

## VICTIM COMPENSATION FUND FREQUENTLY ASKED QUESTIONS

(Updated September 16, 2003)

### Section 6 – Compensation for Personal Injury

#### 6.1. How have the eligibility requirements for physical injuries changed in the Final Rule?

They have changed only with respect to when an injured Victim must have been treated by a medical professional. "Physical harm" was defined in the Interim Final Rule as "a physical injury to the body that was treated by a medical professional within 24 hours of the injury having been sustained or within 24 hours of rescue." Additionally, such injury must have: (i) required hospitalization as an in-patient for at least 24 hours; **or** (ii) caused, either temporarily or permanently, partial or total physical disability, incapacity or disfigurement.

Under the Final Rule, the time period for obtaining medical treatment under the definition of "physical harm" is increased from 24 hours to 72 hours for those Victims who were unable to realize immediately the extent of their injuries or for whom appropriate health care was not available on September 11th.

The Special Master has discretion to extend the time period for rescue personnel only. All such decisions are made a case-by-case basis and the rescue workers must satisfy all other eligibility requirements.

Thus, to be eligible, the injured Victim must have been treated by a medical professional within:

- 24 hours of the injury having been sustained, or within 24 hours of rescue, or
- Within 72 hours of injury or rescue for those Victims who were unable to realize immediately the extent of their injuries or for whom treatment by a medical professional was not available on September 11th or within such time period as the Special Master may determine for rescue personnel who did not or could not obtain treatment by a medical professional within 72 hours.

#### 6.2 How much money can I receive from the Fund? How do I figure how much I will get?

If you are a physically-injured Victim, the Special Master will consider loss of earnings or other benefits related to employment, medical expense loss, replacement services loss, and loss of business or employment opportunity to determine your economic loss. In addition, the Special Master may determine presumed non-economic losses based upon the extent of the Victim's physical harm. There is no chart of presumed awards because each Victim's injury is unique. The Special Master must then subtract any collateral offsets received or eligible to be received.

### **6.3 How will the Special Master determine the amount of my collateral source offsets?**

The Act defines collateral sources to mean all such sources, including life insurance, pension funds, death benefit programs and payments by Federal, State, or local governments related to the terrorist-related aircraft crashes of September 11, 2001. The Act and the Rule require the Special Master to reduce the total amount of compensation by the amount of the collateral source compensation the physically injured Victim has received or is entitled to receive as a result of the terrorist-related aircraft crashes.

The Special Master will exercise discretion in valuing the appropriate deductions for collateral offsets by determining:

1. Whether the particular offsets fall within the definition of collateral sources;
2. Whether beneficiaries of the Fund are “entitled” to receive compensation from those collateral sources;
3. Whether the collateral source compensation is certain or can be computed with sufficient certainty; and
4. The appropriate amount of the compensation that should be deducted, taking into account the time value of money and contributions made before death by the Victim in the nature of investment or savings.

### **6.4 Will my award be subject to Federal Income Taxes?**

No. The awards are not subject to Federal income taxes.

### **6.5 Are charitable gifts offset? Will a benefit from a charity managed by a government agency be considered as a collateral offset?**

No. The Final Rule clarifies that benefits from charities disbursing private donations will not be treated as collateral source compensation, even if such charities were created or managed by governmental entities.

### **6.6 How can I find out more about how collateral offset rules will affect my claim?**

Potential applicants can meet with the Special Master or his representative consultants in order to advise such applicants whether particular types of collateral source compensation will fall within the definition of “collateral source compensation,” and how such types of collateral sources will be valued.

To be clear, this consultation will focus on broad categories of benefits and will **not** provide applicants with a precise determination of their eventual award. The determination of an appropriate award requires a deliberative review of a Victim’s file, including the types of detailed financial records that the application requires.

**6.7 What is included in the definition of income for military personnel?**

The Interim Final Rule has been amended to clarify the Special Master's discretion to consider on a prorated basis a Victim's income from 2001 as well as published salary scales for government or military employees. In addition, the Interim Final Rule is amended to clarify that military service members' and uniformed service members' compensation includes all of the various components of compensation, including, but not limited to, basic pay (BPY), basic allowance for housing (BAH), basic allowance for subsistence (BAS), Federal income tax advantage (TAD), overtime bonuses, differential pay, and longevity pay.

**6.8 I want to submit a Personal Injury Compensation Form. What are certified medical records?**

Certified medical records are records with a certificate attached usually signed by the custodian of records for the particular office or facility affirming that the pages are true and accurate copies of records in the patient's file.

**6.9 Are payments made by the various State Victim of Crime Boards funded with federal funds considered collateral offsets?**

No.

**6.10 Can payments be made through direct deposit to foreign banks?**

No. Payments to offshore recipients cannot be made through direct deposit. These payments must be in the form of checks. The U.S. Department of the Treasury will issue the checks and forward them to the Department of Justice. The Department of Justice will send them out via express mail.

**6.11 Can direct deposit payments be made to money market or brokerage accounts?**

No. The U.S. Department of the Treasury only uses ACH payments. Thus, the Fund can only make direct deposit payments to a regular checking or savings account.

**6.12 How will the Special Master compute compensation awards with foreign income or foreign collateral source offset components?**

When computing compensation awards for victims who were paid in other than United States currency, the Special Master will use the date of 9/11/01 as the conversion date for denominating foreign currencies into U.S. dollars for computing the awards. For valuation of collateral source offsets, the Special Master will use March 11, 2002 as the conversion date. This is when the Compensation forms were first available for completion.

**6.13 I am an injured FDNY victim, what information do I need to provide to the Special Master in order for him to calculate my presumed award?**

1. 2000, 2001, and 2002 W-2s.
2. Disability retirement date and monthly benefit amount.
3. Social Security Administration Notice of Award (if applicable).
4. FDNY appointment date.
5. Equated date (Start of uniformed city service immediately preceding date one entered the Fire Department).
6. Non-Uniformed Prior City Time (if applicable).
7. Final year-to-date 2003 pay statement if FDNY disability retirement is January 1, 2003 or later.
8. Documentation of employment and earnings after FDNY disability retirement.