



MEMORANDUM

June 26, 2024

To: Honorable Kirsten Gillibrand
Attention: Laura Bain

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Subject: **Section-by-Section Summary of the 9/11 Responder and Survivor Health Funding Correction Act of 2024**

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 2024. Information in this memorandum is based on the draft legislative text provided by your office to CRS on June 13, 2024 (filename BON24356 SKS).

If you have any questions about the material presented in this memorandum or would like any additional information, please contact Scott Szymendera by phone at x7-0014 or email at sszymendera@crs.loc.gov.

Section 1. Short Title

Section 1 of the bill provides the short title of the bill as the “9/11 Responder and Survivor Health Funding Correction Act of 2024.”

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

Section 2(a) of the bill would amend Section 3305(a) of the Public Health Service Act [PHSA; 42 U.S.C. §300mm-4(a)] to authorize licensed mental health care providers in categories of providers established by the World Trade Center Health Program (WTCHP) Administrator (the Administrator) to conduct initial health evaluations of mental health conditions 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 mental health care providers authorized to conduct such health evaluations and make determinations of mental health conditions.

Sections 2(b)(1) and (2) of the bill would amend PHSA Section 3312(b) [42 U.S.C. §300mm-22(b)] to authorize a “qualified mental health provider” (later defined as a licensed mental health provider in a

category established by the Administrator pursuant to Section 2(a) of the bill) at a Clinical Center of Excellence to make a determination that an enrolled responder has a WTC-related mental health condition on the list of conditions provided in PHSA Section 3312(a)(3) or a condition not on the list of conditions but that is medically-associated with such a condition in the same manner as a physician and to transmit such determination to the Administrator in the same manner as a physician.

Section 2(b)(2) of the bill would amend PHSA Section 3312(b)(2)(B) to extend the procedures established for the review and certification of physician determinations for medically-associated conditions to the review and certification of determinations made by qualified mental health providers. For mental health conditions, the requirement that these procedures include a review by a panel of physicians would be extended to include a review by a panel of physicians or qualified mental health providers.

Section 2(b)(3) of the bill would amend PHSA Section 3312(b)(3) to extend the right of the Administrator to establish a procedure to approve the provision of medical treatment in cases in which a determination has been made by a physician but not yet certified by the Administrator to cases of mental-health conditions in which a determination has been made by a qualified mental health provider but that have not yet been certified by the Administrator.

Section 2(b)(4) of the bill would amend PHSA Section 3312(b) to define for the purposes of subsection (b) the term “qualified mental health provider” to mean a licensed mental health provider in a category established by the Administrator pursuant to Section 2(a) of the bill.

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

Section 3 of the bill would amend PHSA Sections 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 Administrator.

Section 4. Clarifying Calculation of Enrollment

Section 4 of the bill would amend PHSA Sections 3311(a) and 3321(a) [42 U.S.C. §§300mm-21(a) and 300mm-31(a)] to clarify that individuals known to the Administrator to be deceased shall not be included in the count of program enrollees or certified-eligible survivors for the purposes of the numerical limit of enrolled WTC responders or certified-eligible survivors, or the funding adjustment provided in PHSA Section 3351 [42 U.S.C. §300mm-61], as amended by the bill.

Section 5. Time Period for Adding Health Conditions to List for WTC Responders

Section 5 of the bill would amend PHSA Section 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 of the bill 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 Committee with respect to the addition of a condition to the list of covered health conditions for responders.

Section 6. Funding for the World Trade Center Health Program

Section 6(a)(1) of the bill 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 2034; then, for FYs 2035 through 2090, create the following new formula to calculate the amount of federal funding:

- the amount for the previous fiscal year plus any amount expended from the WTCHP Fund in the previous fiscal year that was carried over from any fiscal year prior to the previous fiscal year, including as carried over from the Supplemental Fund, Special Fund, or Pentagon/Shanksville Fund pursuant to the deposit provisions established by Section 6(c) of the bill; multiplied by
- 1.05; multiplied by
- 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 6(a)(2)(A) of the bill would change the limits for spending on uniform data collection to the following:

- for FY2024, the amount determined for that fiscal year, under procedures in effect the day before the enactment of this bill; and
- for FY2025, the greater of the amount determined for that fiscal year, under procedures in effect the day before the enactment of this bill, or \$20,000,000.

Section 6(a)(2)(B) of the bill would change the limits for spending on research regarding certain health conditions to the following:

- for FY2024, the amount determined for that fiscal year, under procedures in effect the day before the enactment of this bill; and
- for FY2025, the greater of the amount determined for that fiscal year under procedures in effect the day before the enactment of this bill, or \$20,000,000.

Section 6(b) of the bill would amend PHSA Section 3353(b) [42 U.S.C. §300mm-63(b)] to provide a deposit into the Special Fund for FY2024 from money in the Treasury not otherwise appropriated of \$2,970,406,593, which shall remain available in the Special Fund through FY2033.

Section 6(c)(1) of the bill would amend PHSA Section 3352(d) [42 U.S.C. §300mm-62(d)] to provide that any amounts remaining in the Supplemental Fund at the end of FY2032 shall be deposited into the WTCHP Fund to remain available through FY2090 subject to the existing spending limitations provided in PHSA Section 3351(c),¹ rather than returned to the Treasury.

Section 6(c)(2) of the bill would amend PHSA Section 3353(d) [42 U.S.C. §300mm-63(d)] to provide that any amounts remaining in the Special Fund at the end of FY2033 shall be deposited into the WTCHP Fund to remain available through FY2090 subject to the existing spending limitations provided in PHSA Section 3351(c), rather than returned to the Treasury.

¹ PHSA Section 3351(c) provides limitations on spending on certain specified areas which include: surviving immediate family members of firefighters, the WTCHP Scientific/Technical Advisory Committee, education and outreach, uniform data collection, research regarding certain health conditions, and the World Trade Center Health Registry.

Section 6(c)(3) of the bill would amend PHSA Section 3354(d) [42 U.S.C. §300mm-64(d)] to provide that any amounts remaining in the Pentagon/Shanksville Fund at the end of FY2033 shall be deposited into the WTCHP Fund to remain available through FY2090 subject to the existing spending limitations provided in PHSA Section 3351(c), rather than returned to the Treasury.

Section 6(c)(4) of the bill would provide that all funds deposited into the WTCHP Fund under any provision in Title 42 of the *U.S. Code* are to remain available through FY2090 and shall be available without further appropriation.

Section 7. Offset

Section 7(a) of the bill would amend Section 251A(6)(D) of the Balanced Budget and Emergency Deficit Control Act of 1985 [2 U.S.C. §901a(6)(D)] to extend the FY2032 sequestration of Medicare benefits by one month (i.e., the sequestration of Medicare benefits would go through December 31, 2032, under the bill language).

Section 7(b) of the bill would transfer “excess savings” to the Medicare Improvement Fund. The term “excess savings” would be defined by the bill as the difference between (1) the budgetary effects of Sections 2 through 6 of the bill, and (2) the budgetary effects of Section 7(a) of the bill. Consistent with the Statutory Pay-As-You-Go Act of 2010 [2 U.S.C. §§931 *et seq.*], the budgetary effects would be determined by the Office of Management and Budget, unless specified by Congress and the Congressional Budget Office. Amounts transferred under Section 7(b) of the bill would remain available until expended.