other adverse condition resulting from the September 11, 2001, terrorist attacks, requires medical treatment that is (or will be) in addition to, more frequent than, or of longer duration than the medical treatment that would have been required for such condition in the absence of such exposure.

“(2) The term ‘certified-eligible WTC survivor’ has the meaning given such term in section 3321(a)(2).

“(3) The terms ‘Clinical Center of Excellence’ and ‘Data Center’ have the meanings given such terms in section 3305.

“(4) The term ‘enrolled WTC responder’ means a WTC responder enrolled under section 3311(a)(3).

“(5) The term ‘initial health evaluation’ includes, with respect to an individual, a medical and exposure history, a physical examination, and additional medical testing as needed to evaluate whether the individual has a WTC-related health condition and is eligible for treatment under the WTC Program.

“(6) The term ‘list of WTC-related health conditions’ means—

“(A) for WTC responders, the health conditions listed in section 3312(a)(3); and

“(B) for screening-eligible and certified-eligible WTC survivors, the health conditions listed in section 3322(b).

“(7) The term ‘New York City disaster area’ means the area within New York City that is—

“(A) the area of Manhattan that is south of Houston Street; and

“(B) any block in Brooklyn that is wholly or partially contained within a 1.5-mile radius of the former World Trade Center site.

“(8) The term ‘New York metropolitan area’ means an area, specified by the WTC Program Administrator, within which WTC responders and eligible WTC screening-eligible survivors who reside in such area are reasonably able to access monitoring and treatment benefits and initial health evaluation benefits under this title through a Clinical Center of Excellence described in subparagraphs (A), (B), or (C) of section 3305(b)(1).

“(9) The term ‘screening-eligible WTC survivor’ has the meaning given such term in section 3321(a)(1).

“(10) Any reference to ‘September 11, 2001’ shall be deemed a reference to the period on such date subsequent to the terrorist attacks at the World Trade Center, Shanksville, Pennsylvania, or the Pentagon, as applicable, on such date.

“(11) The term ‘September 11, 2001, terrorist attacks’ means the terrorist attacks that occurred on September 11, 2001, in New York City, in Shanksville, Pennsylvania, and at the Pentagon, and includes the aftermath of such attacks.

“(12) The term ‘WTC Health Program Steering Committee’ means such a Steering Committee established under section 3302(b).

“(13) The term ‘WTC Program’ means the Word Trade Center Health Program established under section 3301(a).

“(14)(A) The term ‘WTC Program Administrator’ means—

“(i) subject to subparagraph (B), with respect to paragraphs (3) and (4) of section 3311(a) (relating to enrollment of WTC responders), section 3312(c) and the corresponding provisions of section 3322 (relating to payment for initial health evaluation, monitoring, and treatment, paragraphs (1)(C), (2)(B), and (3) of section 3321(a) (relating to determination or certification of screening-eligible or certified-eligible WTC responders), and part 3 of subtitle B (relating to payor provisions), an official in the Department of Health and Human Services, to be designated by the Secretary; and

“(ii) with respect to any other provision of this title, the Director of the National Institute for Occupational Safety and Health, or a designee of such Director.

“(B) In no case may the Secretary designate under subparagraph (A)(i) the Director of the National Institute for Occupational Safety and Health or a designee of such Director with respect to section 3322 (relating to payment for initial health evaluation, monitoring, and treatment).

“(15) The term ‘WTC-related health condition’ is defined in section 3312(a).

“(16) The term ‘WTC responder’ is defined in section 3311(a).

“(17) The term ‘WTC Scientific/Technical Advisory Committee’ means such Committee established under section 3302(a).

“Subtitle B—Program of Monitoring, Initial Health Evaluations, and Treatment

“PART 1—WTC RESPONDERS

“SEC. 3311. IDENTIFICATION OF WTC RESPONDERS AND PROVISION OF WTC-RELATED MONITORING SERVICES. 42 USC 300mm-21.

“(a) WTC RESPONDER DEFINED.—

“(1) IN GENERAL.—For purposes of this title, the term ‘WTC responder’ means any of the following individuals, subject to paragraph (4):

“(A) CURRENTLY IDENTIFIED RESPONDER.—An individual who has been identified as eligible for monitoring under the arrangements as in effect on the date of the enactment of this title between the National Institute for Occupational Safety and Health and—

“(i) the consortium coordinated by Mt. Sinai Hospital in New York City that coordinates the monitoring and treatment for enrolled WTC responders other than with respect to those covered under the arrangement with the Fire Department of New York City; or

“(ii) the Fire Department of New York City.

“(B) RESPONDER WHO MEETS CURRENT ELIGIBILITY CRITERIA.—An individual who meets the current eligibility criteria described in paragraph (2).

“(C) RESPONDER WHO MEETS MODIFIED ELIGIBILITY CRITERIA.—An individual who—

“(i) performed rescue, recovery, demolition, debris cleanup, or other related services in the New York City disaster area in response to the September 11, 2001, terrorist attacks, regardless of whether such services were performed by a State or Federal employee or member of the National Guard or otherwise; and

“(ii) 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 Program Administrator, after consultation with the WTC Scientific/Technical Advisory Committee, determines appropriate.

The WTC Program Administrator shall not modify such eligibility criteria on or after the date that the number of enrollments of WTC responders has reached 80 percent of the limit described in paragraph (4) or on or after the

Time periods.

date that the number of certifications for certified-eligible WTC survivors under section 3321(a)(2)(B) has reached 80 percent of the limit described in section 3321(a)(3).

“(2) CURRENT ELIGIBILITY CRITERIA.—The eligibility criteria described in this paragraph for an individual is that the individual is described in any of the following categories:

“(A) FIREFIGHTERS AND RELATED PERSONNEL.—The individual—

“(i) was a member of the Fire Department of New York City (whether fire or emergency personnel, active or retired) who participated at least one day in the rescue and recovery effort at any of the former World Trade Center sites (including Ground Zero, Staten Island Landfill, and the New York City Chief Medical Examiner’s Office) for any time during the period beginning on September 11, 2001, and ending on July 31, 2002; or

“(ii)(I) is a surviving immediate family member of an individual who was a member of the Fire Department of New York City (whether fire or emergency personnel, active or retired) and was killed at the World Trade site on September 11, 2001; and

“(II) received any treatment for a WTC-related health condition described in section 3312(a)(1)(A)(ii) (relating to mental health conditions) on or before September 1, 2008.

“(B) LAW ENFORCEMENT OFFICERS AND WTC RESCUE, RECOVERY, AND CLEANUP WORKERS.—The individual—

“(i) worked or volunteered onsite in rescue, recovery, debris cleanup, or related support services in lower Manhattan (south of Canal St.), the Staten Island Landfill, or the barge loading piers, for at least 4 hours during the period beginning on September 11, 2001, and ending on September 14, 2001, for at least 24 hours during the period beginning on September 11, 2001, and ending on September 30, 2001, or for at least 80 hours during the period beginning on September 11, 2001, and ending on July 31, 2002;

“(ii)(I) was a member of the Police Department of New York City (whether active or retired) or a member of the Port Authority Police of the Port Authority of New York and New Jersey (whether active or retired) who participated onsite in rescue, recovery, debris cleanup, or related services in lower Manhattan (south of Canal St.), including Ground Zero, the Staten Island Landfill, or the barge loading piers, for at least 4 hours during the period beginning September 11, 2001, and ending on September 14, 2001;

“(II) participated onsite in rescue, recovery, debris cleanup, or related services at Ground Zero, the Staten Island Landfill, or the barge loading piers, for at least one day during the period beginning on September 11, 2001, and ending on July 31, 2002;

“(III) participated onsite in rescue, recovery, debris cleanup, or related services in lower Manhattan (south of Canal St.) for at least 24 hours during the period

beginning on September 11, 2001, and ending on September 30, 2001; or

“(IV) participated onsite in rescue, recovery, debris cleanup, or related services in lower Manhattan (south of Canal St.) for at least 80 hours during the period beginning on September 11, 2001, and ending on July 31, 2002;

“(iii) was an employee of the Office of the Chief Medical Examiner of New York City involved in the examination and handling of human remains from the World Trade Center attacks, or other morgue worker who performed similar post-September 11 functions for such Office staff, during the period beginning on September 11, 2001, and ending on July 31, 2002;

“(iv) was a worker in the Port Authority Trans-Hudson Corporation Tunnel for at least 24 hours during the period beginning on February 1, 2002, and ending on July 1, 2002; or

“(v) was a vehicle-maintenance worker who was exposed to debris from the former World Trade Center while retrieving, driving, cleaning, repairing, and maintaining vehicles contaminated by airborne toxins from the September 11, 2001, terrorist attacks during a duration and period described in subparagraph (A).

