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MEMORANDUM

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Subject: **The World Trade Center Health Program (WTCHP): Background, Selected Program Statistics, Funding History, Section-by-Section Summary of Current Law, and Amendments Proposed by H.R. 4965 and S. 2683**

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This memorandum was prepared to enable distribution to more than one congressional office.

This memorandum provides information about the World Trade Center Health Program (WTCHP), administered by the National Institute for Occupational Safety and Health (NIOSH) of the Centers for Disease Control and Prevention (CDC), an agency of the Department of Health and Human Services (HHS). Specifically, this memorandum presents background information, selected program statistics, and a funding history. A section-by-section summary of current law and the amendments proposed by H.R. 4965 and S. 2683, the 9/11 Responder and Survivor Health Funding Correction Act, is presented in **Appendix I**.[1] These bills are substantively identical. A section-by-section summary of H.R. 4965/S. 2683 is presented in **Appendix II**. All references to "the Secretary" in this memorandum refer to the Secretary of HHS. If you have any questions about the material presented in this memorandum or would like any additional information, please contact either:

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[1] See also Rep. Carolyn Maloney, "Maloney, Nadler, Garbarino, and Gillibrand Introduce the Bipartisan 9/11 Responder and Survivor Health Funding Correction Act," press release, August 6, 2021, https://maloney.house.gov/media-center/press-releases/maloney-nadler-garbarino-and-gillibrand-introduce-the-bipartisan-911.

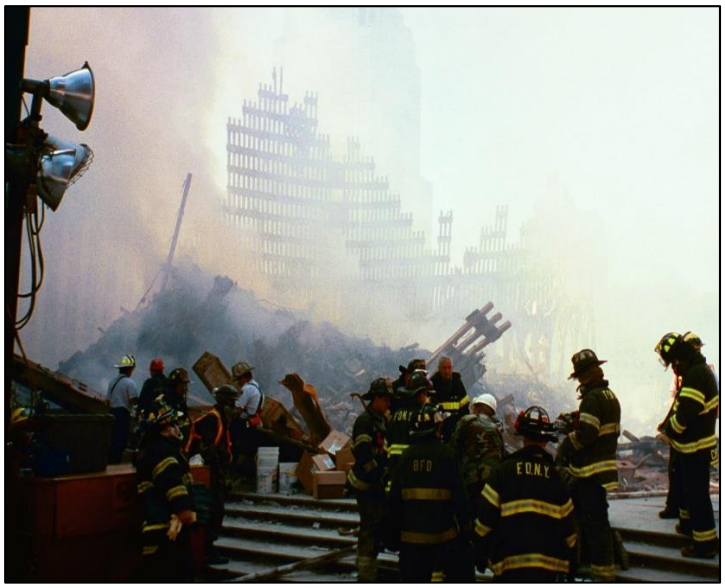
Background

Original Program

The September 11, 2001, terrorist attacks claimed nearly 3,000 lives that day, at the World Trade Center (WTC) in New York City (NYC), the Pentagon, and a field in Shanksville, Pennsylvania. Rescue, recovery, and clean-up operations took more than a year and involved thousands of workers.

Eleven days after the attacks, Congress established the September 11th Victim Compensation Fund (VCF, P.L. 107-42, Title IV) to compensate families of those who died in the attacks, and survivors who suffered disabling injury during or in the immediate aftermath of the attacks.

Figure 1. New York City Firefighters at WTC Site
September 14, 2001



Source: Federal Emergency Management Agency (FEMA) Multimedia Library, http://www.fema.gov/media-library.

Over time it became apparent that some people who worked at the WTC site, or who lived or worked near it, had become ill, possibly as a result of exposure to toxins and other hazards in the aftermath of the attack.[2] Congress provided appropriations to furnish health care services for rescue, recovery, and cleanup workers and others, through a program called the World Trade Center Medical Monitoring and Treatment Program (MMTP), administered by the National Institute for Occupational Safety and Health of the Centers for Disease Control and Prevention. The MMTP was not explicitly authorized, but received discretionary appropriations to pay for medical screening, monitoring, and treatment services for eligible paid workers and volunteers who were involved in the rescue, recovery, and cleanup activities following the attack (referred to as "responders"), and more limited services for some residents and others in the vicinity of the WTC during and after the attack (referred to as "community members"). Services were furnished through a limited network of providers. From FY2001 through FY2010, approximately $475 million in federal funds was made available for screening, monitoring, and treating WTC responders and community members for illnesses and conditions related to the WTC disaster.[3]

Current Law

In January, 2011, Congress passed the James Zadroga 9/11 Health and Compensation Act (the "Zadroga Act," P.L. 111-347). It replaced the MMTP with the World Trade Center Health Program (WTCHP), establishing it in a new Title XXXIII of the Public Health Service Act (PHSA). Through a mandatory funding mechanism—the WTCHP Fund—the WTCHP pays for health services for responders at any of

[2] See for example SM Levin, R Herbert, JM Moline, et al., "Physical Health Status of World Trade Center Rescue and Recovery Workers and Volunteers–New York City, July 2002–August 2004," *Morbidity and Mortality Weekly Report*, vol. 53, no.35, pp. 807-812, September 10, 2004, https://www.cdc.gov/mmwr/preview/mmwrhtml/mm5335a1.htm.

[3] Calculated by CRS from information provided by the Centers for Disease Control and Prevention (CDC). Additional information on the WTC MMTP can be found in U.S. Government Accountability Office, *World Trade Center Health Program: Potential Effects of Implementation Options*, GAO-11-735R, August 4, 2011, https://www.gao.gov/products/GAO-11-735R.

the three crash sites, as well as for residents and others in the vicinity of the WTC site (called "survivors" in the Zadroga Act), for health conditions related to exposures from the attacks and the response. The Zadroga Act also reopened the VCF to provide compensation for lost wages and other economic losses, and non-economic losses, experienced by these responders and survivors.

