



**MEMORANDUM**

March 6, 2023

**To:** Honorable Kirsten Gillibrand  
Attention: Jesse Rodriguez

**From:** Scott D. Szymendera, Analyst in Disability Policy, [sszymendera@crs.loc.gov](mailto:sszymendera@crs.loc.gov), 7-0014

**Subject:** **Section-by-Section Summary of the 9/11 Responder and Survivor Health Funding Correction Act of 2023 (S. 569 and H.R. 1294)**

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This memorandum is in response to your request of the Congressional Research Service (CRS) for a section-by-section summary of the 9/11 Responder and Survivor Health Funding Correction Act of 2023 (S. 569 and H.R. 1294, as introduced).

If you have any questions about the material presented in this memorandum or would like any additional information, please contact me by phone at x7-0014 or email at [sszymendera@crs.loc.gov](mailto:sszymendera@crs.loc.gov).

### **Section 1. Short Title**

Section 1 provides the short title of the bill as the “9/11 Responder and Survivor Health Funding Correction Act of 2023.”

### **Section 2. Department of Defense, Armed Forces, or Other Federal Worker Responders to the September 11 Attacks at the Pentagon and Shanksville, Pennsylvania**

Section 2 would amend Section 331(a) of the Public Health Service Act (PHSA) [42 U.S.C. §300mm-21(a)] to add federal agency employees, including Department of Defense personnel, and uniformed service members who responded to the attacks at the Pentagon and in Shanksville, Pennsylvania to those eligible to receive services under the World Trade Center Health Program (WTCHP) as responders. It would further amend this section to set the enrollment limit for these added individuals at 500. This section would also make conforming amendments to PHSA Sec. 3306 [42 U.S.C. §300mm-5] to provide definitions of “federal agency” and “uniformed services.”

### **Section 3. Flexibility for Certifications under the World Trade Center Health Program**

Section 3(a) would amend PHSA Sec. section 3305(a) [42 U.S.C. §300mm-4(a)] to authorize licensed health care providers in categories of providers established by the WTCHP Administrator to conduct

initial health evaluations for responders and survivors and through the nationwide network in the same manner as licensed physicians. This section would also require the Administrator, within 180 days of enactment of the legislation, to establish, through regulation, categories of licensed health care providers authorized to make health evaluations and determinations.

Section 3(b) would make conforming amendments to PHSA section 3312(b) [42 U.S.C. §300mm-22(b)] to 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.

Because PHSA Sec. 3322 [42 U.S.C. §300mm-32] incorporates PHSA Sec. 3305 by reference for the follow-up monitoring and treatment of survivors, the flexibilities for the use of licensed health care providers by responders established by Section 3 of the bill would also apply to survivors.

## **Section 4. Criteria for Credentialing Health Care Providers Participating in the Nationwide Network**

Section 4 would amend PHSA Secs. 3305(a)(2) and 3313(b)(1) [42 U.S.C. §§300mm-4(a)(2) and 300mm-23(b)(1)] to reassign the responsibility for setting the criteria for credentialing and selecting providers for the nationwide network from the Data Centers to the WTCHP Administrator.

## **Section 5. Clarifying Calculation of Enrollment**

Section 5 would amend PHSA Sec. 3311(a) [42 U.S.C. §300mm-21(a)] to 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 survivors, or the funding adjustment provided in PHSA Sec. 3351 42 U.S.C. §300mm-61], as amended by the bill.

## **Section 6. Time Period for Adding Health Conditions to List for WTC Responders**

Section 6 would amend PHSA Sec. 3312(a)(6) [42 U.S.C. §300mm-22(a)(6)] to change the time limit for the Administrator to respond to a petition to add a condition to the list of covered health conditions for responders from 90 days to 180 days. This section would also change, from 90 to 180 days, the time limit for the Administrator to publish a proposed rule or determination not to propose a rule after a recommendation by the Advisory Board with respect to the addition of a condition to the list of covered health conditions for responders.