“(C) RESPONDERS TO THE SEPTEMBER 11 ATTACKS AT THE PENTAGON AND SHANKSVILLE, PENNSYLVANIA.—The individual—

“(i)(I) was a member of a fire or police department (whether fire or emergency personnel, active or retired), worked for a recovery or cleanup contractor, or was a volunteer; and performed rescue, recovery, demolition, debris cleanup, or other related services at the Pentagon site of the terrorist-related aircraft crash of September 11, 2001, during the period beginning on September 11, 2001, and ending on the date on which the cleanup of the site was concluded, as determined by the WTC Program Administrator; or

“(II) was a member of a fire or police department (whether fire or emergency personnel, active or retired), worked for a recovery or cleanup contractor, or was a volunteer; and performed rescue, recovery, demolition, debris cleanup, or other related services at the Shanksville, Pennsylvania, site of the terrorist-related aircraft crash of September 11, 2001, during the period beginning on September 11, 2001, and ending on the date on which the cleanup of the site was concluded, as determined by the WTC Program Administrator; and

“(ii) is determined by the WTC Program Administrator to be at an increased risk of developing a WTC-related health condition as a result of exposure to airborne toxins, other hazards, or adverse conditions resulting from the September 11, 2001, terrorist attacks, and meets such eligibility criteria related to such exposures, as the WTC Program Administrator determines are appropriate, after consultation with the WTC Scientific/Technical Advisory Committee.

“(3) ENROLLMENT PROCESS.—

“(A) IN GENERAL.—The WTC Program Administrator shall establish a process for enrolling WTC responders in the WTC Program. Under such process—

“(i) WTC responders described in paragraph (1)(A) shall be deemed to be enrolled in such Program;

“(ii) subject to clause (iii), the Administrator shall enroll in such program individuals who are determined to be WTC responders;

“(iii) the Administrator shall deny such enrollment to an individual if the Administrator determines that the numerical limitation in paragraph (4) on enrollment of WTC responders has been met;

“(iv) there shall be no fee charged to the applicant for making an application for such enrollment;

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

“(vi) an individual who is denied enrollment in such Program shall have an opportunity to appeal such determination in a manner established under such process.

“(B) TIMING.—

“(i) CURRENTLY IDENTIFIED RESPONDERS.—In accordance with subparagraph (A)(i), the WTC Program Administrator shall enroll an individual described in paragraph (1)(A) in the WTC Program not later than July 1, 2011.

“(ii) OTHER RESPONDERS.—In accordance with subparagraph (A)(ii) and consistent with paragraph (4), the WTC Program Administrator shall enroll any other individual who is determined to be a WTC responder in the WTC Program at the time of such determination.

“(4) NUMERICAL LIMITATION ON ELIGIBLE WTC RESPONDERS.—

“(A) IN GENERAL.—The total number of individuals not described in paragraph (1)(A) or (2)(A)(ii) who may be enrolled under paragraph (3)(A)(ii) shall not exceed 25,000 at any time, of which no more than 2,500 may be individuals enrolled based on modified eligibility criteria established under paragraph (1)(C).

“(B) PROCESS.—In implementing subparagraph (A), the WTC Program Administrator shall—

“(i) limit the number of enrollments made under paragraph (3)—

“(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 available under section 3351, that will ensure sufficient funds will be available to provide treatment and monitoring benefits under this title, with respect to all individuals who are enrolled through the end of fiscal year 2020; and

Determination.
Deadline.

Deadline.

“(ii) provide priority (subject to paragraph (3)(A)(i)) in such enrollments in the order in which individuals apply for enrollment under paragraph (3).

“(5) 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 an eligible WTC responder. Before enrolling any individual as a WTC responder in the WTC Program under paragraph (3), the Administrator, in consultation with the Secretary of Homeland Security, shall determine whether the individual is on such list.

“(b) MONITORING BENEFITS.—

“(1) IN GENERAL.—In the case of an enrolled WTC responder (other than one described in subsection (a)(2)(A)(ii)), the WTC Program shall provide for monitoring benefits that include monitoring consistent with protocols approved by the WTC Program Administrator and including clinical examinations and long-term health monitoring and analysis. In the case of an enrolled WTC responder who is an active member of the Fire Department of New York City, the responder shall receive such benefits as part of the individual’s periodic company medical exams.

“(2) PROVISION OF MONITORING BENEFITS.—The monitoring benefits under paragraph (1) shall be provided through the Clinical Center of Excellence for the type of individual involved or, in the case of an individual residing outside the New York metropolitan area, under an arrangement under section 3313.

Determination.

“SEC. 3312. TREATMENT OF ENROLLED WTC RESPONDERS FOR WTC-RELATED HEALTH CONDITIONS.

42 USC
300mm-22.

“(a) WTC-RELATED HEALTH CONDITION DEFINED.—

“(1) IN GENERAL.—For purposes of this title, the term ‘WTC-related health condition’ means a condition that—

“(A)(i) is an illness or health condition for which exposure to airborne toxins, any other hazard, or any other adverse condition resulting from the September 11, 2001, terrorist attacks, based on an examination by a medical professional with experience in treating or diagnosing the health conditions included in the applicable list of WTC-related health conditions, is substantially likely to be a significant factor in aggravating, contributing to, or causing the illness or health condition, as determined under paragraph (2); or

“(ii) is a mental health condition for which such attacks, based on an examination by a medical professional with experience in treating or diagnosing the health conditions included in the applicable list of WTC-related health conditions, is substantially likely to be a significant factor in aggravating, contributing to, or causing the condition, as determined under paragraph (2); and

“(B) is included in the applicable list of WTC-related health conditions or—

“(i) with respect to a WTC responder, is provided certification of coverage under subsection (b)(2)(B)(iii); or

“(ii) with respect to a screening-eligible WTC survivor or certified-eligible WTC survivor, is provided

certification of coverage under subsection (b)(2)(B)(iii), as applied under section 3322(a).

In the case of a WTC responder described in section 3311(a)(2)(A)(ii) (relating to a surviving immediate family member of a firefighter), such term does not include an illness or health condition described in subparagraph (A)(i).

“(2) DETERMINATION.—The determination under paragraph (1) or subsection (b) of whether the September 11, 2001, terrorist attacks were substantially likely to be a significant factor in aggravating, contributing to, or causing an individual’s illness or health condition shall be made based on an assessment of the following:

“(A) The individual’s exposure to airborne toxins, any other hazard, or any other adverse condition resulting from the terrorist attacks. Such exposure shall be—

“(i) evaluated and characterized through the use of a standardized, population-appropriate questionnaire approved by the Director of the National Institute for Occupational Safety and Health; and

“(ii) assessed and documented by a medical professional with experience in treating or diagnosing health conditions included on the list of WTC-related health conditions.

“(B) The type of symptoms and temporal sequence of symptoms. Such symptoms shall be—

“(i) assessed through the use of a standardized, population-appropriate medical questionnaire approved by the Director of the National Institute for Occupational Safety and Health and a medical examination; and

“(ii) diagnosed and documented by a medical professional described in subparagraph (A)(ii).

“(3) LIST OF HEALTH CONDITIONS FOR WTC RESPONDERS.—The list of health conditions for WTC responders consists of the following:

“(A) AERODIGESTIVE DISORDERS.—

“(i) Interstitial lung diseases.

“(ii) Chronic respiratory disorder—fumes/vapors.

“(iii) Asthma.

“(iv) Reactive airways dysfunction syndrome (RADS).

“(v) WTC-exacerbated chronic obstructive pulmonary disease (COPD).

“(vi) Chronic cough syndrome.

“(vii) Upper airway hyperreactivity.

“(viii) Chronic rhinosinusitis.

“(ix) Chronic nasopharyngitis.

“(x) Chronic laryngitis.

“(xi) Gastroesophageal reflux disorder (GERD).

“(xii) Sleep apnea exacerbated by or related to a condition described in a previous clause.

“(B) MENTAL HEALTH CONDITIONS.—

“(i) Posttraumatic stress disorder (PTSD).

“(ii) Major depressive disorder.

“(iii) Panic disorder.

“(iv) Generalized anxiety disorder.

“(v) Anxiety disorder (not otherwise specified).

- “(vi) Depression (not otherwise specified).
- “(vii) Acute stress disorder.
- “(viii) Dysthymic disorder.
- “(ix) Adjustment disorder.
- “(x) Substance abuse.