Congress reauthorized the WTCHP in December, 2015, in Title III of the James Zadroga 9/11 Health and Compensation Reauthorization Act ("the Zadroga Reauthorization Act," P.L. 114-113), extending the program's authority through FY2090. Title IV of the Zadroga Reauthorization Act also reauthorized the VCF through FY2020. In addition, it exempted the WTCHP and VCF Funds from sequestration under the Balanced Budget and Emergency Deficit Control Act of 1985.

The WTCHP consists of the following major provisions:

- Medical services for responders and survivors, including (1) periodic medical monitoring for responders; (2) initial health evaluation for survivors and medical monitoring if indicated; and (3) medically necessary treatment for WTC-related health conditions, including mental health conditions, for responders and survivors.
- Caps on new enrollments (responders and survivors) after enactment, and "grandfathering" of enrollees in the original MMTP.
- A network of Clinical Centers of Excellence and Data Centers to provide medical services, develop treatment protocols, and conduct research (among other activities), and a nationwide program for responders and survivors who live outside the NYC area.
- A Scientific/Technical Advisory Committee, data analysis, research, outreach to eligible individuals, quality assurance, continued support for the WTC Health Registry (a roster of people exposed to the WTC site), and other specified activities.
- Lists of health conditions (one for responders, and one for survivors, with most conditions in common) that may be presumed to be related to exposures after the attacks (depending on individual circumstances), and procedures for the WTC Program Administrator to list new conditions by regulation.
- Payment for medical services provided to enrollees, less any payments available from workers' compensation, private health insurance, Medicaid, and the Children's Health Insurance Program (CHIP). The WTCHP assumes all applicable costs for Medicare beneficiaries. As of 2014, all enrollees must have health insurance coverage pursuant to the Patient Protection and Affordable Care Act (P.L. 111-148, as amended).
- Mandatory funding, with annual and aggregate federal spending caps, from the last quarter of FY2011 through FY2090, and a 10% matching requirement for NYC. If spending caps are not met, unexpended funds may be carried into the next fiscal year.
- Administration of most program functions by the Director of NIOSH, called the WTCHP Administrator, or "Administrator." The HHS Centers for Medicare & Medicaid Services (CMS) disburses payments to providers.[4]

[4] CDC, *World Trade Center Health Program Administrative Manual,* Ch. 5, August, 2014, https://www.cdc.gov/wtc/ppm.html#claims.

Covered Health Conditions

Current law and regulations[5] for the WTCHP require that certain criteria be met in step-wise fashion to authorize federal payment for health monitoring, diagnosis, and treatment services. In general, these criteria are as follows:

1. A determination that an individual is eligible for the program, based on presence and/or activities at specified times, in specified places (referred to as *enrollment*);
2. For diagnosis and treatment, a determination that a given health condition is, in general, considered to be caused by or related to exposure resulting from the September 11th terrorist attacks (i.e., WTC-related). The law includes a list of presumed conditions, to which additions have been made by regulation;
3. A determination that the WTC-related health condition is likely to be caused by or related to exposure resulting from the September 11th terrorist attacks *in that eligible individual.* (At this point, the enrolled individual is *certified* to receive health services for the determined condition(s)); and
4. A determination that the diagnostic and/or treatment services that are proposed are medically necessary for that individual with that condition.

Congress has taken a particular interest in the lists of health conditions that may be presumed to be caused by or related to exposures resulting from the September 11th terrorist attacks, called *WTC-related health conditions*. Initial lists of these conditions were provided in statute in the Zadroga Act. The list for responders, in PHSA Section 3312 [42 U.S.C. §300mm-22], included specified conditions in three categories:

1. *Aerodigestive disorders*, such as asthma, gastroesophageal reflux disease (GERD), and chronic obstructive pulmonary disease (COPD).
2. *Mental health disorders*, such as post-traumatic stress disorder (PTSD), depression, and generalized anxiety disorder.
3. *Musculoskeletal disorders*, such as carpal tunnel syndrome (CTS) and low back pain.

The list for survivors, in PHSA Section 3322 [42 U.S.C. §300mm-32], included the same aerodigestive and mental health conditions as the responder list, but not the category for musculoskeletal disorders. The initial lists were drawn from working lists of conditions for which payment was provided under the predecessor MMTP.

The Zadroga Act did not include any forms of cancer on either list, but directed the Administrator to monitor the development of cancers among program registrants and periodically consider the addition of one or more types of cancer to the lists, based on a possible causal relationship with WTC exposures. In September, 2012, NIOSH finalized a rule to add a number of types of cancer to the lists, specifying the method used to make the determinations.[6] The Administrator noted that the strongest evidence for associating WTC exposures with specific health effects (e.g., specific types of cancer) is epidemiological evidence of illness among the exposed WTC responders and survivors. However, he stated

> Due to the long latency period between exposure and cancer diagnosis for most types of cancer, many epidemiological studies of cancer associated with particular exposures are produced years after a given exposure event. Waiting for definitive, scientifically-unassailable epidemiologic results

[5] 42 CFR Part 88.

[6] Department of Health and Human Services, "World Trade Center Health Program; Addition of Certain Types of Cancer to the List of WTC-Related Health Conditions," 77 *Federal Register* 56138, September 12, 2012.

before adding types of cancer to the List would prevent treatment of currently-enrolled WTC responders and survivors.[7]

Several additional types of cancer and some non-cancer health conditions, such as traumatic injuries (including burns and fractures), have been added to the lists subsequently, through the required rulemaking.[8] At this time, the list for responders includes specified aerodigestive, mental health, and musculoskeletal conditions, as well as acute traumatic injuries and a number of types of cancer. The list for survivors includes all of the conditions listed for responders except for the musculoskeletal conditions.[9]

Selected Program Statistics

NIOSH publishes WTCHP statistics quarterly on a public website.[10] Selected statistics, all derived from that website, are presented below, beginning with program enrollment in **Table 1**.

