

§ 88.9 Application process—status as a WTC survivor.

(a) *Application for status as a screening-eligible survivor.* An application to the WTC Health Program based on the criteria in § 88.8(a) shall be submitted with documentation of the applicant's location, presence or residence, and/or work activity during the relevant time period.

(1) Documentation may include but is not limited to: Proof of residence, such as a lease or utility bill; attendance roster at a school or daycare; or pay stub, other employment documentation, or written statement, under penalty of perjury, by an employer indicating employment location during the relevant time period, or similar documentation. The applicant shall also attest to symptoms of a WTC-related health condition.

(2) An applicant who is unable to submit the required documentation must instead offer a written explanation of how he or she tried to obtain proof of location, presence, or residence, and/or work activity and why the attempt was unsuccessful. The applicant shall attest, under penalty of perjury, that he or she meets the criteria specified in § 88.8.

(b) *Status as a certified-eligible survivor.* No additional application is required for status as a certified-eligible survivor. If, based upon the screening-eligible survivor's initial health evaluation (see § 88.10(e)), the WTC Program Administrator certifies the diagnosis of a WTC-related health condition, then the survivor will also obtain status as a certified-eligible survivor.

§ 88.10 Enrollment determination—status as a WTC survivor.

(a) *Screening-eligible survivor status determination.* (1) The WTC Program Administrator will determine if the applicant meets the screening-eligibility criteria pursuant to § 88.8(a), and notify the applicant in writing (or by e-mail if an e-mail address is provided by the applicant) of any deficiencies in the application or the supporting documentation.

(b) *Denial of screening-eligible status.* (1) The WTC Program Administrator may deny screening-eligible status if

the applicant is ineligible under the criteria specified in § 88.8(a).

(2) The WTC Program Administrator may deny screening-eligible survivor status if the numerical limitation on certified-eligible survivors in § 88.10(f)(2) has been met.

(3) No individual who is determined to be a positive match to the terrorist watch list maintained by the Federal government, may qualify to be a screening-eligible survivor in the WTC Health Program.

(c) *Notification of screening-eligible status determination.* (1) An individual who applies under the eligibility criteria in § 88.8(a) will be notified of his or her status as a screening-eligible survivor within 60 days of the date of transmission of the application.

(2) If the WTC Program Administrator determines that an applicant is denied enrollment, the applicant shall be notified in writing and provided an explanation, as appropriate for the determination to deny enrollment. The notification shall inform the applicant of the right to appeal the initial denial of eligibility and provide instructions on how to file an appeal.

(d) *Initial health evaluation for screening-eligible survivors.* (1) A WTC Health Program Clinical Center of Excellence or a member of the nationwide network provider will provide the screening-eligible survivor an initial health evaluation to determine if the individual has a WTC-related health condition and is eligible for follow-up monitoring and treatment benefits under the WTC Health Program.

(2) The WTC Health Program will provide only one initial health evaluation per screening-eligible survivor. The individual may request additional health evaluations at his or her own expense.

(3) If the physician diagnoses the screening-eligible survivor with a WTC-related health condition, the physician shall promptly transmit to the WTC Program Administrator his or her determination, consistent with the requirements of § 88.12(a).

(e) *Certified-eligible survivor status determination.* (1) The WTC Program Administrator will prioritize certifications in the order in which they are received.

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(2) The WTC Program Administrator will review the physician's determination, render a decision regarding certification of the individual's diagnosed WTC-related health condition, and provide written notice of the decision and the reason for the decision.

(3) If the individual's condition is certified as a WTC-related health condition, the individual will also be certified as a certified-eligible survivor.

(f) *Denial of certified-eligible survivor status.* (1) The WTC Program Administrator will deny certified-eligible status if he or she determines that the screening-eligible survivor does not have a WTC-related health condition as determined pursuant to §§ 88.12 and 88.13 of this part.

(2) The WTC Program Administrator may deny certified-eligible survivor status of an otherwise eligible and qualified screening-eligible survivor if the WTC Program Administrator determines that the Act's numerical limitations for certified-eligible survivors have been met.

(i) No more than 25,000 individuals, other than those described in § 88.7 of this part, may be determined to certified-eligible survivors at any time.

(A) The WTC Program Administrator may determine, based on the best available evidence, that sufficient funds are available under the WTC Health Program Fund to provide treatment and monitoring only for individuals who have already been certified as certified-eligible survivors at that time.

(B) [Reserved]

(i) [Reserved]

(3) No individual who is determined to be a positive match to the terrorist watch list maintained by the Federal government may qualify to be a certified-eligible survivor in the WTC Health Program.

(g) *Notification of certified-eligible status determination.* (1) An individual who is certified by the WTC Program Administrator as a certified-eligible survivor will be notified in writing by the WTC Program Administrator.

(2) If the WTC Program Administrator denies certification of the screening-eligible survivor's health condition, the screening-eligible survivor may appeal the WTC Program

Administrator's decision to deny certification, as provided under § 88.15.

§ 88.11 Appeals regarding eligibility determinations—responders and survivors.

(a) An individual or his or her designated representative may appeal a denial of enrollment as a WTC responder or a denial of a determination of status as a screening-eligible survivor by sending a written letter to the WTC Program Administrator at the address specified in the notice of denial.

(1) The letter shall be sent within 60 days of the date of the WTC Program Administrator's notification letter, and shall state the reasons why the individual believes the denial was incorrect and may include relevant new evidence not previously considered by the WTC Program Administrator.

(2) Where the denial is based on information from the terrorist watch list, the appeal will be forwarded to the appropriate Federal agency.

(b) The WTC Program Administrator will designate a Federal official independent of the WTC Health Program to review the appeal. The Federal official will issue a final decision after receipt and review.

(c) The WTC Program Administrator may reopen and reconsider a denial at any time.

§ 88.12 Physician's determination of WTC-related health conditions.

(a) A physician in a Clinical Center of Excellence or a member of the nationwide provider network shall promptly transmit to the WTC Program Administrator a diagnosis and the basis for the diagnosis of a WTC-related health condition or health condition medically associated with a WTC-related health condition. The physician's diagnosis shall be made based on an assessment of the following:

(1) The individual's exposure to airborne toxins, any other hazard or any other adverse condition resulting from the September 11, 2001, terrorist attacks.

(2) The type of symptoms experienced by the individual and the temporal sequence of those symptoms.

(b) For a health condition medically associated with a WTC-related health