“(C) MUSCULOSKELETAL DISORDERS FOR CERTAIN WTC RESPONDERS.—In the case of a WTC responder described in paragraph (4), a condition described in such paragraph.

“(D) ADDITIONAL CONDITIONS.—Any cancer (or type of cancer) or other condition added, pursuant to paragraph (5) or (6), to the list under this paragraph.

“(4) MUSCULOSKELETAL DISORDERS.—

“(A) IN GENERAL.—For purposes of this title, in the case of a WTC responder who received any treatment for a WTC-related musculoskeletal disorder on or before September 11, 2003, the list of health conditions in paragraph (3) shall include:

- “(i) Low back pain.
- “(ii) Carpal tunnel syndrome (CTS).
- “(iii) Other musculoskeletal disorders.

“(B) DEFINITION.—The term ‘WTC-related musculoskeletal disorder’ means a chronic or recurrent disorder of the musculoskeletal system caused by heavy lifting or repetitive strain on the joints or musculoskeletal system occurring during rescue or recovery efforts in the New York City disaster area in the aftermath of the September 11, 2001, terrorist attacks.

“(5) CANCER.—

“(A) IN GENERAL.—The WTC Program Administrator shall periodically conduct a review of all available scientific and medical evidence, including findings and recommendations of Clinical Centers of Excellence, published in peer-reviewed journals to determine if, based on such evidence, cancer or a certain type of cancer should be added to the applicable list of WTC-related health conditions. The WTC Program Administrator shall conduct the first review under this subparagraph not later than 180 days after the date of the enactment of this title.

Deadlines.
Review.

“(B) PROPOSED REGULATIONS AND RULEMAKING.—Based on the periodic reviews under subparagraph (A), if the WTC Program Administrator determines that cancer or a certain type of cancer should be added to such list of WTC-related health conditions, the WTC Program Administrator shall propose regulations, through rulemaking, to add cancer or the certain type of cancer to such list.

Determination.

“(C) FINAL REGULATIONS.—Based on all the available evidence in the rulemaking record, the WTC Program Administrator shall make a final determination of whether cancer or a certain type of cancer should be added to such list of WTC-related health conditions. If such a determination is made to make such an addition, the WTC Program Administrator shall by regulation add cancer or the certain type of cancer to such list.

“(D) DETERMINATIONS NOT TO ADD CANCER OR CERTAIN TYPES OF CANCER.—In the case that the WTC Program Administrator determines under subparagraph (B) or (C) that cancer or a certain type of cancer should not be added

Federal Register,
publication.

to such list of WTC-related health conditions, the WTC Program Administrator shall publish an explanation for such determination in the Federal Register. Any such determination to not make such an addition shall not preclude the addition of cancer or the certain type of cancer to such list at a later date.

“(6) ADDITION OF HEALTH CONDITIONS TO LIST FOR WTC RESPONDERS.—

“(A) IN GENERAL.—Whenever the WTC Program Administrator determines that a proposed rule should be promulgated to add a health condition to the list of health conditions in paragraph (3), the Administrator may request a recommendation of the Advisory Committee or may publish such a proposed rule in the Federal Register in accordance with subparagraph (D).

“(B) ADMINISTRATOR’S OPTIONS AFTER RECEIPT OF PETITION.—In the case that the WTC Program Administrator receives a written petition by an interested party to add a health condition to the list of health conditions in paragraph (3), not later than 60 days after the date of receipt of such petition the Administrator shall—

“(i) request a recommendation of the Advisory Committee;

“(ii) publish a proposed rule in the Federal Register to add such health condition, in accordance with subparagraph (D);

“(iii) publish in the Federal Register the Administrator’s determination not to publish such a proposed rule and the basis for such determination; or

“(iv) publish in the Federal Register a determination that insufficient evidence exists to take action under clauses (i) through (iii).

“(C) ACTION BY ADVISORY COMMITTEE.—In the case that the Administrator requests a recommendation of the Advisory Committee under this paragraph, with respect to adding a health condition to the list in paragraph (3), the Advisory Committee shall submit to the Administrator such recommendation not later than 60 days after the date of such request or by such date (not to exceed 180 days after such date of request) as specified by the Administrator. Not later than 60 days after the date of receipt of such recommendation, the Administrator shall, in accordance with subparagraph (D), publish in the Federal Register a proposed rule with respect to such recommendation or a determination not to propose such a proposed rule and the basis for such determination.

“(D) PUBLICATION.—The WTC Program Administrator shall, with respect to any proposed rule under this paragraph—

“(i) publish such proposed rule in accordance with section 553 of title 5, United States Code; and

“(ii) provide interested parties a period of 30 days after such publication to submit written comments on the proposed rule.

The WTC Program Administrator may extend the period described in clause (ii) upon a finding of good cause. In

Deadline.
Recommendation.
Federal Register,
publication.

Recommendation.
Deadlines.

Federal Register,
publication.

Comment period.

Federal Register,
publication.

the case of such an extension, the Administrator shall publish such extension in the Federal Register.

“(E) INTERESTED PARTY DEFINED.—For purposes of this paragraph, the term ‘interested party’ includes a representative of any organization representing WTC responders, a nationally recognized medical association, a Clinical or Data Center, a State or political subdivision, or any other interested person.

“(b) COVERAGE OF TREATMENT FOR WTC-RELATED HEALTH CONDITIONS.—

“(1) DETERMINATION FOR ENROLLED WTC RESPONDERS BASED ON A WTC-RELATED HEALTH CONDITION.—

“(A) IN GENERAL.—If a physician at a Clinical Center of Excellence that is providing monitoring benefits under section 3311 for an enrolled WTC responder makes a determination that the responder has a WTC-related health condition that is in the list in subsection (a)(3) and that exposure to airborne toxins, other hazards, or adverse conditions resulting from the September 1, 2001, terrorist attacks is substantially likely to be a significant factor in aggravating, contributing to, or causing the condition—

“(i) the physician shall promptly transmit such determination to the WTC Program Administrator and provide the Administrator with the medical facts supporting such determination; and

“(ii) on and after the date of such transmittal and subject to subparagraph (B), the WTC Program shall provide for payment under subsection (c) for medically necessary treatment for such condition.

“(B) REVIEW; CERTIFICATION; APPEALS.—

“(i) REVIEW.—A Federal employee designated by the WTC Program Administrator shall review determinations made under subparagraph (A).

“(ii) CERTIFICATION.—The Administrator shall provide a certification of such condition based upon reviews conducted under clause (i). Such a certification shall be provided unless the Administrator determines that the responder’s condition is not a WTC-related health condition in the list in subsection (a)(3) or that exposure to airborne toxins, other hazards, or adverse conditions resulting from the September 1, 2001, terrorist attacks is not substantially likely to be a significant factor in aggravating, contributing to, or causing the condition.

“(iii) APPEAL PROCESS.—The Administrator shall establish, by rule, a process for the appeal of determinations under clause (ii).

“(2) DETERMINATION BASED ON MEDICALLY ASSOCIATED WTC-RELATED HEALTH CONDITIONS.—

“(A) IN GENERAL.—If a physician at a Clinical Center of Excellence determines pursuant to subsection (a) that the enrolled WTC responder has a health condition described in subsection (a)(1)(A) that is not in the list in subsection (a)(3) but which is medically associated with a WTC-related health condition—

“(i) the physician shall promptly transmit such determination to the WTC Program Administrator and

Definition.

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provide the Administrator with the facts supporting such determination; and

“(ii) the Administrator shall make a determination under subparagraph (B) with respect to such physician’s determination.

“(B) PROCEDURES FOR REVIEW, CERTIFICATION, AND APPEAL.—The WTC Program Administrator shall, by rule, establish procedures for the review and certification of physician determinations under subparagraph (A). Such rule shall provide for—

“(i) the timely review of such a determination by a physician panel with appropriate expertise for the condition and recommendations to the WTC Program Administrator;

“(ii) not later than 60 days after the date of the transmittal under subparagraph (A)(i), a determination by the WTC Program Administrator on whether or not the condition involved is described in subsection (a)(1)(A) and is medically associated with a WTC-related health condition;

“(iii) certification in accordance with paragraph (1)(B)(ii) of coverage of such condition if determined to be described in subsection (a)(1)(A) and medically associated with a WTC-related health condition; and

“(iv) a process for appeals of determinations relating to such conditions.

“(C) INCLUSION IN LIST OF HEALTH CONDITIONS.—If the WTC Program Administrator provides certification under subparagraph (B)(iii) for coverage of a condition, the Administrator may, pursuant to subsection (a)(6), add the condition to the list in subsection (a)(3).