Table 1. Initial and Current WTCHP Enrollment

Date	Responders: Number and % of Total Enrollment				Survivors: Number and % of Total Enrollment	Total Enrollees
	General	FDNY	Pentagon and Shanksville, PA	Total		
"Grandfathered" in 2011	Not available	Not available	Not available	56,204 (92%)	4,762 (8%)	60,966
As of March 31, 2021	62,733 (57%)	17,023 (15%)	989 (1%)	80,745 (73%)	29,453 (27%)	110,198

Source: Prepared by CRS from CDC, NIOSH, "Program Statistics," https://www.cdc.gov/wtc/ataglance.html.

Notes: The WTCHP started on July 1, 2011. At that time, 56,198 Responders were "grandfathered" from previous federal activities. On September 29, 2011, 4,756 Survivors were likewise "grandfathered." New enrollments in both the Responder and Survivor programs are ongoing.

In addition, as of March 31, 2021:

- 4,343 enrollees were deceased—3,439 responders and 904 survivors.
- 67% of all enrollees were between 45 and 64 years of age; 8% were younger, and 25% were older. (These data do not include deceased enrollees.)
- 78% of all enrollees were male, and 22% were female. (These data do not include deceased enrollees.)
- Among living enrollees, the top four health condition certification categories were: (1) aerodigestive disorders; (2) cancer; (3) mental health disorders; and (4) musculoskeletal and acute traumatic injuries. Among deceased enrollees, aerodigestive disorders and cancer were the most common certification categories.[11]
- The top 15 certified cancers were (1) non-melanoma of skin; (2) prostate; (3) breast (female); (4) melanoma of skin; (5) lymphoma; (6) thyroid; (7) lung/bronchus; (8)

[7] Ibid, p. 56145.

[8] 42 C.F.R. §§88.15-88.16.

[9] 42 C.F.R. §88.15. See also CDC, WTCHP, "Covered Conditions," https://www.cdc.gov/wtc/conditions.html.

[10] CDC, NIOSH, "Program Statistics," https://www.cdc.gov/wtc/ataglance.html.

[11] Individual program members may have certifications in more than one disease category.

kidney; (9) leukemia; (10) colon; (11) bladder; (12) myeloma; (13) oropharynx; (14) rectum; and (15) neuroendocrine.

Funding History

Prior to enactment of the Zadroga Act in 2011, the WTC MMTP was administered by NIOSH using intermittent discretionary appropriations. The Zadroga Act established the WTCHP Fund as mandatory spending.[12] In 2015, in the Zadroga Reauthorization Act, Congress added the WTCHP Fund and the VCF Fund to the lists of programs that are exempt from sequestration under Section 255(g) of the Balanced Budget and Emergency Deficit Control Act of 1985.[13]

WTCHP budget information is provided in the NIOSH section of annual CDC budget justifications.[14]

Table 2. World Trade Center Health Program Funding: Federal Share

Nominal dollars in millions

FY2011[a]	FY2012	FY2013	FY2014	FY2015	FY2016	FY2017	FY2018	FY2019	FY2020	FY2021	FY2022
WTCHP Discretionary Budget Authority											
22.0	0	0	0	0	0	0	0	0	0	0	0
Annual Deposits to the WTCHP Fund[d]											
NA	318.0	354.0[b]	382.0[b]	431.0[b]	330.0	345.6	380.0	440.0	485.0	501.0	518.0
WTCHP Mandatory Obligations[c]											
71.0	187.6	230.7	235.7	260.7	312.9	350.8	470.1	516.6	491.4	550.5	641.5

Source: Prepared by CRS using annual CDC congressional budget justifications, https://www.cdc.gov/budget/congressional-justification.html.

Notes: NA = not applicable.

a. FY2011 is the last fiscal year for which WTC health activities received annual discretionary appropriations. CDC, *Justification of Estimates for Appropriations Committees, FY2013,* p. 230, https://www.cdc.gov/budget/fy2013/congressional-justification.html.

b. Amount reflects sequestration of mandatory funds. WTCHP funds for FY2016 and subsequent years were exempted from sequestration by the Zadroga Reauthorization Act.

c. Recent year amounts may be estimates.

d. The Zadroga Act provides authority to expend these funds without further appropriation. Funds are available until expended.

Since FY2017, the federal share of WTCHP obligations has exceeded annual amounts provided to the Fund. Obligations are a legally binding commitment by the federal government and will result in payments from the Treasury, immediately or in the future. Valid obligations can only be made on the basis

[12] Public Health Service Act (PHSA) Section 3351 (42 U.S.C. §300mm-61), as summarized in **Appendix I.**

[13] Sec. 403 of P.L. 114-113 (129 Stat. 3007, December 18, 2015). For more information, see "Impact of Budget Caps and Sequestration" in CRS Report R44916, *Public Health Service Agencies: Overview and Funding (FY2016-FY2018).*

[14] CDC *Justifications of Estimates for Appropriation Committees* are available at https://www.cdc.gov/budget/congressional-justification.html.

of available budget authority. According to CDC, carryover funds from earlier years are being used to cover the balance, but are estimated to be depleted over the next several fiscal years.[15]

Appendix I. Current WTCHP Authority: Section-by-Section Summary

Public Health Service Act (PHSA) Sec. 3301

This section (42 U.S.C. §300mm) establishes the World Trade Center Health Program (WTCHP) within HHS to provide: (1) medical monitoring and treatment benefits to eligible emergency responders and recovery and clean-up workers (including federal employees) who responded to the terrorist attacks on September 11, 2001 (9/11); and (2) initial health evaluation, monitoring, and treatment benefits to eligible residents and other building occupants and area workers in New York City (NYC) who were directly affected by such attacks. WTCHP components include:

- Medical monitoring, without cost-sharing, for responders (PHSA Sec. 3311);
- Initial health evaluation, without cost-sharing, for survivors (generally non-responders or members of the community, PHSA Sec. 3321);
- Follow-up monitoring and treatment, without cost-sharing, and payment for responders and survivors with a WTC-related health condition (PHSA Secs. 3312, 3322, and 3323);
- Outreach to potentially eligible individuals concerning benefits to which they are entitled (PHSA Sec. 3303);
- Clinical data collection and analysis (PHSA Secs. 3304 and 3342); and
- Research on WTC-related health conditions (PHSA Secs. 3341 and 3342).