## **Section 7. Funding for the World Trade Center Health Program**

Section 7(a)(1) would amend PHSA section 3351 [42 U.S.C. §300mm-61] to limit the adjustment to WTCHP funding based on the consumer price index for all urban consumers (CPI-U) to FYs 2026 through 2033; then, for FYs 2034 through 2090, create the following new formula to calculate the amount of federal funding:

- the amount for the previous fiscal year plus the sum of any amount expended in the previous fiscal year from the Special Fund established by the bill and the Pentagon/Shanksville Fund established by the bill; and any amount expended that was deposited into the WTCHP Fund from amounts unspent by the Special Fund and Pentagon/Shanksville Fund; multiplied by
  - 1.05; multiplied by
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- the ratio of the total number of individuals enrolled in the WTCHP on July 1 of such previous fiscal year to the total number of individuals so enrolled on July 1 of the fiscal year prior to such previous fiscal year.

Section 7(a)(2) would change the limits for spending on uniform data collection to the following:

- for FY2023, the amount in effect the day before the enactment of this bill; and
- for FY2024, \$20,000,000.

Section 7(a)(2) would also change the limits for spending on research regarding certain health conditions to the following:

- for FY2023, the amount in effect the day before the enactment of this bill; and
- for FY2024, the greater of the amount in effect the day before the enactment of this bill and \$20,000,000.

Section 7(b) would add two new sections to Title XXXIII of the PHSA to create the following two new funds:

#### ***Special Fund under new PHSA Section 3533***

- for FY2024, \$1,784,358,336 is to be deposited into this fund and remain available through FY2033;
- the Special Fund is to be available to the Administrator, without regard to any spending limits under PHSA Sec. 3351(c) [42 U.S.C. §300mm-61(c)]; and
- any amounts remaining in the Special Fund at the end of FY2033 are to be deposited into the WTCHP Fund and remain available in accordance with the new funding formula established by Section 7(a)(1) of the bill.

#### ***Pentagon/Shanksville Fund under new PHSA Sec 3354***

- for FY2024, \$257,000,000 is to be deposited into the Pentagon/Shanksville Fund and remain available through FY2033;
- the Pentagon/Shanksville Fund is to be available to the Administrator, without regard to any spending limits under PHSA Sec. 3351(c) to provide medical services to federal employees and uniformed service members who responded to the Pentagon and Shanksville, Pennsylvania crash sites;
- during the period FY2024-FY2033, no other funds made available to the WTCHP, except for the Pentagon/Shanksville Fund, may be used to provide medical services to federal employees, and uniformed service members who responded to the Pentagon and Shanksville, Pennsylvania crash sites; and
- any amounts remaining in the Pentagon/Shanksville Fund at the end of FY2033 are to be deposited into the WTCHP Fund and remain available in accordance with the new funding formula established by Section 7(a)(1) of the bill.

Section 7(c) of the bill would make conforming amendments to incorporate the Special Fund and Pentagon/Shanksville Fund into the following WTCHP provisions:

- the limitation on the number of responder enrollments based on sufficient funds (PHSA Sec. 3311(a)(4)(B)(i)(II) [42 U.S.C. §300mm-21(a)(4)(B)(i)(II)]);
  - the limitation on the number of certified-eligible WTC survivors based on sufficient funds (PHSA Sec. 3321(a)(3)(B)(i)(II) [42 U.S.C. §300mm-31(a)(3)(B)(i)(II)]);
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- the provision for the payment of claims (PHSA Sec. 3331(a) [42 U.S.C. §300mm-41(a)]); and
- the appropriations and authorization provisions (PHSA Sec. 3351(b) [42 U.S.C. § 300mm-61(b)]).

Section 7(c) would also make conforming amendments to the NYC 10% match provisions such that:

- no funds may be disbursed from the WTCHP Fund or Special Fund unless the Administrator has entered into a contract with NYC for the match (PHSA Sec. 3331(d)(1)(A) [42 U.S.C. §300mm-41(d)(1)(A)]); and
  - the amount in the Pentagon/Shanksville fund is not considered when determining the amount of the NYC match (PHSA Secs. 3331(d)(1)(B) and (d)(2) [42 U.S.C. §§300mm-41(d)(1)(B) and (d)(2)]).
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