“(D) CONDITIONS ALREADY DECLINED FOR INCLUSION IN LIST.—If the WTC Program Administrator publishes a determination under subsection (a)(6)(B) not to include a condition in the list in subsection (a)(3), the WTC Program Administrator shall not provide certification under subparagraph (B)(iii) for coverage of the condition. In the case of an individual who is certified under subparagraph (B)(iii) with respect to such condition before the date of the publication of such determination the previous sentence shall not apply.

“(3) REQUIREMENT OF MEDICAL NECESSITY.—

“(A) IN GENERAL.—In providing treatment for a WTC-related health condition, a physician or other provider shall provide treatment that is medically necessary and in accordance with medical treatment protocols established under subsection (d).

“(B) REGULATIONS RELATING TO MEDICAL NECESSITY.—For the purpose of this title, the WTC Program Administrator shall issue regulations specifying a standard for determining medical necessity with respect to health care services and prescription pharmaceuticals, a process for determining whether treatment furnished and pharmaceuticals prescribed under this title meet such standard (including any prior authorization requirement), and a process for appeal of a determination under subsection (c)(3).

“(4) SCOPE OF TREATMENT COVERED.—

“(A) IN GENERAL.—The scope of treatment covered under this subsection includes services of physicians and other health care providers, diagnostic and laboratory tests, prescription drugs, inpatient and outpatient hospital services, and other medically necessary treatment.

“(B) PHARMACEUTICAL COVERAGE.—With respect to ensuring coverage of medically necessary outpatient prescription drugs, such drugs shall be provided, under arrangements made by the WTC Program Administrator, directly through participating Clinical Centers of Excellence or through one or more outside vendors.

“(C) TRANSPORTATION EXPENSES FOR NATIONWIDE NETWORK.—The WTC Program Administrator may provide for necessary and reasonable transportation and expenses incident to the securing of medically necessary treatment through the nationwide network under section 3313 involving travel of more than 250 miles and for which payment is made under this section in the same manner in which individuals may be furnished necessary and reasonable transportation and expenses incident to services involving travel of more than 250 miles under regulations implementing section 3629(c) of the Energy Employees Occupational Illness Compensation Program Act of 2000 (title XXXVI of Public Law 106-398; 42 U.S.C. 7384t(c)).

“(5) PROVISION OF TREATMENT PENDING CERTIFICATION.—

With respect to an enrolled WTC responder for whom a determination is made by an examining physician under paragraph (1) or (2), but for whom the WTC Program Administrator has not yet determined whether to certify the determination, the WTC Program Administrator may establish by rule a process through which the Administrator may approve the provision of medical treatment under this subsection (and payment under subsection (c)) with respect to such responder and such responder's WTC-related health condition (under such terms and conditions as the Administrator may provide) until the Administrator makes a decision on whether to certify the determination.

“(c) PAYMENT FOR INITIAL HEALTH EVALUATION, MONITORING, AND TREATMENT OF WTC-RELATED HEALTH CONDITIONS.—

“(1) MEDICAL TREATMENT.—

“(A) USE OF FECA PAYMENT RATES.—

“(i) IN GENERAL.—Subject to clause (ii):

“(I) Subject to subparagraphs (B) and (C), the WTC Program Administrator shall reimburse costs for medically necessary treatment under this title for WTC-related health conditions according to the payment rates that would apply to the provision of such treatment and services by the facility under the Federal Employees Compensation Act.

“(II) For treatment not covered under subclause (i) or subparagraph (B), the WTC Program Administrator shall establish by regulation a reimbursement rate for such treatment.

“(ii) EXCEPTION.—In no case shall payments for products or services under clause (i) be made at a rate higher than the Office of Worker's Compensation

Regulations.

Programs in the Department Labor would pay for such products or services rendered at the time such products or services were provided.

“(B) PHARMACEUTICALS.—

“(i) IN GENERAL.—The WTC Program Administrator shall establish a program for paying for the medically necessary outpatient prescription pharmaceuticals prescribed under this title for WTC-related health conditions through one or more contracts with outside vendors.

“(ii) COMPETITIVE BIDDING.—Under such program the Administrator shall—

“(I) select one or more appropriate vendors through a Federal competitive bid process; and

“(II) select the lowest bidder (or bidders) meeting the requirements for providing pharmaceutical benefits for participants in the WTC Program.

“(iii) TREATMENT OF FDNY PARTICIPANTS.—Under such program the Administrator may enter into an agreement with a separate vendor to provide pharmaceutical benefits to enrolled WTC responders for whom the Clinical Center of Excellence is described in section 3305 if such an arrangement is deemed necessary and beneficial to the program by the WTC Program Administrator.

“(iv) PHARMACEUTICALS.—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 existing Federal pharmaceutical purchasing programs can provide pharmaceutical benefits more efficiently and effectively than through the WTC program.

“(C) IMPROVING QUALITY AND EFFICIENCY THROUGH MODIFICATION OF PAYMENT AMOUNTS AND METHODOLOGIES.—The WTC Program Administrator may modify the amounts and methodologies for making payments for initial health evaluations, monitoring, or treatment, if, taking into account utilization and quality data furnished by the Clinical Centers of Excellence under section 3305(b)(1)(B)(iii), the Administrator determines that a bundling, capitation, pay for performance, or other payment methodology would better ensure high quality and efficient delivery of initial health evaluations, monitoring, or treatment to an enrolled WTC responder, screening-eligible WTC survivor, or certified-eligible WTC survivor.

“(2) MONITORING AND INITIAL HEALTH EVALUATION.—The WTC Program Administrator shall reimburse the costs of monitoring and the costs of an initial health evaluation provided under this title at a rate set by the Administrator by regulation.

“(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

Deadline.
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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.

“SEC. 3313. NATIONAL ARRANGEMENT FOR BENEFITS FOR ELIGIBLE INDIVIDUALS OUTSIDE NEW YORK.

42 USC
300mm-23.

“(a) IN GENERAL.—In order to ensure reasonable access to benefits under this subtitle 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 2(f), 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 3305(a)(2)(A)(ii);

“(3) collect and report data in accordance with section 3304; and

“(4) meet such fraud, quality assurance, and other requirements as the WTC Program Administrator establishes, including sections 1128 through 1128E of the Social Security Act, as applied by section 3301(d).

“(c) TRAINING AND TECHNICAL ASSISTANCE.—The WTC Program Administrator 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 Deadline.
Reports.

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).

“PART 2—WTC SURVIVORS

42 USC
300mm-31.

“SEC. 3321. 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 title, 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 for medical treatment and monitoring by the WTC Environmental Health Center as of the date of enactment of this title.

“(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 3305 and the WTC Scientific/Technical Advisory Committee and WTC Health Program Steering Committees under section 3302.

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 3311(a)(4).

Time periods.

“(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 resided 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 title 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

Deadline.

“(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.

“(bb) 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 part.

“(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 part.

“(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 3351, that will ensure sufficient funds will be available to provide treatment and monitoring benefits under this title, with respect to all individuals receiving such certifications through the end of fiscal year 2020; 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 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 3305(a)(2)(A)(ii) 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 part 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.

Determination.

42 USC
300mm-32.**“SEC. 3322. FOLLOWUP MONITORING AND TREATMENT OF CERTIFIED-ELIGIBLE WTC SURVIVORS FOR WTC-RELATED HEALTH CONDITIONS.**

Applicability.

“(a) IN GENERAL.—Subject to subsection (b), the provisions of sections 3311 and 3312 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 3312(a)(3) pursuant to paragraph (5) or (6) of section 3312(a), as such provisions are applied under subsection (a) with respect to certified-eligible WTC survivors.

42 USC
300mm-33.**“SEC. 3323. FOLLOWUP MONITORING AND TREATMENT OF OTHER INDIVIDUALS WITH WTC-RELATED HEALTH CONDITIONS.**

Applicability.

“(a) IN GENERAL.—Subject to subsection (c), the provisions of section 3322 shall apply to the followup monitoring and treatment of WTC-related 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.

“PART 3—PAYOR PROVISIONS

“SEC. 3331. PAYMENT OF CLAIMS.

42 USC
300mm-41.

“(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 parts 1 and 2 of this subtitle 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 parts 1 and 2 of this subtitle 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 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 workers’ compensation law or plan, or other work-related injury or illness plan of the employer involved, and such individual) in the same manner as such provisions apply to the reimbursement of a payment under section 1862(b)(2) of such Act to the Secretary (with respect to such a law or plan and an individual entitled to benefits under title XVIII of such Act) except that any reference in such paragraph (4) to payment rates under title XVIII of the Social Security Act shall be deemed a reference to payment rates under this title.