The HHS Inspector General must implement fraud prevention measures and track administrative costs for the WTCHP. The WTCHP is considered a federal health care program and a health plan for the purposes of applying Secs. 1128 through 1128E of the Social Security Act (which exclude certain persons, such as convicted criminals, from the program, and addresses fraud, waste, and abuse).

The WTCHP Program Administrator (the Administrator) must work with Clinical Centers of Excellence to establish a quality assurance program for medical monitoring and treatment services provided by the WTCHP.

The Administrator must annually, not more than six months after the end of each fiscal year in which the WTCHP is in operation, report to Congress on program operations, including specified types of information regarding numbers of eligible program participants, WTC-related health conditions, health services provided, administrative costs, and other matters.

The Secretary must promptly notify Congress if the number of enrollments of eligible WTC responders or the number of certifications for certified-eligible WTC survivors reaches 80% of the limits for either group, as established under PHSA Secs. 3311 or 3321, respectively.

The Administrator must engage in ongoing outreach efforts regarding program implementation and improvements with relevant stakeholders, including the WTCHP Steering Committees and the Advisory Committee established under PHSA Sec. 3302.

[15] CRS communication with CDC, July 15, 2021.

Government Accountability Office (GAO) reports on specified WTCHP topics are required in FY2022 and every five years thereafter through FY2042. An earlier required report was published in 2017.[16]

The Administrator may promulgate such regulations as necessary to administer this title.

The WTCHP shall terminate on October 1, 2090.

Amendment Proposed by H.R. 4965 and S. 2683

Research Cohort for Emerging Health Impacts on Youth

Section 6(c) of H.R. 4965 and S. 2683 would require that any findings from research involving the youth research cohort established by Section 6(a) of the bill be included in the required annual program report to Congress.

PHSA Sec. 3302

This section [42 USC §300mm–1] requires the Administrator to establish the WTCHP Scientific/Technical Advisory Committee (the Advisory Committee), subject to the Federal Advisory Committee Act, to review scientific and medical evidence and make recommendations to the Administrator on additional WTCHP eligibility criteria and additional WTC-related health conditions. This section also establishes committee membership, and requirements for meetings and public reporting. The Advisory Committee shall continue in operation during the period in which the WTCHP is in operation.

The Administrator also is required to establish and consult with two WTCHP steering committees—the WTC Responders Steering Committee and the WTC Survivors Steering Committee—to facilitate the coordination of initial health evaluation, medical monitoring, and treatment programs for eligible WTC responders and survivors. For each committee, requirements and procedures are established for membership, and management of vacancies.

PHSA Sec. 3303

This section [42 USC §300mm–2] requires the Administrator to establish a program to provide education and outreach regarding services available under the WTCHP. The program shall include the development of a public website and phone information services, meetings with potentially eligible populations, and outreach materials. The education and outreach program must be conducted in a manner intended to reach all affected populations and include materials for culturally and linguistically diverse populations.

PHSA Sec. 3304

This section [42 USC §300mm–3] requires the Administrator to provide for the collection, analysis, and reporting of data (including claims data) on the prevalence of WTC-related health conditions and the identification of new WTC-related health conditions. Data must be collected for all persons receiving monitoring or treatment services regardless of residence or the location at which services are provided. Clinical Centers of Excellence must collect and report such data to the corresponding Data Center. The Administrator must provide for collaboration between the Data Centers and the WTC Health Registry described in PHSA Sec. 3342. Data collection and analysis must comply with applicable privacy laws and

[16] U.S. Government Accountability Office, *World Trade Center Health Program: Improved Oversight Needed to Ensure Clinics Fully Address Mandated Quality Assurance Elements*, GAO-17-676, August 10, 2017, https://www.gao.gov/assets/690/687348.pdf.

regulations, including those established in the Health Insurance Portability and Accountability Act (HIPAA).

PHSA Sec. 3305

This section [42 USC §300mm–4] requires the Administrator to contract with Clinical Centers of Excellence and Data Centers. Specific Clinical Centers of Excellence and Data Centers are termed corresponding if they serve the same population. Contracts with Clinical Centers of Excellence and Data Centers may be specific with respect to one or more classes of enrolled WTC responders, screening-eligible WTC survivors, or certified-eligible WTC survivors.

Clinical Centers of Excellence shall provide: monitoring, initial health evaluation, and treatment benefits; outreach activities and benefits counseling to eligible individuals; translational and interpretive services for eligible individuals, if needed; and collection and reporting of data (including claims data) pursuant to PHSA Sec. 3304. This section also specifies requirements the Clinical Centers of Excellence must meet, including requirements for contracts awarded by the Administrator.

The Administrator must, to the maximum extent feasible, ensure continuity of care during transitions between services provided through a Clinical Center of Excellence and through the nationwide network.

Clinical Centers of Excellence shall be reimbursed by the Administrator for fixed infrastructure costs at negotiated rates. Such costs are defined as costs incurred by the Center that are not reimbursable as health care services under PHSA Sec. 3312(c) for patient evaluation, monitoring, or treatment. Such costs include those for outreach or recruiting of participants, data collection and analysis, social services for counseling patients about assistance outside the WTCHP, and the development of treatment protocols. Infrastructure costs do not include costs for new construction or other capital costs.

Data Centers shall provide: data analysis and reporting to the Administrator; development of initial health evaluation, medical monitoring, and treatment protocols for WTC-related conditions; coordination of outreach activities; criteria for the credentialing of providers in the nationwide clinical network established under PHSA Sec. 3313; coordination and administration of the activities of the steering committees; and meeting periodically with the corresponding Clinical Centers of Excellence to obtain input on the analysis and reporting of data and the development of monitoring and treatment protocols.

Credentialed medical providers in the national clinical network shall be selected by the Administrator based on their expertise diagnosing or treating medical conditions included in the list of identified WTC-related health conditions for responders and identified conditions for survivors.

In developing evaluation, monitoring, and treatment protocols, Data Centers shall engage in discussions across the program to guide treatment approaches for individuals with WTC-related health and mental health conditions. Data Centers also must make any data collected and reported available to health researchers and others as per the CDC/ATSDR Policy on Releasing and Sharing Data.

Amendments Proposed by H.R. 4965 and S. 2683

Licensed Health Care Provider Flexibility

Section 2(a) of H.R. 4965 and S. 2683 would authorize licensed health care providers in categories of providers established by the Administrator to conduct initial health evaluations for responders and survivors and through the nationwide network in the same manner as licensed physicians. *Section 2(a)* would require the Administrator, within 60 days of enactment of the legislation, to establish, through regulation, categories of licensed health care providers authorized to make health evaluations and determinations.

Criteria for Credentialing Health Care Providers Participating in the Nationwide Network

Section 3 of H.R. 4965 and S. 2683 would remove the requirement that the Administrator enter into contracts with Data Centers to establish credentialing criteria for health care providers participating in the nationwide network and would instead require these providers to meet credentialing requirements established by the Administrator.

PHSA Sec. 3306

This section [42 USC §300mm–5] provides definitions. Among them:

The term "NYC disaster area" is defined as the area within NYC that is in Manhattan south of Houston St.; and any block in Brooklyn that is wholly or partially contained within a 1.5-mile radius of the former WTC site.

The term "WTC Program Administrator" is defined as follows:

- an HHS official designated by the Secretary for the purposes of enrollment of WTC responders; the payment for initial health evaluation, monitoring, and treatment; the determination or certification of screening-eligible or certified-eligible WTC responders; and the payor provisions of Part 3 of Subtitle B. However, the Secretary may not designate the Director of the National Institute for Occupational Safety and Health (NIOSH) or a designee of such director for the purposes of payment for initial health evaluation, monitoring, and treatment; and
- the Director of NIOSH or a designee of such director for the purposes of all other provisions of Title I.

The term "September 11, 2001 terrorist attacks" is defined as the terrorist attacks that occurred on September 11, 2001 in NYC; Shanksville, Pennsylvania; and the Pentagon, and the aftermath of such attacks.

PHSA Sec. 3311

This section [42 USC §300mm–21] defines eligibility criteria for WTC responders, provides an application and certification process, sets limits on the number of eligible participants, and describes available monitoring benefits.

No person on a terrorist watch list maintained by the Department of Homeland Security (DHS) may qualify as a WTC responder.

A currently identified responder is an individual who has been identified as eligible for medical monitoring under the arrangements between NIOSH and the consortium coordinated by Mt. Sinai hospital, or between NIOSH and the Fire Department of New York City (FDNY).

The section establishes eligibility criteria for WTC responders, generally based on specified time ranges and specified locations, for the following groups:

- FDNY personnel, and, under specified conditions, their surviving immediate family members;
- Law enforcement, rescue, recovery, and clean-up workers; and
- Responders to the Pentagon and Shanksville, Pennsylvania aircraft crash sites.

The section also establishes modified eligibility criteria for individuals who performed rescue, recovery, or clean-up services in the NYC disaster area in response to the September 11, 2001 attacks on the WTC, regardless of whether such services were performed by a state or federal employee or member of the National Guard; and who meets eligibility criteria established by the Administrator in consultation with the Advisory Committee. No modifications of eligibility criteria may be made after the number of certifications for eligible responders has reached 80% of the limit established in PHSA Sec. 3311(a)(4) or after the number of certifications for certified-eligible survivors has reached 80% of the limit established in PHSA Sec. 3321(a)(3).

The Administrator shall establish an application process for new enrollments of WTC responders. There will be no fee for this application; a decision on each application shall be made within 60 days of the date it was filed; and persons denied will have the right to appeal in a manner established by the Administrator.

There is a numerical limit of 25,000 enrolled WTC responders at any one time, of which no more than 2,500 may be certified based on modified eligibility criteria. (This limit excludes responders enrolled as of enactment.) The Administrator must limit certifications to ensure sufficient funds are available to provide treatment and monitoring for all enrolled individuals; and must provide priority in certifications based on the order in which a person applies.

Monitoring benefits (which are available to eligible responders, but not to family members) are defined as initial health evaluation, clinical examinations, and long-term health monitoring and analysis, to be provided by the FDNY, the appropriate Clinical Center of Excellence, or other providers designated under PHSA Sec. 3313 for eligible individuals outside New York.

Amendments Proposed by H.R. 4965 and S. 2683

Clarifying Calculation of Enrollment-Deceased WTC Responders

Section 4(a) of H.R. 4965 and S. 2683 would provide that individuals known to the Administrator to be deceased shall not be included in the count of program enrollees for the purposes of the numerical limit of enrolled WTC responders or the funding adjustment provided in PHSA Sec. 3351, as amended by the bill.

PHSA Sec. 3312

This section [42 USC §300mm–22] provides procedures to determine (1) whether an eligible individual has a WTC-related health condition, (2) whether the condition is WTC-related for that individual, and (3) whether proposed treatments are medically necessary.

This section defines WTC-related health conditions for which eligible responders may receive treatment, and how such determinations are to be made. These include conditions (including mental health conditions) that are substantially likely to have resulted or been aggravated from exposure to airborne toxins or other hazards arising from the 2001 terrorist attacks, including the conditions listed in PHSA Sec. 3312(a)(3). Eligible responders may receive treatment benefits for these conditions. Immediate family members of firefighters killed as a result of the attacks may only receive treatment benefits for mental health conditions.

This section also describes the process to determine whether the 2001 terrorist attacks were substantially likely to have aggravated, contributed to, or caused an illness or health condition in an individual.

The Administrator shall periodically determine if types of cancer should be included on the list of WTC-related conditions, based on review of published evidence. Additions to the list must be made by regulation. If it is determined that a type of cancer should not be added to the list, the Administrator shall publish an explanation in the *Federal Register*.