“(2) EXCEPTION.—Paragraph (1) shall not apply for any quarter, with respect to any workers’ compensation law or plan, including line of duty compensation, to which New York City is obligated to make payments, if, in accordance with terms specified under the contract under subsection (d)(1)(A),

Applicability.

New York City has made the full payment required under such contract for such quarter.

“(3) RULES OF CONSTRUCTION.—Nothing in this title shall be construed to affect, modify, or relieve any obligations under a worker’s compensation law or plan, other work-related injury or illness benefit plan of an employer, or any health insurance plan.

“(c) HEALTH INSURANCE COVERAGE.—

Applicability.

“(1) IN GENERAL.—In the case of an individual who has a WTC-related health condition that is not work-related and has health coverage for such condition through any public or private health plan (including health benefits under title XVIII, XIX, or XXI of the Social Security Act) the provisions of section 1862(b) of the Social Security Act shall apply to such a health plan and such individual in the same manner as they apply to group health plan and an individual entitled to benefits under title XVIII of such Act pursuant to section 226(a) of such Act. Any costs for items and services covered under such plan that are not reimbursed by such health plan, due to the application of deductibles, copayments, coinsurance, other cost sharing, or otherwise, are reimbursable under this title to the extent that they are covered under the WTC Program. The program under this title shall not be treated as a legally liable party for purposes of applying section 1902(a)(25) of the Social Security Act.

“(2) RECOVERY BY INDIVIDUAL PROVIDERS.—Nothing in paragraph (1) shall be construed as requiring an entity providing monitoring and treatment under this title to seek reimbursement under a health plan with which the entity has no contract for reimbursement.

“(3) MAINTENANCE OF REQUIRED MINIMUM ESSENTIAL COVERAGE.—No payment may be made for monitoring and treatment under this title for an individual for a month (beginning with July 2014) if with respect to such month the individual—

“(A) is an applicable individual (as defined in subsection (d) of section 5000A of Internal Revenue Code of 1986) for whom the exemption under subsection (e) of such section does not apply; and

“(B) is not covered under minimum essential coverage, as required under subsection (a) of such section.

“(d) REQUIRED CONTRIBUTION BY NEW YORK CITY IN PROGRAM COSTS.—

“(1) CONTRACT REQUIREMENT.—

“(A) IN GENERAL.—No funds may be disbursed from the World Trade Center Health Program Fund under section 3351 unless New York City has entered into a contract with the WTC Program Administrator under which New York City agrees, in a form and manner specified by the Administrator, to pay the full contribution described in subparagraph (B) in accordance with this subsection on a timely basis, plus any interest owed pursuant to subparagraph (E)(i). Such contract shall specify the terms under which New York City shall be considered to have made the full payment required for a quarter for purposes of subsection (b)(2).

“(B) FULL CONTRIBUTION AMOUNT.—Under such contract, with respect to the last calendar quarter of fiscal

year 2011 and each calendar quarter in fiscal years 2012 through 2015 the full contribution amount under this subparagraph shall be equal to 10 percent of the expenditures in carrying out this title for the respective quarter and with respect to calendar quarters in fiscal year 2016, such full contribution amount shall be equal to $\frac{1}{9}$ of the Federal expenditures in carrying out this title for the respective quarter.

“(C) SATISFACTION OF PAYMENT OBLIGATION.—The payment obligation under such contract may not be satisfied through any of the following:

“(i) An amount derived from Federal sources.

“(ii) An amount paid before the date of the enactment of this title.

“(iii) An amount paid to satisfy a judgment or as part of a settlement related to injuries or illnesses arising out of the September 11, 2001, terrorist attacks.

“(D) TIMING OF CONTRIBUTION.—The payment obligation under such contract for a calendar quarter in a fiscal year shall be paid not later than the last day of the second succeeding calendar quarter.

“(E) COMPLIANCE.—

“(i) INTEREST FOR LATE PAYMENT.—If New York City fails to pay to the WTC Program Administrator pursuant to such contract the amount required for any calendar quarter by the day specified in subparagraph (D), interest shall accrue on the amount not so paid at the rate (determined by the Administrator) based on the average yield to maturity, plus 1 percentage point, on outstanding municipal bonds issued by New York City with a remaining maturity of at least 1 year.

“(ii) RECOVERY OF AMOUNTS OWED.—The amounts owed to the WTC Program Administrator under such contract shall be recoverable by the United States in an action in the same manner as payments made under title XVIII of the Social Security Act may be recoverable in an action brought under section 1862(b)(2)(B)(iii) of such Act.

“(F) DEPOSIT IN FUND.—The WTC Program Administrator shall deposit amounts paid under such contract into the World Trade Center Health Program Fund under section 3351.

“(2) PAYMENT OF NEW YORK CITY SHARE OF MONITORING AND TREATMENT COSTS.—With respect to each calendar quarter for which a contribution is required by New York City under the contract under paragraph (1), the WTC Program Administrator shall—

“(A) provide New York City with an estimate of such amount of the required contribution at the beginning of such quarter and with an updated estimate of such amount at the beginning of each of the subsequent 2 quarters;

“(B) bill such amount directly to New York City; and

“(C) certify periodically, for purposes of this subsection, whether or not New York City has paid the amount so billed.

Certification.
Deadline.

Such amount shall initially be estimated by the WTC Program Administrator and shall be subject to adjustment and reconciliation based upon actual expenditures in carrying out this title.

“(3) RULE OF CONSTRUCTION.—Nothing in this subsection shall be construed as authorizing the WTC Administrator, with respect to a fiscal year, to reduce the numerical limitation under section 3311(a)(4) or 3321(a)(3) for such fiscal year if New York City fails to comply with paragraph (1) for a calendar quarter in such fiscal year.

“(e) WORK-RELATED DESCRIBED.—For the purposes of this section, a WTC-related health condition shall be treated as a condition that is work-related if—

“(1) the condition is diagnosed in an enrolled WTC responder, or in an individual who qualifies as a certified-eligible WTC survivor on the basis of being a rescue, recovery, or cleanup worker; or

“(2) with respect to the condition the individual has filed and had established a claim under a workers’ compensation law or plan of the United States or a State, or other work-related injury or illness benefit plan of the employer of such individual.

42 USC
300mm-42.

“SEC. 3332. ADMINISTRATIVE ARRANGEMENT AUTHORITY.

“The WTC Program Administrator may enter into arrangements with other government agencies, insurance companies, or other third-party administrators to provide for timely and accurate processing of claims under sections 3312, 3313, 3322, and 3323.

“Subtitle C—Research Into Conditions

42 USC
300mm-51.

“SEC. 3341. RESEARCH REGARDING CERTAIN HEALTH CONDITIONS RELATED TO SEPTEMBER 11 TERRORIST ATTACKS.

“(a) IN GENERAL.—With respect to individuals, including enrolled WTC responders and certified-eligible WTC survivors, receiving monitoring or treatment under subtitle B, the WTC Program Administrator shall conduct or support—

“(1) research on physical and mental health conditions that may be related to the September 11, 2001, terrorist attacks;

“(2) research on diagnosing WTC-related health conditions of such individuals, in the case of conditions for which there has been diagnostic uncertainty; and

“(3) research on treating WTC-related health conditions of such individuals, in the case of conditions for which there has been treatment uncertainty.

The Administrator may provide such support through continuation and expansion of research that was initiated before the date of the enactment of this title and through the World Trade Center Health Registry (referred to in section 3342), through a Clinical Center of Excellence, or through a Data Center.

“(b) TYPES OF RESEARCH.—The research under subsection (a)(1) shall include epidemiologic and other research studies on WTC-related health conditions or emerging conditions—

“(1) among enrolled WTC responders and certified-eligible WTC survivors under treatment; and

“(2) in sampled populations outside the New York City disaster area in Manhattan as far north as 14th Street and in Brooklyn, along with control populations, to identify potential for long-term adverse health effects in less exposed populations.

“(c) CONSULTATION.—The WTC Program Administrator shall carry out this section in consultation with the WTC Scientific/Technical Advisory Committee.

“(d) APPLICATION OF PRIVACY AND HUMAN SUBJECT PROTECTIONS.—The privacy and human subject protections applicable to research conducted under this section shall not be less than such protections applicable to research conducted or funded by the Department of Health and Human Services.

“SEC. 3342. WORLD TRADE CENTER HEALTH REGISTRY.

42 USC
300mm-52.

“For the purpose of ensuring ongoing data collection relating to victims of the September 11, 2001, terrorist attacks, the WTC Program Administrator shall ensure that a registry of such victims is maintained that is at least as comprehensive as the World Trade Center Health Registry maintained under the arrangements in effect as of April 20, 2009, with the New York City Department of Health and Mental Hygiene.