This section specifies procedures for rulemaking to add, or decline to add, a condition to the list of WTC-related conditions, including consultation with the Advisory Committee, response to petitions from interested parties, use of independent peer review of evidence, publication in the *Federal Register*, and pertinent deadlines. This section also specifies procedures for the Administrator to certify that an individual has a WTC-related health condition, or is otherwise eligible for benefits due to a health condition not on the list of WTC-related health conditions; or to provide a basis for denial of such certification and a means for appeal.

The Administrator shall determine whether a specific treatment for a WTC-related health condition is medically necessary, in accordance with regulations he or she establishes. Payment shall be withheld if the Administrator determines that a treatment is not medically necessary. The determination that a treatment or service is not medically necessary may be appealed through a process established by regulation. This section describes the types of health services that may be covered, including limited travel and transportation costs.

This section establishes processes to set the costs for reimbursement of health benefits. In general, except for pharmaceuticals, the Administrator shall reimburse costs for medically necessary treatment for WTC-related health conditions according to the payment rates that would apply under the Federal Employees Compensation Act (FECA). The Administrator shall establish a program to pay for medically necessary outpatient prescription pharmaceuticals prescribed for WTC-related conditions through a specified competitive bidding process to award contracts to outside vendors. The Administrator may modify the amounts and methods for making payments for initial health evaluations, treatment, and monitoring if, taking into account utilization and quality data from the Clinical Centers, he or she determines that bundling, capitation, pay for performance, or other payment methodologies would better ensure high-quality and efficient delivery of services.

The Data Centers shall develop medical treatment protocols for the treatment of WTC-related health conditions, and the Administrator shall review and approve the treatment protocols.

Amendments Proposed by H.R. 4965 and S. 2683

Flexibility for WTC Responders

Section 2(b) of H.R. 4965 and S. 2683 would authorize licensed health care providers in categories of providers established by the Administrator to determine program eligibility for responders based on WTC-related health conditions and medically associated WTC-related health conditions in the same manner as physicians.

PHSA Sec. 3313

This section [42 USC §300mm–23] requires the Administrator to establish a nationwide network of health providers to provide benefits to persons outside of the New York metropolitan area. To be included in this network, a provider must meet the criteria for credentialing established by the Data Centers, follow medical protocols established under PHSA Sec. 3305(a)(2)(A)(ii), collect and report data in accordance with PHSA Sec. 3304, and meet fraud and other requirements established by the Administrator. The Administrator may provide training and technical assistance to nationwide network providers.

The Administrator may enter into an agreement with the Department of Veterans Affairs (VA) to provide services through VA facilities.

Amendments Proposed by H.R. 4965 and S. 2683

Criteria for Credentialing Health Care Providers Participating in the Nationwide Network

Section 3 of H.R. 4965 and S. 2683 would require health care providers participating in the nationwide network to meet credentialing requirements established by the Administrator, rather than by the Data Centers.

PHSA Sec. 3321

This section [42 USC §300mm–31] defines eligibility criteria for eligible WTC survivors (generally non-responders or members of the community), provides an application and certification process, sets limits on the number of eligible participants, and describes available monitoring benefits.

No person on a terrorist watch list maintained by DHS may qualify as an eligible WTC survivor.

The section establishes eligibility criteria for WTC survivors, generally based on specified time ranges and specified locations.

No modifications of eligibility criteria may be made after the number of certifications for eligible survivors has reached 80% of the limit established in PHSA Sec. 3321(a)(3) (noted below), or after the number of certifications for eligible responders has reached 80% of the limit established in PHSA Sec. 3311(a)(4).

The Administrator shall establish an application process for new enrollments of WTC survivors. There will be no fee for this application; a decision on each application shall be made within 60 days of the date it was filed; and persons denied will have the right to appeal in a manner established by the Administrator.

There is a numerical limit of 25,000 certified-eligible WTC survivors. (This limit excludes survivors enrolled as of enactment.) The Administrator must limit certifications to ensure sufficient funds are available to provide treatment and monitoring for all enrolled individuals, and must prioritize certifications based on the order in which a person applies.

Amendments Proposed by H.R. 4965 and S. 2683

Clarifying Calculation of Enrollment-Deceased WTC Survivors

Section 4(b) of H.R. 4965 and S. 2683 would provide that individuals known to the Administrator to be deceased shall not be included in the count of program enrollees for the purposes of the numerical limit of enrolled WTC survivors or the funding adjustment provided in PHSA Section 3351 as amended by the bill.

PHSA Sec. 3322

This section [42 USC §300mm–32] states that the provisions of PHSA Secs. 3311 and 3312 shall apply to monitoring and treatment of WTC-related health conditions for certified-eligible WTC survivors in the same manner as such provisions apply to WTC responders.

The list of WTC-related health conditions for survivors is the same as the list of WTC-related health conditions for responders provided in PHSA Sec 3312, except that musculoskeletal conditions are not included on the list for survivors. Conditions, including cancer, that are added to the list of WTC-related health conditions for responders are also added to the list of WTC-related health conditions for survivors.

PHSA Sec. 3323

This section [42 USC §300mm–33] establishes that treatment services shall be provided to individuals who are not certified as WTC responders or survivors if any such individual is diagnosed at a Clinical Center of Excellence with an identified WTC-related condition for WTC survivors. The Administrator shall limit the total amount of benefits provided to such individuals in a given fiscal year so that program payments for that year do not exceed $5 million for the last calendar quarter of FY2011; $20 million for FY2012; and, for subsequent fiscal years, the previous fiscal year's amount increased by the annual percentage increase in the medical care component of the Consumer Price Index for all urban consumers (CPI-U).

PHSA Sec. 3331

This section [42 USC §300mm–41] provides that all costs of covered initial health evaluation, medical monitoring, and treatment benefits for eligible individuals shall be paid from the WTCHP Fund, except for any costs that are paid by a workers' compensation program or health insurance plan.

Payment for treatment of a WTC-related health condition that is work-related (as defined) shall be reduced or recouped by any amounts paid under a workers' compensation law or plan for such treatment. This provision does not apply to any workers' compensation or similar plan in which NYC is required to make payments if, in accordance with the terms of the contract specified in PHSA Sec. 3331(d), NYC has made full payment required for that quarter.

For eligible beneficiaries who have health insurance coverage and have been diagnosed with a WTC-related condition that is not work-related, the WTC Program shall be a secondary payor of all uninsured costs (such as co-pays and deductibles) related to services covered by the WTC program, according to the authority used when Medicare is a secondary payor. This provision does not require an entity that provides monitoring and treatment under this title to seek reimbursement from a health plan with which it does not have a contract for reimbursement.

No payment for monitoring or treatment may be made for any individual for any month, beginning with July 2014, in which he or she does not have the applicable minimum essential health coverage required under Sec. 5000A(a) of the Internal Revenue Code, as established by the Patient Protection and Affordable Care Act (ACA, P.L. 111-148, as amended).

There is a required contribution ("match") by NYC (Sec. 3331(d)). No funds may be disbursed from the WTCHP Fund under PHSA Sec. 3351 unless NYC has entered into a contract with the Administrator to pay the full contribution on a timely basis. The full contribution amount for each calendar quarter of FY2016 and of each subsequent FY through FY2090 shall be equal to 10% of the expenditures in carrying out the WTCHP for the respective quarter. The NYC contribution may not be satisfied through any amount derived from federal sources, any amount paid before enactment, or any amount paid to satisfy a judgment as part of a settlement related to injuries or illnesses arising out of the September 11, 2001 attacks on the WTC. Payment deadlines and procedures for recovery of unpaid amounts are specified.

PHSA Sec. 3332

This section [42 USC §300mm–42] authorizes the Administrator to enter into arrangements with other government agencies, insurance companies, or other third-party administrators to provide for timely and accurate processing of claims.

PHSA Sec. 3341

This section [42 USC §300mm–51] requires the Administrator, in consultation with the Advisory Committee, to conduct or support research on conditions that may be related to the WTC terrorist attacks; diagnoses of WTC-related health conditions for which there has been diagnostic uncertainty; and treatment of WTC-related health conditions for which there has been treatment uncertainty.

The research on conditions that may be related to the September 11, 2001 terrorist attacks on the WTC must include epidemiologic or other research studies on WTC-related health conditions or emerging conditions among enrolled WTC responders and certified-eligible WTC survivors under treatment and in sampled populations outside of the NYC disaster area, as specified. Control groups must be used. This research must have privacy and human subject protections at least as strong as those applicable to research conducted or funded by HHS.

Amendments Proposed by H.R. 4965 and S. 2683

Research Cohort for Emerging Health Impacts on Youth

Section 6(a) of H.R. 4965 and S. 2683 would require the Administrator to establish a research cohort of sufficient size to conduct research on the health and educational impacts of exposures to airborne toxins and other hazards from the terrorist attacks of September 11, 2001, on persons who were aged 21 or younger at the time of their exposure and who are enrolled or eligible for the WTCHP.

Section 6(b) would specify that any spending on the youth research cohort is exempt from the spending limit for research regarding certain health conditions provided in PHSA Sec. 3351(c)(5).

Section 6(c) would require that any findings from research involving the youth research cohort be included in the required annual program report to Congress.

PHSA Sec. 3342

This section [42 USC §300mm–52] requires the Administrator to ensure the operation of a registry of victims of the WTC attacks that is at least as comprehensive as the World Trade Center Health Registry in effect as of January 1, 2015 with the NYC Department of Health and Mental Hygiene (DHMH).

PHSA Sec. 3351

This section [42 USC §300mm–61] establishes a WTCHP Fund (the Fund) and deposits into the Fund from the Treasury for each of fiscal years 2016 through 2090 the following amounts for the federal share—

- $330,000,000 for FY2016;
- $345,610,000 for FY2017;
- $380,000,000 for FY2018;
- $440,000,000 for FY2019;
- $485,000,000 for FY2020;
- $501,000,000 for FY2021;
- $518,000,000 for FY2022;
- $535,000,000 for FY2023;
- $552,000,000 for FY2024;

- $570000,000 for FY2025; and
- for each subsequent fiscal year through FY2090, the amount for the previous FY increased by the percentage increase in the Consumer Price Index for all Urban Consumers (all items, United States city average, CPI-U), as estimated by the Secretary for the 12-month period ending with March of the previous year;

—plus the NYC share, consisting of the amount contributed under the contract under section 3331(d). No funds may be disbursed from the Fund unless NYC has entered into contract with the Administrator to pay its contribution. If NYC fails to pay its full contribution, the amount not paid is recoverable by the federal government. Such failure shall not affect the disbursement of amounts from the Fund, and the federal share shall not be increased by the amount not paid by NYC.

All amounts deposited into the Fund remain available until expended.

Amounts in the Fund are available, without further appropriation, to carry out the following activities:

- Monitoring and treatment for WTC responders and survivors (PHSA Title XXXIII, Subtitle B);
- Quality assurance for monitoring and treatment delivered by the Centers of Excellence and other participating health care providers (PHSA Sec. 3301(e));
- The WTCHP annual report (PHSA Sec. 3301(f));
- The Advisory Committee (PHSA Sec. 3302(a));
- The WTCHP steering committees (PHSA Sec. 3302(b));
- Education and outreach (PHSA Sec. 3303);
- Uniform data collection and analysis (PHSA Sec. 3304);
- Contracts with the Clinical Centers of Excellence (PHSA Sec. 3305(a)(1)).
- Contracts with Data Centers (PHSA Sec. 3305(a)(2));
- Research regarding WTC-related health conditions (PHSA Sec. 3341); and
- The WTC Health Registry (PHS Sec. 3342).

There is no federal obligation for payment of amounts in excess of amounts available from the Fund for such purpose and no authorization for appropriation of amounts in excess of amounts available from the Fund.