“Subtitle D—Funding

“SEC. 3351. WORLD TRADE CENTER HEALTH PROGRAM FUND.

42 USC
300mm-61.

“(a) ESTABLISHMENT OF FUND.—

“(1) IN GENERAL.—There is established a fund to be known as the World Trade Center Health Program Fund (referred to in this section as the ‘Fund’).

“(2) FUNDING.—Out of any money in the Treasury not otherwise appropriated, there shall be deposited into the Fund for each of fiscal years 2012 through 2016 (and the last calendar quarter of fiscal year 2011)—

“(A) the Federal share, consisting of an amount equal to the lesser of—

“(i) 90 percent of the expenditures in carrying out this title for the respective fiscal year (initially based on estimates, subject to subsequent reconciliation based on actual expenditures); or

“(ii)(I) \$71,000,000 for the last calendar quarter of fiscal year 2011, \$318,000,000 for fiscal year 2012, \$354,000,000 for fiscal year 2013, \$382,000,000 for fiscal year 2014, and \$431,000,000 for fiscal year 2015; and

“(II) subject to paragraph (4), an additional amount for fiscal year 2016 from unexpended amounts for previous fiscal years; plus

“(B) the New York City share, consisting of the amount contributed under the contract under section 3331(d).

“(3) CONTRACT REQUIREMENT.—

“(A) IN GENERAL.—No funds may be disbursed from the Fund unless New York City has entered into a contract with the WTC Program Administrator under section 3331(d)(1).

“(B) BREACH OF CONTRACT.—In the case of a failure to pay the amount so required under the contract—

“(i) the amount is recoverable under subparagraph (E)(ii) of such section;

“(ii) such failure shall not affect the disbursement of amounts from the Fund; and

“(iii) the Federal share described in paragraph (2)(A) shall not be increased by the amount so unpaid.

“(4) AGGREGATE LIMITATION ON FUNDING BEGINNING WITH FISCAL YEAR 2016.—Beginning with fiscal year 2016, in no case shall the share of Federal funds deposited into the Fund under paragraph (2) for such fiscal year and previous fiscal years and quarters exceed the sum of the amounts specified in paragraph (2)(A)(ii)(I).

“(b) MANDATORY FUNDS FOR MONITORING, INITIAL HEALTH EVALUATIONS, TREATMENT, AND CLAIMS PROCESSING.—

“(1) IN GENERAL.—The amounts deposited into the Fund under subsection (a)(2) shall be available, without further appropriation, consistent with paragraph (2) and subsection (c), to carry out subtitle B and sections 3302(a), 3303, 3304, 3305(a)(2), 3305(c), 3341, and 3342.

“(2) LIMITATION ON MANDATORY FUNDING.—This title does not establish any Federal obligation for payment of amounts in excess of the amounts available from the Fund for such purpose.

“(3) LIMITATION ON AUTHORIZATION FOR FURTHER APPROPRIATIONS.—This title does not establish any authorization for appropriation of amounts in excess of the amounts available from the Fund under paragraph (1).

“(c) LIMITS ON SPENDING FOR CERTAIN PURPOSES.—Of the amounts made available under subsection (b)(1), not more than each of the following amounts may be available for each of the following purposes:

“(1) SURVIVING IMMEDIATE FAMILY MEMBERS OF FIREFIGHTERS.—For the purposes of carrying out subtitle B with respect to WTC responders described in section 3311(a)(2)(A)(ii)—

“(A) for the last calendar quarter of fiscal year 2011, \$100,000;

“(B) for fiscal year 2012, \$400,000; and

“(C) for each subsequent fiscal year, the amount specified under this paragraph for the previous fiscal year increased by the percentage increase in the consumer price index for all urban consumers (all items; United States city average) as estimated by the Secretary for the 12-month period ending with March of the previous year.

“(2) WTC HEALTH PROGRAM SCIENTIFIC/TECHNICAL ADVISORY COMMITTEE.—For the purpose of carrying out section 3302(a)—

“(A) for the last calendar quarter of fiscal year 2011, \$25,000;

“(B) for fiscal year 2012, \$100,000; and

“(C) for each subsequent fiscal year, the amount specified under this paragraph for the previous fiscal year increased by the percentage increase in the consumer price index for all urban consumers (all items; United States city average) as estimated by the Secretary for the 12-month period ending with March of the previous year.

“(3) EDUCATION AND OUTREACH.—For the purpose of carrying out section 3303—

“(A) for the last calendar quarter of fiscal year 2011, \$500,000;

“(B) for fiscal year 2012, \$2,000,000; and

“(C) for each subsequent fiscal year, the amount specified under this paragraph for the previous fiscal year increased by the percentage increase in the consumer price index for all urban consumers (all items; United States city average) as estimated by the Secretary for the 12-month period ending with March of the previous year.

“(4) UNIFORM DATA COLLECTION.—For the purpose of carrying out section 3304 and for reimbursing Data Centers (as defined in section 3305(b)(2)) for the costs incurred by such Centers in carrying out activities under contracts entered into under section 3305(a)(2)—

“(A) for the last calendar quarter of fiscal year 2011, \$2,500,000;

“(B) for fiscal year 2012, \$10,000,000; and

“(C) for each subsequent fiscal year, the amount specified under this paragraph for the previous fiscal year increased by the percentage increase in the consumer price index for all urban consumers (all items; United States city average) as estimated by the Secretary for the 12-month period ending with March of the previous year.

“(5) RESEARCH REGARDING CERTAIN HEALTH CONDITIONS.—For the purpose of carrying out section 3341—

“(A) for the last calendar quarter of fiscal year 2011, \$3,750,000;

“(B) for fiscal year 2012, \$15,000,000; and

“(C) for each subsequent fiscal year, the amount specified under this paragraph for the previous fiscal year increased by the percentage increase in the consumer price index for all urban consumers (all items; United States city average) as estimated by the Secretary for the 12-month period ending with March of the previous year.

“(6) WORLD TRADE CENTER HEALTH REGISTRY.—For the purpose of carrying out section 3342—

“(A) for the last calendar quarter of fiscal year 2011, \$1,750,000;

“(B) for fiscal year 2012, \$7,000,000; and

“(C) for each subsequent fiscal year, the amount specified under this paragraph for the previous fiscal year increased by the percentage increase in the consumer price index for all urban consumers (all items; United States city average) as estimated by the Secretary for the 12-month period ending with March of the previous year.”.

TITLE II—SEPTEMBER 11TH VICTIM COMPENSATION FUND OF 2001

SEC. 201. DEFINITIONS.

Section 402 of the Air Transportation Safety and System Stabilization Act (49 U.S.C. 40101 note) is amended—

(1) in paragraph (6) by inserting “, or debris removal, including under the World Trade Center Health Program established under section 3001 of the Public Health Service Act,

and payments made pursuant to the settlement of a civil action described in section 405(c)(3)(C)(iii)” after “September 11, 2001”;

(2) by inserting after paragraph (6) the following new paragraphs and redesignating subsequent paragraphs accordingly:

“(7) CONTRACTOR AND SUBCONTRACTOR.—The term ‘contractor and subcontractor’ means any contractor or subcontractor (at any tier of a subcontracting relationship), including any general contractor, construction manager, prime contractor, consultant, or any parent, subsidiary, associated or allied company, affiliated company, corporation, firm, organization, or joint venture thereof that participated in debris removal at any 9/11 crash site. Such term shall not include any entity, including the Port Authority of New York and New Jersey, with a property interest in the World Trade Center, on September 11, 2001, whether fee simple, leasehold or easement, direct or indirect.

“(8) DEBRIS REMOVAL.—The term ‘debris removal’ means rescue and recovery efforts, removal of debris, cleanup, remediation, and response during the immediate aftermath of the terrorist-related aircraft crashes of September 11, 2001, with respect to a 9/11 crash site.”;

(3) by inserting after paragraph (10), as so redesignated, the following new paragraph and redesignating the subsequent paragraphs accordingly:

“(11) IMMEDIATE AFTERMATH.—The term ‘immediate aftermath’ means any period beginning with the terrorist-related aircraft crashes of September 11, 2001, and ending on May 30, 2002.”; and

(4) by adding at the end the following new paragraph:

“(14) 9/11 CRASH SITE.—The term ‘9/11 crash site’ means—

“(A) the World Trade Center site, Pentagon site, and Shanksville, Pennsylvania site;

“(B) the buildings or portions of buildings that were destroyed as a result of the terrorist-related aircraft crashes of September 11, 2001;

“(C) any area contiguous to a site of such crashes that the Special Master determines was sufficiently close to the site that there was a demonstrable risk of physical harm resulting from the impact of the aircraft or any subsequent fire, explosions, or building collapses (including the immediate area in which the impact occurred, fire occurred, portions of buildings fell, or debris fell upon and injured individuals); and

“(D) any area related to, or along, routes of debris removal, such as barges and Fresh Kills.”.

SEC. 202. EXTENDED AND EXPANDED ELIGIBILITY FOR COMPENSATION.

(a) INFORMATION ON LOSSES RESULTING FROM DEBRIS REMOVAL INCLUDED IN CONTENTS OF CLAIM FORM.—Section 405(a)(2)(B) of the Air Transportation Safety and System Stabilization Act (49 U.S.C. 40101 note) is amended—

(1) in clause (i), by inserting “, or debris removal during the immediate aftermath” after “September 11, 2001”;

(2) in clause (ii), by inserting “or debris removal during the immediate aftermath” after “crashes”; and

(3) in clause (iii), by inserting “or debris removal during the immediate aftermath” after “crashes”.

(b) EXTENSION OF DEADLINE FOR CLAIMS UNDER SEPTEMBER 11TH VICTIM COMPENSATION FUND OF 2001.—Section 405(a)(3) of such Act is amended to read as follows:

“(3) LIMITATION.—

“(A) IN GENERAL.—Except as provided by subparagraph (B), no claim may be filed under paragraph (1) after the date that is 2 years after the date on which regulations are promulgated under section 407(a).

“(B) EXCEPTION.—A claim may be filed under paragraph (1), in accordance with subsection (c)(3)(A)(i), by an individual (or by a personal representative on behalf of a deceased individual) during the period beginning on the date on which the regulations are updated under section 407(b) and ending on the date that is 5 years after the date on which such regulations are updated.”.

(c) REQUIREMENTS FOR FILING CLAIMS DURING EXTENDED FILING PERIOD.—Section 405(c)(3) of such Act is amended—

(1) by redesignating subparagraphs (A) and (B) as subparagraphs (B) and (C), respectively; and

(2) by inserting before subparagraph (B), as so redesignated, the following new subparagraph:

“(A) REQUIREMENTS FOR FILING CLAIMS DURING EXTENDED FILING PERIOD.—

“(i) TIMING REQUIREMENTS FOR FILING CLAIMS.—An individual (or a personal representative on behalf of a deceased individual) may file a claim during the period described in subsection (a)(3)(B) as follows:

“(I) In the case that the Special Master determines the individual knew (or reasonably should have known) before the date specified in clause (iii) that the individual suffered a physical harm at a 9/11 crash site as a result of the terrorist-related aircraft crashes of September 11, 2001, or as a result of debris removal, and that the individual knew (or should have known) before such specified date that the individual was eligible to file a claim under this title, the individual may file a claim not later than the date that is 2 years after such specified date.

“(II) In the case that the Special Master determines the individual first knew (or reasonably should have known) on or after the date specified in clause (iii) that the individual suffered such a physical harm or that the individual first knew (or should have known) on or after such specified date that the individual was eligible to file a claim under this title, the individual may file a claim not later than the last day of the 2-year period beginning on the date the Special Master determines the individual first knew (or should have known) that the individual both suffered from such harm and was eligible to file a claim under this title.

49 USC 40101
note.

Time period.

49 USC
40101 note.

“(ii) OTHER ELIGIBILITY REQUIREMENTS FOR FILING CLAIMS.—An individual may file a claim during the period described in subsection (a)(3)(B) only if—

“(I) the individual was treated by a medical professional for suffering from a physical harm described in clause (i)(I) within a reasonable time from the date of discovering such harm; and

“(II) the individual’s physical harm is verified by contemporaneous medical records created by or at the direction of the medical professional who provided the medical care.

“(iii) DATE SPECIFIED.—The date specified in this clause is the date on which the regulations are updated under section 407(a).”

49 USC
40101 note.

(d) CLARIFYING APPLICABILITY TO ALL 9/11 CRASH SITES.—Section 405(c)(2)(A)(i) of such Act is amended by striking “or the site of the aircraft crash at Shanksville, Pennsylvania” and inserting “the site of the aircraft crash at Shanksville, Pennsylvania, or any other 9/11 crash site”.

49 USC
40101 note.

(e) INCLUSION OF PHYSICAL HARM RESULTING FROM DEBRIS REMOVAL.—Section 405(c) of such Act is amended in paragraph (2)(A)(ii), by inserting “or debris removal” after “air crash”.

49 USC
40101 note.

(f) LIMITATIONS ON CIVIL ACTIONS.—

(1) APPLICATION TO DAMAGES RELATED TO DEBRIS REMOVAL.—Clause (i) of section 405(c)(3)(C) of such Act, as redesignated by subsection (c), is amended by inserting “, or for damages arising from or related to debris removal” after “September 11, 2001”.

(2) PENDING ACTIONS.—Clause (ii) of such section, as so redesignated, is amended to read as follows:

“(ii) PENDING ACTIONS.—In the case of an individual who is a party to a civil action described in clause (i), such individual may not submit a claim under this title—

“(I) during the period described in subsection (a)(3)(A) unless such individual withdraws from such action by the date that is 90 days after the date on which regulations are promulgated under section 407(a); and

“(II) during the period described in subsection (a)(3)(B) unless such individual withdraws from such action by the date that is 90 days after the date on which the regulations are updated under section 407(b).”.

(3) SETTLED ACTIONS.—Such section, as so redesignated, is further amended by adding at the end the following new clause:

“(iii) SETTLED ACTIONS.—In the case of an individual who settled a civil action described in clause (i), such individual may not submit a claim under this title unless such action was commenced after December 22, 2003, and a release of all claims in such action was tendered prior to the date on which the James Zadroga 9/11 Health and Compensation Act of 2010 was enacted.”.

SEC. 203. REQUIREMENT TO UPDATE REGULATIONS.

Section 407 of the Air Transportation Safety and System Stabilization Act (49 U.S.C. 40101 note) is amended—

(1) by striking “Not later than” and inserting “(a) IN GENERAL.—Not later than”; and

(2) by adding at the end the following new subsection:

“(b) UPDATED REGULATIONS.—Not later than 180 days after the date of the enactment of the James Zadroga 9/11 Health and Compensation Act of 2010, the Special Master shall update the regulations promulgated under subsection (a) to the extent necessary to comply with the provisions of title II of such Act.”.

Deadline.

SEC. 204. LIMITED LIABILITY FOR CERTAIN CLAIMS.

Section 408(a) of the Air Transportation Safety and System Stabilization Act (49 U.S.C. 40101 note) is amended by adding at the end the following new paragraphs:

“(4) LIABILITY FOR CERTAIN CLAIMS.—Notwithstanding any other provision of law, liability for all claims and actions (including claims or actions that have been previously resolved, that are currently pending, and that may be filed) for compensatory damages, contribution or indemnity, or any other form or type of relief, arising from or related to debris removal, against the City of New York, any entity (including the Port Authority of New York and New Jersey) with a property interest in the World Trade Center on September 11, 2001 (whether fee simple, leasehold or easement, or direct or indirect) and any contractors and subcontractors, shall not be in an amount that exceeds the sum of the following, as may be applicable:

“(A) The amount of funds of the WTC Captive Insurance Company, including the cumulative interest.

“(B) The amount of all available insurance identified in schedule 2 of the WTC Captive Insurance Company insurance policy.

“(C) As it relates to the limitation of liability of the City of New York, the amount that is the greater of the City of New York’s insurance coverage or \$350,000,000. In determining the amount of the City’s insurance coverage for purposes of the previous sentence, any amount described in subparagraphs (A) and (B) shall not be included.

“(D) As it relates to the limitation of liability of any entity, including the Port Authority of New York and New Jersey, with a property interest in the World Trade Center on September 11, 2001 (whether fee simple, leasehold or easement, or direct or indirect), the amount of all available liability insurance coverage maintained by any such entity.

“(E) As it relates to the limitation of liability of any individual contractor or subcontractor, the amount of all available liability insurance coverage maintained by such contractor or subcontractor on September 11, 2001.

“(5) PRIORITY OF CLAIMS PAYMENTS.—Payments to plaintiffs who obtain a settlement or judgment with respect to a claim or action to which paragraph (4) applies, shall be paid solely from the following funds in the following order, as may be applicable:

“(A) The funds described in subparagraph (A) or (B) of paragraph (4).