There are specified spending limits for certain activities. With the exception of Education and Outreach, these limits are adjusted for inflation for each fiscal year, based on specified starting amounts; the amount for the prior fiscal year is increased by the percentage increase in CPI-U as estimated by the Secretary for the 12-month period ending with March of the previous year. The specified activities and their spending limits are as follows:

- Services to FDNY family members, the inflation-adjusted amount that began with $400,000 for FY2012;
- The Advisory Committee, the inflation-adjusted amount that began with $200,000 for FY2016;
- Education and Outreach, $750,000 for FY2016 and each subsequent fiscal year, without adjustment;
- Uniform Data Collection, the inflation-adjusted amount that began with $15 million for FY2017;

- Research regarding WTC-related health conditions, the inflation-adjusted amount that began with $15 million for FY2012; and
- The WTC Health Registry, the inflation-adjusted amount that began with $7 million for FY2012.

Amendments Proposed by H.R. 4965 and S. 2683

Funding for the WTCHP

Section 5(1) of H.R. 4965 and S. 2683 would provide that the following amounts, in addition to the funds from NYC, are to be deposited from the Treasury into the WTCHP Fund:

- $689,130,000 for FY2025 (replacing the amount in current law);
- $930,325,500 for FY2026;
- $1,004,751,540 for FY2027;
- $1,085,131,663 for FY2028;
- $1,139,388,246 for FY2029;
- $1,196,357,659 for FY2030;
- $1,256,175,542 for FY2031; and
- for each subsequent fiscal year through FY2090, the amount for the previous fiscal year multiplied by 1.05, multiplied by the ratio of the number of WTCHP enrollees (not counting the deceased) on July 1 of the previous fiscal year to the number of WTCHP enrollees (not counting the deceased) on July 1 of the fiscal year prior to the previous fiscal year (replacing the adjustment formula in current law).

Section 5(2) would replace the current law spending limitations for certain activities with the following new limitations:

- for education and outreach: $750,000 for each of fiscal years 2016-2021 and $2,000,000 for each subsequent fiscal year;
- for uniform data collection: the amount calculated under current law for FY2021 and $20,000,000 for FY2022; followed by inflationary adjustments as provided in current law; and
- for research regarding certain health conditions: the amount calculated under current law for FY2021 and $20,000,000 for FY2022; followed by inflationary adjustments as provided in current law.

Appendix II. H.R. 4965 and S. 2683, the 9/11 Responder and Survivor Health Funding Correction Act: Section-by-Section Summary

Section 1. Short Title

Section 1 provides the short title of the bill as the 9/11 Responder and Survivor Health Funding Correction Act.

Section 2. Flexibility for Certifications under the World Trade Center Health Program

Section 2(a) would authorize licensed health care providers in categories of providers established by the Administrator to conduct initial health evaluations for responders and survivors and through the nationwide network in the same manner as licensed physicians.

Section 2(a) would also require the Administrator, within 60 days of enactment of the legislation, to establish, through regulation, categories of licensed health care providers authorized to make health evaluations and determinations.

Section 2(b) would authorize licensed health care providers in categories of providers established by the Administrator to make determinations of program eligibility for responders based on WTC-related health conditions and medically associated WTC-related health conditions in the same manner as physicians.

Section 3. Criteria for Credentialing Heath Care Providers Participating in the Nationwide Network

Section 3 would require health care providers participating in the nationwide network to meet credentialing requirements established by the Administrator, rather than by the Data Centers.

Section 4. Clarifying Calculation of Enrollment

Section 4(a) would provide that individuals known to the Administrator to be deceased shall not be included in the count of program enrollees for the purposes of the numerical limit of enrolled WTC responders or the funding adjustment provided in PHSA Section 3351, as amended by the bill.

Section 4(b) would provide that individuals known to the Administrator to be deceased shall not be included in the count of program enrollees for the purposes of the numerical limit of enrolled WTC survivors or the funding adjustment provided in PHSA Section 3351, as amended by the bill.

Section 5. Funding for the World Trade Center Health Program

Section 5(1) would provide that the following amounts, in addition to the funds from NYC, are to be deposited from the Treasury into the WTCHP Fund:

- $689,130,000 for FY2025 (replacing the amount in current law);
- $930,325,500 for FY2026;
- $1,004,751,540 for FY2027;

- $1,085,131,663 for FY2028;
- $1,139,388,246 for FY2029;
- $1,196,357,659 for FY2030;
- $1,256,175,542 for FY2031; and
- for each subsequent fiscal year through FY2090, the amount for the previous fiscal year multiplied by 1.05, multiplied by the ratio of the number of WTCHP enrollees (not counting the deceased) on July 1 of the previous fiscal year to the number of WTCHP enrollees (not counting the deceased) on July 1 of the fiscal year prior to the previous fiscal year (replacing the adjustment formula in current law).

Section 5(2) would replace the current law spending limitations for certain activities with the following new limitations:

- for education and outreach: $750,000 for each of fiscal years 2016-2021 and $2,000,000 for each subsequent fiscal year;
- for uniform data collection: the amount calculated under current law for FY2021 and $20,000,000 for FY2022; followed by inflationary adjustments as provided in current law; and
- for research regarding certain health conditions: the amount calculated under current law for FY2021 and $20,000,000 for FY2022; followed by inflationary adjustments as provided in current law.

Section 6. Research Cohort for Emerging Health Impacts on Youth

Section 6(a) would require the Administrator to establish a research cohort of sufficient size to conduct research on the health and educational impacts of exposures to airborne toxins and other hazards from the terrorist attacks of September 11, 2001, on persons who were aged 21 or younger at the time of their exposure and who are enrolled or eligible for the WTCHP.

Section 6(b) would specify that any spending on the youth research cohort is exempt from the spending limit for research regarding certain health conditions provided in PHSA Sec. 3351(c)(5).

Section 6(c) would require that any findings from research involving the youth research cohort be included in the required annual program report to Congress.