Applicability.

“(B) If there are no funds available as described in subparagraph (A) or (B) of paragraph (4), the funds described in subparagraph (C) of such paragraph.

“(C) If there are no funds available as described in subparagraph (A), (B), or (C) of paragraph (4), the funds described in subparagraph (D) of such paragraph.

“(D) If there are no funds available as described in subparagraph (A), (B), (C), or (D) of paragraph (4), the funds described in subparagraph (E) of such paragraph.

“(6) DECLARATORY JUDGMENT ACTIONS AND DIRECT ACTION.—Any claimant to a claim or action to which paragraph (4) applies may, with respect to such claim or action, either file an action for a declaratory judgment for insurance coverage or bring a direct action against the insurance company involved, except that no such action for declaratory judgment or direct action may be commenced until after the funds available in subparagraph (A), (B), (C), and (D) of paragraph (5) have been exhausted consistent with the order described in such paragraph for payment.”.

SEC. 205. FUNDING; ATTORNEY FEES.

Section 406 of the Air Transportation Safety and System Stabilization Act (49 U.S.C. 40101 note) is amended—

(1) in subsection (a), by striking “Not later than” and inserting “Subject to the limitations under subsection (d), not later than”;

(2) in subsection (b)—

(A) by inserting “in the amounts provided under subsection (d)(1)” after “appropriations Acts”; and

(B) by inserting “subject to the limitations under subsection (d)” before the period; and

(3) by adding at the end the following new subsections:

“(d) LIMITATION.—

“(1) IN GENERAL.—The total amount of Federal funds paid for compensation under this title, with respect to claims filed on or after the date on which the regulations are updated under section 407(b), shall not exceed \$2,775,000,000. Of such amounts, not to exceed \$875,000,000 shall be available to pay such claims during the 5-year period beginning on such date.

“(2) PRO-RATION AND PAYMENT OF REMAINING CLAIMS.—

“(A) IN GENERAL.—The Special Master shall ratably reduce the amount of compensation due claimants under this title in a manner to ensure, to the extent possible, that—

“(i) all claimants who, before application of the limitation under the second sentence of paragraph (1), would have been determined to be entitled to a payment under this title during such 5-year period, receive a payment during such period; and

“(ii) the total amount of all such payments made during such 5-year period do not exceed the amount available under the second sentence of paragraph (1) to pay claims during such period.

“(B) PAYMENT OF REMAINDER OF CLAIM AMOUNTS.—

In any case in which the amount of a claim is ratably reduced pursuant to subparagraph (A), on or after the first day after the 5-year period described in paragraph

Time period.

Time period.

Deadline.

(1), but in no event later than 1 year after such 5-year period, the Special Master shall pay to the claimant the amount that is equal to the difference between—

“(i) the amount that the claimant would have been paid under this title during such period without regard to the limitation under the second sentence of paragraph (1) applicable to such period; and

“(ii) the amount the claimant was paid under this title during such period.

“(C) TERMINATION.—Upon completion of all payments pursuant to this subsection, the Victim’s Compensation Fund shall be permanently closed.

“(e) ATTORNEY FEES.—

“(1) IN GENERAL.—Notwithstanding any contract, the representative of an individual may not charge, for services rendered in connection with the claim of an individual under this title, more than 10 percent of an award made under this title on such claim.

“(2) LIMITATION.—

“(A) IN GENERAL.—Except as provided in subparagraph (B), in the case of an individual who was charged a legal fee in connection with the settlement of a civil action described in section 405(c)(3)(C)(iii), the representative of the individual may not charge any amount for compensation for services rendered in connection with a claim filed under this title.

“(B) EXCEPTION.—If the legal fee charged in connection with the settlement of a civil action described in section 405(c)(3)(C)(iii) of an individual is less than 10 percent of the aggregate amount of compensation awarded to such individual through such settlement, the representative of such individual may charge an amount for compensation for services rendered to the extent that such amount charged is not more than—

“(i) 10 percent of such aggregate amount through the settlement, minus

“(ii) the total amount of all legal fees charged for services rendered in connection with such settlement.

“(3) DISCRETION TO LOWER FEE.—In the event that the special master finds that the fee limit set by paragraph (1) or (2) provides excessive compensation for services rendered in connection with such claim, the Special Master may, in the discretion of the Special Master, award as reasonable compensation for services rendered an amount lesser than that permitted for in paragraph (1).”.

TITLE III—REVENUE RELATED PROVISIONS

SEC. 301. EXCISE TAX ON CERTAIN FOREIGN PROCUREMENT.

(a) IMPOSITION OF TAX.—

(1) IN GENERAL.—Subtitle D of the Internal Revenue Code of 1986 is amended by adding at the end the following new chapter:

“CHAPTER 50—FOREIGN PROCUREMENT

“Sec. 5000C. Imposition of tax on certain foreign procurement.

26 USC 5000C.

“SEC. 5000C. IMPOSITION OF TAX ON CERTAIN FOREIGN PROCUREMENT.

“(a) IMPOSITION OF TAX.—There is hereby imposed on any foreign person that receives a specified Federal procurement payment a tax equal to 2 percent of the amount of such specified Federal procurement payment.

Definition.

“(b) SPECIFIED FEDERAL PROCUREMENT PAYMENT.—For purposes of this section, the term ‘specified Federal procurement payment’ means any payment made pursuant to a contract with the Government of the United States for—

“(1) the provision of goods, if such goods are manufactured or produced in any country which is not a party to an international procurement agreement with the United States, or

“(2) the provision of services, if such services are provided in any country which is not a party to an international procurement agreement with the United States.

“(c) FOREIGN PERSON.—For purposes of this section, the term ‘foreign person’ means any person other than a United States person.

“(d) ADMINISTRATIVE PROVISIONS.—

“(1) WITHHOLDING.—The amount deducted and withheld under chapter 3 shall be increased by the amount of tax imposed by this section on such payment.

“(2) OTHER ADMINISTRATIVE PROVISIONS.—For purposes of subtitle F, any tax imposed by this section shall be treated as a tax imposed by subtitle A.”.

(2) CLERICAL AMENDMENT.—The table of chapters for subtitle D of the Internal Revenue Code of 1986 is amended by adding at the end the following new item:

“CHAPTER 50—FOREIGN PROCUREMENT”.

Applicability.
26 USC 5000C
note.

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to payments received pursuant to contracts entered into on and after the date of the enactment of this Act.

26 USC 5000C
note.

(b) PROHIBITION ON REIMBURSEMENT OF FEES.—

(1) IN GENERAL.—The head of each executive agency shall take any and all measures necessary to ensure that no funds are disbursed to any foreign contractor in order to reimburse the tax imposed under section 5000C of the Internal Revenue Code of 1986.

(2) ANNUAL REVIEW.—The Administrator for Federal Procurement Policy shall annually review the contracting activities of each executive agency to monitor compliance with the requirements of paragraph (1).

Definition.

(3) EXECUTIVE AGENCY.—For purposes of this subsection, the term “executive agency” has the meaning given the term in section 4 of the Office of Federal Procurement Policy Act (41 U.S.C. 403).

26 USC 5000C
note.

(c) APPLICATION.—This section and the amendments made by this section shall be applied in a manner consistent with United States obligations under international agreements.

SEC. 302. RENEWAL OF FEES FOR VISA-DEPENDENT EMPLOYERS.

Subsections (a), (b), and (c) of section 402 of Public Law 111-230 are amended by striking “2014” each place that such appears *Ante*, p. 2487, and inserting “2015”.

TITLE IV—BUDGETARY EFFECTS**SEC. 401. COMPLIANCE WITH STATUTORY PAY-AS-YOU-GO ACT OF 2010.**

The budgetary effects of this Act, for the purpose of complying with the Statutory Pay-As-You-Go Act of 2010, shall be determined by reference to the latest statement titled “Budgetary Effects of PAYGO Legislation” for this Act, submitted for printing in the Congressional Record by the Chairman of the Senate Budget Committee, provided that such statement has been submitted prior to the vote on passage.

Approved January 2, 2011.

LEGISLATIVE HISTORY—H.R. 847:

HOUSE REPORTS: No. 111-560, Pt. 1 (Comm. on Energy and Commerce) and Pt. 2 (Comm. on the Judiciary).

CONGRESSIONAL RECORD, Vol. 156 (2010):

July 29, considered and failed House.

Sept. 29, considered and passed House.

Dec. 22, considered and passed Senate, amended. House concurred in Senate amendment.

DAILY COMPILATION OF PRESIDENTIAL DOCUMENTS (2011):
Jan. 2, Presidential statement.

